Wage Board Report: Minimum Wage

Introduction: The 2006 Minimum Wage Board met as instructed, and thoroughly discussed the issues in the charge. Although no recommendation was forthcoming, the discussion shed significant light on the issues. Rather than try to recap and summarize the discussion, this report includes the entire transcript by reference, and I recommend its review by any interested party.

August 4, 2006
Department of Health Services Auditorium, 1500 Capitol Avenue
Sacramento, California

On August 4, 2006, the 2006 Wage Board regarding minimum wage convened at the Department of Health Services Auditorium, 1500 Capitol Avenue, Sacramento, California.

The following persons were in attendance:

Chairperson: Paul Cohen

Wage Board Members:

Employee Representative
Jovan G. Agee
Barry Broad
Angie Wei
Chris Jones
Josefa Mercado
Mark S. Schacht
Lee Sandahl (alternate)
Allan D. Clark (alternate)

Employer Representative
Julianne Broyles
Acie Davis
Kevin Dayton
Lara Diaz Dunbar
James O. Abrams
Heidi DeJong Barsuglia
Gary Monahan (alternate)
Thomas J. Martin (alternate)

IWC Staff: Stephanie Leach
Deanna Fong, Legal Counsel

Meeting Reporter: Capitol Reporters

Call to Order

Chairperson Paul Cohen called the meeting to order at 10:15 a.m.
Roll Call

Chairperson Cohen called the roll. Six employee representatives and two employee alternates were present, and six employer representatives and two employer alternates were present.

Chairperson’s Remarks

Chairperson Cohen welcomed the wage board and read the charge to be addressed by the 2006 Minimum Wage Board, which is summarized as follows:

“1. The adequacy of the current minimum wage of $6.75 per hour and whether the state minimum wage should be increased.

2. If you determine that the minimum wage should be increased, you should make recommendations as to:

(a) How much the minimum wage should increase;

(b) The timing of such an increase (ie. will the increase occur at one time or be phased in over a period of time); and

(c) Whether the minimum wage should be indexed.

3. If you determine that the minimum wage should be increased, you should make recommendations as to the adequacy of the amount which may be credited against the minimum wage for meals and lodging in Section 10 of IWC wage orders 1 through 15 and Section 9 of IWC wage order 16.”

Opening Statements

Chairperson Cohen invited representatives from both sides to make brief opening statements. Opening statements and all other discussions are set forth in the transcript attached to this report.

Employee Representatives who gave opening statements:

Angie Wei – California Labor Federation

Barry Broad – California Teamsters Public Affairs Council

Mr. Broad’s presentation included a prepared statement which was read into the record and distributed in hard copy to members of the wage board. A copy of the statement entitled “Statement of the Employee Representatives of the Minimum Wage Board” is attached to this report.

Employer representatives who gave opening statements:

Julianne Broyles – California Chamber of Commerce

Jim Abrams – California Hotel and Lodging Association
Motions and Votes:

The wage board discussed the items listed in the Findings and Charge from the IWC and a number of motions were made with the following resulting votes:

**Motion #1:** The wage board finds that the current minimum wage is adequate and should not be increased.
Mover of motion: Jim Abrams
Seconded by: Lara Diaz Dunbar
**Vote:** 6 – 6; motion failed. (See transcript, Page 81, Line 10)

**Employee Representative**
Jovan G. Agee - No
Barry Broad - No
Angie Wei - No
Chris Jones - No
Josefa Mercado - No
Mark S. Schacht - No

**Employer Representative**
Julianne Broyles - Yes
Acie Davis - Yes
Kevin Dayton - Yes
Lara Diaz Dunbar - Yes
James O. Abrams - Yes
Heidi DeJong Barsuglia - Yes

**Motion #2:** The minimum wage of $6.75 is not adequate and should be raised.
Mover of motion: Jovan Agee
Seconded by: Angie Wei
**Vote:** 6 – 6; motion failed. (See transcript, Page 86, Line 11)

**Employee Representative**
Jovan G. Agee - Yes
Barry Broad - Yes
Angie Wei - Yes
Chris Jones - Yes
Josefa Mercado - Yes
Mark S. Schacht - Yes

**Employer Representative**
Julianne Broyles – No
Acie Davis - No
Kevin Dayton - No
Lara Diaz Dunbar - No
James O. Abrams – No
Heidi DeJong Barsuglia - No
**Motion #3 (Open):** The minimum wage should reflect the proper cost of living and the purchasing power increase needed for low wage workers.
Mover of motion: Angie Wei
Seconded by: Chris Jones

**Motion #3(a):** Motion to call to question whether to close debate on Motion #3.
Mover of motion: Julianne Broyles
Seconded by: Jim Abrams
Vote: 6 – 6; motion failed. (See transcript, Page 98, Line 17)

**Employee Representative**
Jovan G. Agee - No
Barry Broad - No
Angie Wei - No
Chris Jones - No
Josefa Mercado - No
Mark S. Schacht - No

**Employer Representative**
Julianne Broyles - Yes
Acie Davis - Yes
Kevin Dayton - Yes
Lara Diaz Dunbar - Yes
James O. Abrams - Yes
Heidi DeJong Barsuglia - Yes

**Motion #3 (Vote):** The minimum wage should reflect the proper cost of living and the purchasing power increase needed for low wage workers.
Mover of motion: Angie Wei
Seconded by: Chris Jones
Vote: 6 – 6; motion failed. (See transcript, Page 140, Line 16)

**Employee Representative**
Jovan G. Agee - Yes
Barry Broad - Yes
Angie Wei - Yes
Chris Jones - Yes
Josefa Mercado - Yes
Mark S. Schacht - Yes

**Employer Representative**
Julianne Broyles – No
Acie Davis - No
Kevin Dayton - No
Lara Diaz Dunbar - No
James O. Abrams – No
Heidi DeJong Barsuglia - No
Motion #4: If the Industrial Welfare Commission chooses to raise the minimum wage, that the amount of meal and lodging credits that may be taken against the employer’s minimum wage obligation be increased proportionately.
Mover of motion: Jim Abrams
Seconded by: Julianne Broyles
Vote:  6 – 6; motion failed. (See transcript, Page 146, Line 7)

Employee Representative
Jovan G. Agee - No
Barry Broad - No
Angie Wei - No
Chris Jones - No
Josefa Mercado - No
Mark S. Schacht - No

Employer Representative
Julianne Broyles - Yes
Acie Davis - Yes
Kevin Dayton - Yes
Lara Diaz Dunbar - Yes
James O. Abrams - Yes
Heidi DeJong Barsuglia - Yes

Motion #5: The Industrial Welfare Commission should update Minnie’s Budget.
Mover of motion: Mark Schacht
Seconded by: Chris Jones
Vote:  6 – 6; motion failed. (See transcript, Page 154, Line 7)

Employee Representative
Jovan G. Agee - Yes
Barry Broad - Yes
Angie Wei - Yes
Chris Jones - Yes
Josefa Mercado - Yes
Mark S. Schacht - Yes

Employer Representative
Julianne Broyles – No
Acie Davis - No
Kevin Dayton - No
Lara Diaz Dunbar - No
James O. Abrams – No
Heidi DeJong Barsuglia - No
Motion #6: If the minimum wage is increased, the increase should be in 12-month increments.
Mover of motion: Julianne Broyles
Seconded by: Acie Davis
Vote: 6 – 6; motion failed. (See transcript, Page 161, Line 22)

**Employee Representative**
Jovan G. Agee - No
Barry Broad - No
Angie Wei - No
Chris Jones - No
Josefa Mercado - No
Mark S. Schacht - No

**Employer Representative**
Julianne Broyles - Yes
Acie Davis - Yes
Kevin Dayton - Yes
Lara Diaz Dunbar - Yes
James O. Abrams - Yes
Heidi DeJong Barsuglia - Yes

Motion #7: The minimum wage should be raised to $9.78 per hour and indexed to the cost of living using the Urban Counties Index from the Department of Finance.
Mover of motion: Angie Wei
Seconded by: Barry Broad
Vote: 6 – 6; motion failed. (See transcript, Page 194, Line 11)

**Employee Representative**
Jovan G. Agee - Yes
Barry Broad - Yes
Angie Wei - Yes
Chris Jones - Yes
Josefa Mercado - Yes
Mark S. Schacht - Yes

**Employer Representative**
Julianne Broyles – No
Acie Davis - No
Kevin Dayton - No
Lara Diaz Dunbar - No
James O. Abrams – No
Heidi DeJong Barsuglia - No
Motion #8: Motion to adjourn.
Mover of motion: Jim Abrams
Seconded by: Lara Diaz Dunbar
Vote: 6 – 6; motion failed. (See transcript, Page 205, Line 8)

Employee Representative
Jovan G. Agee - No
Barry Broad - No
Angie Wei - No
Chris Jones - No
Josefa Mercado - No
Mark S. Schacht - No

Employer Representative
Julianne Broyles - Yes
Acie Davis - Yes
Kevin Dayton - Yes
Lara Diaz Dunbar - Yes
James O. Abrams - Yes
Heidi DeJong Barsuglia - Yes

Motion #9: If any federal legislation passes with regard to the tip credit, the wage board requires that the Industrial Welfare Commission do everything it can legally to oppose it.
Mover of motion: Barry Broad
Seconded by: Angie Wei
No vote. Chair ruled motion out of order and outside the scope of the charge.

Motion #10: Motion to adjourn.
Mover of motion: Julianne Broyles
Seconded by: Kevin Dayton
Vote: 6 – 6; motion failed. (See transcript, Page 210, Line 4)

Employee Representative
Jovan G. Agee - No
Barry Broad - No
Angie Wei - No
Chris Jones - No
Josefa Mercado - No
Mark S. Schacht - No

Employer Representative
Julianne Broyles - Yes
Acie Davis - Yes
Kevin Dayton - Yes
Lara Diaz Dunbar - Yes
James O. Abrams – Yes
Heidi DeJong Barsuglia - Yes
Motion #11: The Industrial Welfare Commission should consider the cost of housing when they determine the adequacy of the minimum wage.
Mover of motion: Jovan Agee
Seconded by: Chris Jones
Vote: 6 – 6; motion failed. (See transcript, Page 221, Line 6)

Employee Representative
Jovan G. Agee - Yes
Barry Broad - Yes
Angie Wei - Yes
Chris Jones - Yes
Josefa Mercado - Yes
Mark S. Schacht - Yes

Employer Representative
Julianne Broyles – No
Acie Davis - No
Kevin Dayton - No
Lara Diaz Dunbar - No
James O. Abrams – No
Heidi DeJong Barsuglia - No

Motion #12: All twelve wage board members decline to adjourn and notify the Industrial Welfare Commission we have not been able to conclude our deliberations and want one additional day to meet, properly noticed.
Mover of motion: Mark Schacht
No vote. Chair ruled motion out of order.

Motion #13: Motion to adjourn.
Mover of motion: Angie Wei
Seconded by: Julianne Broyles
Vote: 9 – 3 in favor of Adjournment. (See transcript, Page 224, Line 7)

Employee Representative
Jovan G. Agee - Yes
Barry Broad - No
Angie Wei - Yes
Chris Jones - No
Josefa Mercado - Yes
Mark S. Schacht - Yes

Employer Representative
Julianne Broyles - Yes
Acie Davis - No
Kevin Dayton - Yes
Lara Diaz Dunbar - Yes
James O. Abrams - Yes
Heidi DeJong Barsuglia - Yes
Adjournment

There being no further business of the wage board and the above motion and vote being taken in favor of adjournment, the wage board meeting was adjourned at 4:59 p.m.

Attached is a copy of the transcript of the wage board meeting of August 4, 2006, prepared by Capitol Reporters for your reference.

As stated in the introduction to this report, all members of the Wage Board participated in a serious and thoughtful discussion of the issues raised by each of these motions. Their deliberations, as reported in the attached transcript, deserve careful consideration by the Industrial Welfare Commission, and anyone else interested in this matter. I thank all the members and alternates to the 2006 Minimum Wage Board for their dedication.

Respectfully submitted,

Paul Cohen
Chairperson

ATTACHMENTS:
1. Transcript of Wage Board Meeting of August 4, 2006
2. Barry Broad statement entitled “Statement of the Employee Representatives of the Minimum Wage Board”
STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
INDUSTRIAL WELFARE COMMISSION
2006 WAGE BOARD

PUBLIC MEETING
FRIDAY, AUGUST 4, 2006

DEPARTMENT OF HEALTH SERVICES BUILDING
FIRST FLOOR AUDITORIUM
1500 CAPITOL AVENUE
SACRAMENTO, CALIFORNIA

REPORTED BY:

KATHY L. SWINHART
CSR. NO. 10150
ELIZABETH TEKLINSKY
CSR. NO. 7895

CAPITOL REPORTERS (916) 923-5447

PARTICIPANTS

IWC 2006 WAGE BOARD:

Non-voting Representative:

PAUL M. COHEN, Chair
Employer Representatives:

JULIANNE BROYLES
ACIE DAVIS
KEVIN DAYTON
LARA DI AZ DUNBAR
JAMES O. ABRAMS
HEIDI DEJONG BARSUGLIA
GARY MONAHAN, Alternate
THOMAS J. MARTIN, Alternate

Employee Representatives:

JOVAN G. AGEE
BARRY BROAD
ANGIE WEI
CHRIS JONES
JOSEFA MERCADO
MARK S. SCHAUCHT
LEE SANDAHL, Alternate
ALLAN D. CLARK, Alternate

STAFF:

DEANNA FONG, Legal Counsel
STEPHANIE E. LEACH

ALSO PRESENT:

DIANA MENDOZA, Translator

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The wage board finds that the current minimum wage is adequate and should not be increased.

The minimum wage of $6.75 is not adequate and should be raised.

The minimum wage should reflect the proper cost of living and the purchasing power increase needed for low wage workers.

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3(a) Motion to call to question whether to close debate on Motion 3.

Vote.

12 If the Industrial Welfare Commission chooses to raise the minimum wage, that the amount of meal and lodging credits that may be taken against the employer's minimum wage obligation be increased proportionately.

Vote.

5 The Industrial Welfare Commission should update Minnie's Budget.

Vote.

6 If minimum wage is increased, the increase should be in 12-month increments.

Vote.

7 The minimum wage should be raised to $9.78 per hour and indexed to the cost of living using the Urban Counties Index from the Department of Finance.

Vote.

8 Motion to adjourn.

Vote.

9 If any federal legislation passes with regard to tip credit, the wage board requires that the Industrial Welfare Commission do everything it can legally to oppose it.

No vote. Chair ruled motion out of order and outside the scope of the charge.

10 Motion to adjourn.

Vote.

11 The Industrial Welfare Commission should consider the cost of housing when they determine the adequacy of the minimum wage.

Vote.

12 All twelve wage board members decline to adjourn and notify the Industrial Welfare Commission we have not been able to conclude our deliberations and want one additional day to meet, properly

Page 3
CRP:  All right.  Good morning, everyone.  I'm going to call to order the meeting of the 2006 Minimum Wage Board.  Apologize for the late start.  There was some severe traffic problems on Interstate 80.  But, in any case, here we are and we will begin.  I'm going to start with a roll call of the employee and employer representatives.  When I call your name, please indicate you're here.

Employee representative Jovan Agee.

Member Agee:  Here.

CRP:  Barry Broad.

Member Broad:  Here.

CRP:  Angie Wei.

Chairperson Cohen:  Motion to adjourn.

Vote:  9 - 3 in favor of adjournment.

---oOo---
And out of respect, please speak, not just nod, wave like that and identify yourself when you're speaking.

Lee Sandahl, alternate.

ALTERNATE MEMBER SANDAHL: Here.

CHAIRPERSON COHEN: Allan Clark, alternate.

ALTERNATE MEMBER CLARK: Here.

CHAIRPERSON COHEN: For the employer representatives, Julianne Broyles.

MEMBER BROYLES: Present.

CHAIRPERSON COHEN: Acie Davis.

MEMBER DAVIS: Here.

CHAIRPERSON COHEN: Kevin Dayton.

MEMBER DAYTON: Here.

CHAIRPERSON COHEN: Lara Diaz Dunbar.

MEMBER DUNBAR: Here.

CHAIRPERSON COHEN: James Abrams.

MEMBER ABRAMS: Here.

CHAIRPERSON COHEN: Heidi DeJong Barsuglia. I'm sorry help me with that.

MEMBER BARSUGLIA: Barsuglia. Here.
CHAIRPERSON COHEN: All right. Thank you very much. And I am Paul Cohen, the non-voting chair of this wage board.

I'd like to welcome you all to this meeting. Thank you for participating on this wage board and considering an issue that is of great significance both to employers and employees in the state of California.

After considering all of the evidence related to its minimum wage investigation, on July 5th, 2006, the Industrial Welfare Commission found the minimum wage may be inadequate to supply the cost of proper living and selected this wage board consisting of an equal number of employer and employee representatives and a non-voting chairperson to consider and make recommendations regarding the adequacy of the State's minimum wage.

Pursuant to Labor Code Section 1178.5, the wage board shall make the recommendation to the IWC, quote, "of a minimum wage adequate to supply the necessary cost of proper living to and maintain the health and welfare of employees in this state."

This is a one-day meeting to consider the specific IWC charge as follows:

The IWC charges us to consider all materials provided to us for review, and after review, to report to the IWC recommendations on the following matters consistent with...
basic statutory responsibility to ensure the minimum wage is adequate to supply the cost of proper living:

(1) The adequacy of the current minimum wage of 6.75 per hour and whether the State minimum wage should be increased;

(2) If the minimum wage should be increased, should make recommendations as to: (A) how much the minimum wage should increase; (B) the timing of such an increase -- for example, would it occur at one time or be phased in over a period of time; and (C) whether the minimum wage should be indexed.

(3) If you determine the minimum wage should be increased, should make a recommendation as to the adequacy of the amount which may be credited against the minimum wage for meals and lodging in Section 10 of IWC Wage Orders 1 through 15 and Section 9 of IWC Wage Order 16.

In investigating this matter and making recommendations to the Industrial Welfare Commission, you may consider but are not bound by the IWC's traditional determination to raise these credits by the percentage increase in the State minimum wage.

That is the specific charge to the wage board. A couple of questions.

First of all, just a general question, and that is that I am assuming that all wage board members have had an opportunity to review the background materials sent to them in preparation of today's meeting.
Does anyone feel they have not had an opportunity to do so?

Any member who has not reviewed the materials should voluntarily relinquish their role as a wage board member and allow an alternate to take his or her place if that alternate has reviewed the materials.

Seeing no one, we'll assume that everyone feels adequately prepared.

We are here today to consider the finding and charge of the Commission to make a recommendation to the IWC by way of written report completed by the Chair, myself, which will be delivered to the IWC and will be copied to all wage board members.

Although present, alternates to the wage board will not be allowed to vote or make motions during the wage board proceedings. Based on past practice, I've reviewed the minutes of previous wage boards, I will allow alternates to participate in the discussion, although I ask you to be respectful in the manner in which you do that. Since the alternates are required to be present during the entirety of the wage board proceeding today, I think it would be -- it would not make much sense to ask you to sit up here but remain mute the entire time.

The public is welcome to observe the wage board proceedings. And I see we have an overwhelming number of public present here, but there are -- there is no public comment, no oral testimony to be submitted to the wage board today.

The wage board consists of six employee
representatives and six employer representatives for a total of 12 votes. Thus a quorum of the wage board is six members, and a two-thirds majority would consist of eight votes.

A couple of reminders before we get started here, I will stop talking and turn this over to the rest of you. Again, we have a Court Reporter. I would ask you to use the microphone and identify yourself each time that you speak, particularly the alternates since the Reporter can't see you based on where the table arrangement is.

And I also would call to your attention -- you may already have noticed -- we have a member of the wage board who is being assisted by a translator, and I would ask you to keep that in mind.

And I will say that -- to the translator, if you are having difficulty, please let someone know if they need to speak more slowly or take a pause.

And at this time I'm going to invite both sides to make brief opening statements, and we will begin to consider the first question. I'll start with the employee representatives.

MEMBER WEI: Good morning. Angie Wei representing the California Labor Federation.

We're very happy to be here this morning representing the -- for us, over two million members covered by collective bargaining agreements. On the employee side, I am honored to have representatives of the workers whose lives we're going to discuss today: Domestic workers, farm workers, janitors, cooks, school employees, warehouse workers, drivers. These are the workers who work in our...
low-wage economy.

We take today's deliberations very seriously. We're going to enter them with deep deliberation. We've reviewed the empirical evidence and hope that this will be both a passionate but yet data driven discussion. And we look forward to a boisterous and respectful day together.

And I think on behalf of us, we'd actually now like to take a second collectively to ask Barry Broad, one of our representatives, to read into the record a position brought forward by the employee representatives this morning and recognizing that after we read this statement, we will be prepared to begin.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: Let me pass this down to the employer representatives.

The employee members of the minimum wage board are concerned that the meeting of this wage board and all actions taken by the Industrial Welfare Commission may be unlawful because the Legislature has defunded the IWC.

While we don't know exactly from which funds the budget of the IWC is being drawn, we understand that it is the general budget of the Department of Industrial Relations. There is considerable legal doubt whether funds transferred to an agency that has been defunded for use for which the Legislature has intentionally failed to appropriate money is lawful.

This is based on the doctrine of separation of powers set forth in Article III, Section 3 of the California Constitution and Government Code Section 13332.15. The
separation of powers does not allow for the executive branch of government to appropriate funds for a purpose that the Legislature has not appropriated funds.

Article III, Section 3 of the California Constitution provides the powers of state government are legislative, executive and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

The general principle is easily stated. The executive branch in expending public funds may not disregard legislatively prescribed directives and limits pertaining to the use of such funds. That's quoting from a case called Superior Court versus County of Mendocino.

In addition, Government Code Section 1332.15 provides no appropriation may be combined or used in any manner to avoid budgeting the salary or operational expense of any position or to achieve any purpose which has been denied by any formal action of the Legislature.

The action of the Legislature to defund the IWC was as formal an action as to the Legislature could take. After years of funding the IWC, the Legislature stopped doing so.

We remain extremely concerned that any action that this wage board -- that the IWC takes to increase the minimum wage is subject to legal challenge and could be reversed by court order. As such, to avoid a strong possibility of a minimum wage increase -- that a minimum wage increase will be subject to legal challenge, we believe that the minimum wage should be raised by action of the Legislature.
That being said, we fully intend to participate today in this -- in this meeting, but we're very concerned that were the IWC to raise the minimum wage, some employer in particular who doesn't want to see it raised -- and we recognize that there are many -- could bring a lawsuit to -- basically arguing that the Legislature had defunded the IWC, that it was operating in a manner that was unconstitutional, and the Court could strike down the minimum wage increase, in which case the workers of the state of California could be left with nothing.

So it's our strong opinion, and we'd like that opinion to be made known to the IWC through its Chair and through the Chair of this wage board, that -- that we are of -- we have these very significant concerns which may render anything we do here today moot.

So with that, we're prepared to move forward.

CHAIRPERSON COHEN: Okay. Thank you, Mr. Broad.

I just would note that I appreciate your submitting that in writing. I assure you that both the transcript and my report will include reference to your concerns and will document that you -- that the written version of that statement will be included and that issue will be raised.

Before I go to the employers, I've been remiss. I would like to introduce -- although they might be subject to legal challenge, I would like to introduce Stephanie Leach from IWC staff, who's been of great assistance to me, and Deanna Fong, who I've just met in person for the first time, but spoken on the phone, legal counsel. Thank you both for assisting us today.
And with that, I'll call on the employer representatives for their opening statement.

MEMBER BROYLES: Good morning, Mr. Chairman, members of the 2006 Minimum Wage Board here today to discuss a very significant issue to both employers and employees.

I am very pleased to have along with myself, Julianne Broyles from the California Chamber of Commerce, a number of employers and employer representatives who will also be directly affected by issues surrounding the minimum wage. It is their companies that provide the jobs to workers here in California, and keeping a strong economic base here in California is our goal. Our job is to provide jobs for California workers and to do so in a manner that both prevents -- that permits us to provide jobs and also make a living for ourselves and our families along with that.

We have a strong coalition of employers who look at the issue in a -- probably a different way from the employee representatives on the Industrial Welfare Commission wage board today, but we think that there is a way that California can be made better for all citizens here in California, just not a small -- not just one small segment of the employee population.

We think it would benefit for all citizens and all employees and employers to have lower housing costs, to have affordable benefits, to have lower taxes, to have better roads, better transportation infrastructure and to have access for all to lifelong learning, which is really
the one key issue to lifelong earnings and the ability to ascend the earning ladder.

We are very committed to finding ways to increase take-home pay and better job opportunities for all Californians, and we support the policies that help workers gain the abilities to earn better wages and to improve their chances of both finding and keeping a job here in California.

For that reason, we do come here today in a spirit of listening to what all the members of the wage board have to say on this issue and look forward to working with all of you in a -- as Ms. Wei said, a boisterous and spirited discussion of the issues.

At this time, I would like to introduce Mr. Abrams from the California Hotel and Lodging Industry Association to make the first motion.

CHAIRPERSON COHEN: Go ahead, Mr. Abrams.

MEMBER ABRAMS: Thank you, Mr. Chairman.

And the motion I'm about to make is in the context of what Ms. Wei said, that we need a very I think passionate but honest discussion of all the facts and circumstances that come to bear on what the level of the minimum wage should be.

The motion I am making is -- really has two goals.
MEMBER DUNBAR: I second the motion. This is Lara Diaz Dunbar.

CHAIRPERSON COHEN: Okay. So consistent with our charge to consider whether the minimum wage is adequate to supply the necessary cost of proper living and maintain the health and welfare of the employees in the state, on the adequacy of the minimum wage, the motion is that no raise -- that no increase should be given at this time.

I guess we'll proceed to discussion on that motion.

Yes, Mr. Abrams.

MEMBER ABRAMS: Mr. Chairman, if it would be appropriate, I would like to explain the reasoning behind the motion, however you would wish to proceed.

CHAIRPERSON COHEN: Why don't you go ahead and make a brief statement and then allow --

MEMBER ABRAMS: That's fine. In part this is to -- is to foster the discussion.

The papers that have been submitted by the various parties and organizations point out -- as part of this proceeding, point out some of the fundamental differences of opinion and philosophy approach that pertain to the role of the minimum wage and considerations that pertain to setting what the proper level of the minimum wage should be.

And I think there are several issues that, not by design to be accusing on anybody's part, but I think they're often overlooked. And I think typically what has happened and what is certainly the case of the discussion before the Industrial Welfare Commission to date in this
proceeding is the fact that the minimum wage is looked at in an isolated fashion. And I want to speak to why it's important to take the whole issue of the minimum wage in the context of the employer, employment and economic situation, the relationship between employer and employee in California, and you can't just divorce out the minimum wage without looking at all of the other things that go into that relationship.

There is a -- a significant issue, and I would ask the Chair, if you -- when we get through, if you could read back something very critical that you said in your opening comments, that the goal of the minimum wage is to make sure that the necessary cost of proper living are provided for all employees in the state of California. I believe that's pretty much a verbatim quote of what you said.

There has been an ongoing debate as to whether the minimum wage in fact should be focused upon -- just looking at this one aspect of the question, on the necessary cost of proper living for an individual employee. And I would submit the language you read, which is from the Labor Code if I'm not mistaken, talks about the cost of proper living for employees. Not employees single, not employees with families, not employees with families with two-wage earners, one-wage earner, seven children, two children, no children or anything else.

Now, I do appreciate from some of the documentation that was submitted in conjunction with this proceeding that it has been pointed out that discussions in these proceedings before prior wage boards has focused on and arguments have been made in favor of looking at the minimum
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wage in the context of a family. And the family of three
has recently been the -- kind of the benchmark used by a
lot of people.

We submit that the minimum wage is not a minimum wage
dependent upon whether you're single or whether you have a
family or whether you have one children, two children,
dependents or not. It's to provide the proper -- the cost
of proper living for an employee.

Now, we certainly will discuss and we are happy to
discuss what that amount or amounts should be. But, number
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one, we feel it's very important to look at the whole
minimum wage debate in terms of what a single employee
needs for his or her necessary cost of proper living.

Secondly, one of the issues that the IWC has always
faced and I'm sure the Legislature will acknowledge it
faces, too, is that whatever action it takes, while it
might achieve some good, should not do any harm.

And the debate has been very heavy in the academic
arena over the last 15 to 20 years whether an increase in
the minimum wage in fact helps or hurts employees,
especially those at the minimum wage or lower income
levels. And there are academics on both sides of the
equation.

One of the things that I think is often missed in
that equation, and we will discuss it, in this way we need
to look at all of the statistics and all of the data
because it makes --

CHAIRPERSON COHEN: Excuse me a moment, Mr. Abrams.

Is there someone here that can assist --

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Can you hear the buzz?

(Brief interruption in proceedings.)

Sorry. Continue.

Thank you very much, Mr. Chairman.

The question is, are there factors of harm that would be caused by an increase in the minimum wage?

One aspect of this is whether an increase in the minimum wage will harm individuals who it is intended to help. And --

Excuse me. I'm sorry to interrupt your program.

(Brief interruption in proceedings.)

Thank you.

Just to close this piece of the issue, we need you to look at what is -- what is going to happen if we in fact raise the minimum wage.

I will point out in that regard, the report that was prepared by the industrial -- the Department of Industrial Relations, the Division of Labor Statistics and Research, their research Report 2002-1 found a couple of things and -- of importance, and I don't want to take this out of context at all.

The author of this report says that I find that during the latter stage of the lengthy economic expansion -- and I want to point out that the statistics that are derived about the impact of the minimum wage increase during periods of expansion are far different than those results will be if you look at it during a period of stagnant economic growth or declining economic growth.

But to continue, the rise in the minimum wage had...
little impact on employment, again in the context of an expanding economy, yet a greater effect on hours worked. And you can read into the body of this report the conclusion is, is that while the minimum wage increase at that point in time in an expanding economy didn't necessarily show a decrease in employment, that hours worked did go down. And employers -- in fact, there is a statement later on, there was a significant movement by employers. Firms may redesign jobs by using more capital relative to labor, increasing their capital labor ratio in response to consistent minimum wage increases.

So the issue really needs to be looked at in a broader context, which is the point I keep trying to come back to.

And in fact, in a rising economy, employment may grow but that should not be taken as proof that an increase in the minimum wage didn't harm people. Nor does it look at the -- what I would call the disemployment effect, that employees who might keep their jobs nonetheless find that they suffer harm.

Employers -- and I think you will hear testimony here -- not testimony, but input from the wage board members today to the effect that shifts are cut, hours are reduced, benefits are cut, and the crisis that we're all facing today, all of us here at this table in different arenas dealing with employee health care and the whole issue of how we go about providing employee health care,
those employers who now provide it are going to have a
difficult time providing it, are going to have a harder time
paying for all of or as much as they do. So we're very
certainedly have a discussion around the table, we firmly
believe that the minimum wage at 6.75 an hour is exactly
where it ought to be in the state of California.

It has gone up. If you look at it over time, the
minimum wage, while it doesn't go up as rapidly as some
parties here would like it to, has gone up over time. And
if you look at it in terms of inflation generally, we are
right at -- adjusting for inflation, right where we ought
to be.

We are also concerned that one size fits all is
really very problematic because the minimum wage, as has
been pointed out by a number of groups, is very blunt. It
affects everybody regardless of size, regardless of family,
if you even look at that arrangement regardless of whether
you're living at home and all of these other factors.

So for those reasons, we feel that it's important
that the wage board conclude that it's inappropriate to
raise the minimum wage at this time.

Thank you very much.

CHAIRPERSON COHEN: Thank you, Mr. Abrams.

At the risk of turning this into a tennis match back
and forth -- it may inherently lend itself to that -- I'm
going to see if there's an employee representative that
MEMBER BROAD: Well, I just have a couple questions for Mr. Abrams.

So basically you believe that the current minimum wage is adequate.

MEMBER ABRAMS: With the understanding -- at this time, with the understanding that the focus is on an individual employee. Yes, sir.

MEMBER BROAD: So then why -- I guess I'm confused.

Then why did the employers in the last minimum wage board make the same motion you're making today, not to raise the minimum wage at that date? If actually going to 6.75 was the appropriate thing, why were they opposed to raising it then? And why were they opposed to raising it each of the previous minimum wage boards going back to the minimum wage that went in effect in 1916?

So that effectively if the motion had passed, the minimum wage today would be 16 cents an hour and that the employers would believe it should never change.

MEMBER ABRAMS: With respect, Mr. Broad, the last minimum wage increase that resulted in the 6.75 an hour, if I'm not mistaken, was a result of Prop 210.

MEMBER BROAD: No. That's wrong.

MEMBER ABRAMS: Okay. Then --

MEMBER BROAD: It was when I was on the IWC, and it was done by wage board. And -- it was done by the IWC, but there as a wage board and a similar motion was made.

Therefore, what you're saying is that the employers that were on that wage board -- some of them may be people that are here today -- they were in fact -- you believe
they were in fact wrong. They should have voted to raise the minimum wage to 6.75 as of this date because it would have turned out to be the correct amount, as you concede.

MEMBER ABRAMS: No, I do think you're confused, Mr. Broad.

MEMBER BROAD: I don't know. It's just my simplemindedness.

If you said it's adequate today, then it should have obviously been raised to what it is today and that employers should have agreed to that. Therefore, you should be agreeing to raise it to what it should be tomorrow, if you will, so that you don't repeat the same mistake that you repeated last time around and all the other times back to 1916.

I -- you know, correct -- I mean, you know, I'm just a confused guy.

CHAIRPERSON COHEN: I think we have a response.

MS. BROYLES: With all due respect, Mr. Broad, I have rarely found you confused. Misinformed, but not confused.

In nineteen --

CHAIRPERSON COHEN: If anybody has got a cell phone or blackberry on --

(Brief interruption in proceedings.)

CHAIRPERSON COHEN: One thing I will point out, these microphones are not equipped with an on/off switch so your mic is live at all times. Something to keep in mind.

MEMBER BROYLES: Thank you, Mr. Chairman. Julianne Broyles from California Chamber.

First of all, there was agreement, if I recall
correctly, Mr. Broad, in the late 1980s on an increase by a
minimum wage board. And I believe it was 1988, so please
be sure of your facts.

Second of all, I think what we have had happen, in
other venues and in other ways the minimum wage has gone
up. The Legislature has enacted minimum wage increases
over time. There has been ballot propositions such as
Proposition 210. There has been action by the Industrial
Welfare Commission, which takes information not just from
the wage board, but from the public, from employers, from
employees and other people who are interested in the issue
over that time and have made decisions both to and not to
increase the minimum wage.

What I believe most employers have as a concern,
particularly if we're going to go to the issue of indexing,
which seems to have segwayed into this discussion, is the
issue of appropriateness of timing and economic cycles at
times of increases and what that means to the actual
economy as a whole, job development as a whole and whether
or not Californians can continue to look forward to having
a job.

CHAIRPERSON COHEN: Before further comment, let me
just ask us to focus a little bit in this discussion. We
have been given a specific charge by the Industrial Welfare
Commission, and I'd like to take that charge in its
component pieces in a somewhat orderly fashion.

So the specific charge given to this wage board is
not to discuss or debate the philosophy of a minimum wage
and its economic impact, but specifically, again quoting
from the Labor Code, "a recommendation of a minimum wage
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adequate to supply the necessary cost of proper living to
and to maintain the health and welfare of employees in this
state."

And the first question before us and the one that the
motion speaks to is the adequacy of the current minimum
wage of 6.75 per hour and whether the State minimum wage
should be increased.

Issues of timing, indexing and so forth are issues
raised later in the charge, and we'll have an opportunity
to discuss that. But the motion before us does reflect
that first question, whether or not the current minimum
wage of 6.75 per hour is adequate. And the motion is that
it is and should not be increased.

MEMBER WEI: Mr. Chair, I speak to -- in opposition
to this motion.

This is a pretty cynical motion to assume that being
able to survive in the state of California on 6.75 an hour,
whether you're an individual or you're raising a family is
adequate seems to be very cynical.

California has fallen behind other west coast states
and other states throughout the country in terms of our
minimum wage. Just factually speaking, I don't know that
there's any of us who could document why California -- how
California is not the most expensive state to live in in
this country.

Given that we are the most expensive, you look
around, you look at all the states with a higher minimum
wage. We're stuck at 6.75 when Alaska is at 7.15 an hour;
Connecticut is at 7.40; the District of Columbia is at
These states, small and large, urban and rural across the country now have a higher minimum wage than California where we have the highest cost of living. Even this Congress and this President are discussing in serious deliberations raising the minimum wage to 7.25 an hour across the country.

7.25 an hour is good enough for -- is what's needed for workers in Louisiana or Kansas or Idaho. Is 6.75 truly adequate, do these employer representatives believe it's truly adequate for workers in California? Look at any standard of adequacy, and we could not point to how 6.75 would meet that adequacy standard.

Whether it's a self-sufficiency budget put together by the California Budget Project -- if you take in the real cost of what it means to survive in California, housing cost, child care cost, food and health care cost, at a minimum a single individual, not a single individual with two kids -- an individual with two kids, a single individual by the self-sufficiency standard would require $12.44 an hour for the bare necessities. 6.75 doesn't even come close.

Can any of us around this table or in this room imagine surviving on $14,000 a year before taxes, before Social Security withholdings, before having to pay for health insurance or your child care costs or your rent,
never mind your food? This is a cynical motion that's disappointing that this is where the employer representatives would start.

If you look at a different standard, Minnie's Budget -- the Industrial Welfare Commission over four decades ago put together a Minnie's Budget. A Minnie's Budget, which we're going to talk later about updating it, if you took -- I think they started out with a self-sufficiency standard at a dollar sixteen. And if you were to adjust that to today's dollars, we'd be looking at a minimum wage equivalent of 9.78 an hour, $9.78 an hour.

By any standard, we cannot measure that the minimum wage is inadequate, and we oppose this motion.

MEMBER DAYTON: Mr. Chairman, Kevin Dayton representing Association Builders and Contractors.

There are some fundamental problems with the charge that's been given to the wage board. And I think the fundamental problem number one, was best stated in the brief we received from the Employment Policy Institute.

Quote, "The minimum wage is a blunt policy unable to determine between the low-wage teenager who may live in a wealthy family and a low-income employee supporting a family."

Is the minimum wage inadequate for a 21-year-old working in a restaurant with tips, not owning a car and living with two roommates in a rental apartment in San Francisco? Is the minimum wage inadequate for a 17-year-old working in retail who is living at home with a parent and using the money for car insurance and entertainment purposes?
The statistics we received from the Department of Industrial Relations show that 24.6 percent of all workers receiving minimum wage are age 16 to 19; another 12.8 percent are age 20 to 24.

We were provided with information showing that some individuals are struggling to raise large families on their own while receiving minimum wage. Many of the arguments provided in support of a minimum wage increase refer to family and household budgets based on the size of the family or household. One could conclude from this (unintelligible) that perhaps a minimum wage is supposed to be graduated based on the size of the employee's household. However, there's nothing in the Labor Code that authorizes such calculations.

Another fundamental problem with the charge before us, that the Labor Code has not authorized the wage board to make recommendations about the adequacy of the minimum wage based on the geographic area. Obviously the cost of living in San Francisco is much higher than in the rural parts of the state, yet there's no provision for adjustment based on locality.

And in fact, when I look at the U.S. Department of Commerce map showing degrees of noncompliance with the minimum wage and I see that noncompliance is much higher in rural areas, it makes me wonder if perhaps this straight across the board, one wage for the entire state is just not keeping with true economic conditions.

And I will note that in the construction industry for prevailing wage, even the flawed way that prevailing wage
is determined in the state, there is recognition there
that, you know, wages are different in different parts of
the state. Wages are obviously higher in a place like San
Francisco and Los Angeles than in rural areas depending on
the trade.

In addition, we weren't provided any information to
show what percentage of workers receiving minimum wage at
one point in time are still at the minimum wage level a few
years later.

I quote from the July 18th, 2006 letter from the
Antelope Valley Board of Trade. They write that this
mandated wage is intended to provide workers entry level
opportunities that can provide skills, training and
experience that will enable a worker to move up or move on
to better paying jobs.

I note that looking at all of these problems, why
isn't the Industrial Welfare Commission perhaps asking for
a recommendation about, you know, possible changes in how
minimum wage is calculated? Why aren't we talking about
such things as the earned income tax credit, which I noted
that both the liberal California Budget Project and the
conservative Employment Policy Institute said, you know,
this might be a good thing to look at standing onto the
state level.

There are some fundamental problems with this, and
for this reason I would agree with the motion, and also I
call for the question on this.

CHAI RPERSON COHEN: A couple of things in response.
First of all, it's my intent that everybody be given
an opportunity to participate and speak, and I'm going to
do my best to allow that.

That being said, I'm going to again ask members of the wage board, however -- whatever framework you use to make your decision on the motions, we are here with a specific charge, and that is why we have convened and asked to consider the charge. Whether or not you think there is something wrong with the charge and the decision that the IWC gave in giving us this assignment, we are here to consider the assignment that we have been given. And that is not to consider whether the minimum wage is good economic policy or whether the IWC erred in appointing this wage board. It is to consider the specific charge.

And so I would ask you to, number one, keep that in mind; number two, frame your remarks with response to the motion under discussion.

And then thirdly, as a procedural matter, I don't believe that under Robert's Rules of Order and certainly not under Chairman Cohen's rules of order that it is appropriate to speak to a motion and then call for the question. So I'm going to allow for a response, and then if someone who has not spoken to the issue wishes to proceed to a vote, they can call for the question.

But I will allow --

MEMBER SCHACHT: Mark Schacht, California Rural Legal Assistance Foundation. Just on the issue of the differences in the cost of living between rural and urban California.

We did a survey five years ago of 1,110 raisin harvest workers in the five-county raisin belt of Kern,
And we asked them a number of questions, but we focused on the adequacy of their wage to provide for their basic living necessities. And at that time, the minimum wage was six dollars and 25 percent -- $6.25 per hour.

6 percent of the respondents said that the 6.25 was adequate to provide for their basic life necessities; 43 percent said it would have to be between one and two dollars more per hour; and 51 percent said it would have to be between three and five dollars more per hour.

When we asked them what were the basic needs that would be met with that increased wage if it could be provided to them, 43 percent said they would seek out better or less crowded housing; 4 percent wanted regular doctor visits; 6 percent wanted health insurance; 6 percent wanted better clothes for their family; 3 percent wanted regular dental visits; 5 percent wanted healthier food; 7 percent would pay off credit debts; 10 percent would buy a new or used car; 5 percent would get car insurance.

Those are exactly the kinds of expenses that would be in any real Minnie's Budget. And if you cost out the costs of living in rural California, I think you're going to find that they are very similar to the cost of living in much of the rest of California with the possible exception of the heavily urban centers.

So I would oppose this motion, and I won't call for the question, but I hope somebody else does.

CHAIRPERSON COHEN: Anyone else?

MEMBER DUNBAR: This is Lara Diaz Dunbar with the California Restaurant Association.
You say that we are tasked with looking at the adequacy of the minimum wage, but the minimum wage, what is that? I think that there is a view that it is supposed to be a starting wage, not a maximum wage. You know, we've heard comments that, you know, families of three or more cannot survive on the minimum wage, but minimum wage is supposed to be a starting wage, someplace to start. And many employees pay higher than that.

And we believe that if you go back to 1956 and if you're actually looking at the cost -- or adjusting for inflation, there's highs and lows. If you take the actual average since 1956, we're about where we should be.

And so we don't believe that -- that the minimum wage is inadequate at 6.75.

MEMBER WEI: To the Chair, question to the maker of the motion.

CHAIRPERSON COHEN: Please.

MEMBER WEI: By what standard do you use to measure adequacy?

MEMBER ABRAMS: That -- that is a very good question.

CHAIRPERSON COHEN: Mr. Abrams, let me -- and I should get you as well. Please again identify yourself when you're speaking.

MEMBER ABRAMS: Jim Abrams of the California Hotel and Lodging Association.

That is part of the real challenge. And I respect what Mr. Schacht just said.
I've read the, in some cases, affidavits of a number of people from the agricultural part of California, and they laid out a number of expenses on various items of just daily living. And in most of, I think if not all -- I have to go back and double check -- again, those were a function of family.

So I don't know, Mr. Schacht, if the -- the statistics that you just presented were -- were clarified to take family size out of the equation. I don't know if that was the case or not. I don't think it was.

And I think the -- I think one of the issues for us all, and I think it's an issue that we can certainly discuss here today, is what the proper measure is.

It has been debated and there have been papers presented to the IWC, to the wage board on both sides. I do also believe, in response to your question, that in looking at the adequacy of the minimum wage, that, again, I don't look at it as an isolated phenomenon.

The earned income tax credit is there, and it goes -- and it applies to many people who earn more than the minimum wage, if I'm not mistaken, the last time I did the calculations, which entitles them to a tax credit; I mean, just money in their pockets. And so I look at that as a factor, and that has not been discussed here.

Minnie's Budget -- and I'd need to go back and look at all of the various items that were in that. There was a lot of debate back and forth between the employer community and the employee community, for lack of a better term over whether that market basket was too large or too small.
That said, if you -- I do look at it as -- I guess as a quick rule of thumb starting point, that if you take the minimum wage that's been in existence and you adjust it for inflation over time, we are where the numbers ought to be. So that's part of the reason for my motion.

MEMBER JONES: Mr. Chairman, Chris Jones here from ACORN. I'm getting confused because in the original motion he essentially said, oh, you look at the employee, that it's blind. There was no determination about what the family size was, if you're single or whatever age. Now it seems to me that the arguments are going to everything else but just focusing on the original motion, employee.

Here we talk about an employee making 6.75. Well, every time the price of a gallon of gas doubles, does that still say -- make the minimum wage accurate? Every time the housing goes up -- five years ago I can remember maybe paying two to three hundred dollars less in rent than I pay today, but the minimum wage is still the same.

I mean, if -- the word "employee" just means employee. All these things have happened to the employee, and you going to tell me over five years that it's still the accuracy -- that it's still the same?

MEMBER BROYLES: Mr. Chairman, Julianne Broyles from the California Chamber of Commerce.

Adequacy of the minimum wage, again, is the question of the hour. And if I recall correctly, ACORN brought suit in 1995 against the State of California charging just that problem that if the minimum wage was increased, it would
have a deleterious effect on their employment of their employees; it was too high, and they'd have to cut employees. So the issue of adequacy goes to many different areas.

Adequacy can be, is it sufficient for certain purposes? Is it sufficient for people to maintain employment?

Small employers, in particular -- most of the members of the California Chamber have less than 20 employees. And our members look at the issues of whether or not we can continue to supply jobs to those people in our employ. That is one of the measures of adequacy.

When you look at where California stands -- and it was brought up by one of the representatives, Ms. Wei, on the issue of whether or not the U.S. Congress was examining whether or not to increase the federal minimum wage to --

to 7.25 per hour. Again, that's an adequacy measurement across the board.

In some ways that might be a more fair way to look at making sure that all employers are on an equal footing, a level footing for paying minimum wage workers across the nation, rather than some states having significantly higher than others and some states using the federal measure of -- of an adequate minimum wage, which today is 5.15 per hour.

Adequacy of the minimum wage to our members, our small members and our small employers is whether or not they can keep their doors open. They operate on very slim profit margins.

And when you have that, when you keep your paychecks
in the bottom drawer -- my mother, for instance, recently has become a small business owner, has two part-time employees. She's 72 years old. She decided out of the blue, surprise, I'm buying a business and was very surprised when she heard many of the issues that I've worked on over the years that she's done so.

What's been interesting is that -- when she figured out after her first year of business here in California that her profit is $17 a day.

Raising the minimum wage to 6.75 -- and she has two part-time, minimum-wage employees -- again, will, you know, be a very big cost to her business after she finishes paying Workers' Comp, paying health insurance, paying her unemployment insurance, paying all of the other issues that go along. But whether or not adequate is for a business the same thing as adequate for a minimum wage worker means whether or not one or two of her employees may not -- if she has to go to just running the business by herself without any employees, and is that an adequate minimum wage?

Minimum wage almost always goes to no- and low-skilled workers, people who have a difficult time moving up the employment ladder because of language challenges, because of literacy challenges, because of other impediments such as whether or not they have established correct residency status. All of those things figure into somebody's ability to move up the employment. As you gain skills, you move farther up.

And almost every study that we have seen over the years shows that within one year almost all minimum wage
workers receive an increase from their employer or they move to other employers who can pay them more for their expanded skills that they've gained on that job. I don't know of any report that goes counter to that.

Again, adequacy is always based in minimum wage, and wages as a whole are based on your skill level, your ability to be flexible in terms of learning new skills and moving forward.

MEMBER SCHACHT: Mr. Chairman, Mark Schacht. I'd like to respond --

CHAIRPERSON COHEN: Briefly. I think we have a new speaker, so if you'll defer.

MEMBER SCHACHT: Sure.

MEMBER AGEEL: Jovan Agee representing United Domestic Workers of America, AFSCME.

In 2002, the 6.75 which we're currently at was implemented. At that time, whatever the adequacy was defined to be was determined that 6.75 is adequate. In 2006, 6.75 has lost the purchasing power of 88 cents or equivalent to 11.5 percent decline to what it was in 2002. So considering that in 2002, 6.75 was adequate, I would assume that 6.75 today is not adequate based on the cost of living increases and the purchasing power declining by 11.5 percent. So I have to speak in opposition to the motion.

MEMBER DAVIS: Mr. Chairman, Acie Davis, Davis & Adams Construction.

The minimum wage to me in the construction business is a beginning wage. And most of the people that I would
hire at that wage would be laborers that want to learn a trade. It's an opportunity for them to learn a business, to learn a trade, learn a skill and be able to move up in their ability to make money. So they would start at that wage with the idea that over time, as they gain skills, they'll make more money. And I find that to be generally true in the construction business.

Increasing the minimum wage makes it more difficult for me and others to hire people at that beginning wage.

The other thing is, we're talking about in general a dollar an hour, which doesn't really equate to a dollar. It probably is closer to a dollar fifty, again, if you take into consideration Social Security taxes, insurance costs and other costs that get added to that dollar to make it more than a dollar.

We're also talking about people being able to have a standard of living at 6.75. If it goes to a higher number and people don't hire people or hire fewer people or even lay people off, I would argue that you're much worse off to not have a job than to have a job at the minimum wage.

I'm sure that everyone who is earning minimum wage would want to make more money per hour. I don't think there's anybody on minimum wage that doesn't want to make more money. The question is, is it -- does it make economic sense for an employer to pay them more money and stay in business? Or does it make more sense to say, if it gets to a certain cost, I'm going to have to let some people go and require others to be more productive?
Therefore, those that are the newest or the trainees are going to be the first to go or the last to get hired. And those that have the greatest skill are going to be those that will be retained.

So I do think that we make it difficult for people to start work when we make the minimum wage higher.

CHAIRPERSON COHEN: Okay.

MEMBER WEI: Question of the speaker.

CHAIRPERSON COHEN: I asked Mr. Schacht to defer, so I'd like to give him an opportunity --

MEMBER WEI: I have a question to the speaker.

Respectfully, Mr. Davis, do you offer health insurance to your employees?

MEMBER DAVIS: I'm sorry. I didn't hear it.

MEMBER WEI: Do you offer health insurance to your employees?

MEMBER DAVIS: Yes, I do.

MEMBER WEI: Can you tell me a little bit about your health care structure.

MEMBER DAVIS: The health care structure is based on each individual person. There's a menu of health care providers, Sharp, Blue Cross, all of those. The company pays 100 percent of each individual's health care at the -- at whatever is the minimum on the menu.

In other words, if the Sharp plan is the least expensive, than the company pays 100 percent of that. If you want Blue Cross for some reason, you have to pay the difference.

The company also has a 401(k) plan, that if you've
been there for a year, you can participate in that and we contribute 10 percent. And then we also have paid holidays.

      MEMBER WEI: Have your health care costs gone up?
      MEMBER DAVIS: Yes, they have, considerably.
      MEMBER WEI: And how has that cost premium been split? Have you absorbed all of the increases in the health care cost or have they been shared by the workers?
      MEMBER DAVIS: I've absorbed them all.
      MEMBER WEI: Thank you.
      MEMBER SCHACHT: Mr. Chairman, Mark Schacht.

On the issue of entry wage, minimum-wage workers, agriculture employs about 1.1 million workers a year and primarily in counties stretching from the Mexican border to the Sacramento Valley that have near double-digit unemployment even at the peak of harvest.

There are tens of thousands of agricultural workers who work at the minimum wage whose only realistic chance of an increase in their wages is either a union contract or an action by the IWC or the Legislature.

Agriculture itself has -- has reached a record high in cash receipts in 2004 -- these are the most recent data -- of 31.8 billion dollars, and the commodities that contributed the most to the increase were milk, almonds and grapes.

      Milk production increased 2.9 percent, cash receipts went up to 5.3 billion, and the average return to the -- to the dairy farmer rose 29 percent per hundred pounds of milk. Almonds, California's number one export crop, total
cash receipts rose from 1.6 billion to 2.2 billion. Grapes rose 19 percent to 2.76 billion.

Other notable increases in the 20 top commodities, beans up 59 percent in cash receipts; chickens up 33 percent; corn, sweet corn up 47 percent; hogs up 44 percent; lemons up 32 percent; milk up 33 percent; onions 35 percent; peaches 30 percent; pears up 46 percent; peppers up 49 percent; pistachios up 206 percent; squash up 38 percent.

You know, the bounty of this state's agriculture production is -- is in fact the result of a veritable army of impoverished workers. There are estimates by the University of California and others that as many as three-quarters of the entire work force makes less than $10,000 a year.

They have no option to get better wages out of better jobs in the counties that they work. The only options they have are to continue working at substandard wages and -- and they're -- you're the only protection that they can -- they can hope for.

Because their employers -- although they're making adequate and seemingly are quite profitable in recent years, their employers aren't sharing that bounty with them. And this IWC has got to force those employees to share some of those profits with the people who create the -- the wealth of the industry.

MEMBER DUNBAR: This is Lara Diaz Dunbar on behalf of the California Restaurant Association.

And while we appreciate your views in one industry, I can certainly say that that is not the case for all
When you look at the adequacy of the minimum wage, it seems that there's a lot of indication that you are having to look at what the impact is on the employee. And, you know, we may or may not agree on this, but you're looking at whether they can -- the employee can survive at a certain minimum wage. You have to look at all impacts on the employee in that same token.

And I have to agree with Mr. Davis, that if employers cannot just afford the minimum wage increase, which would certainly be the case with a lot of the restaurants, they're going to be forced to cut shifts, cut jobs. And all employees would rather have a job than not have a job.

And so you just have to look at the total impacts. And in our industry, it definitely wouldn't -- it would have that impact.

MEMBER WEI: Question to the speaker of the motion. Question to the speaker, the prior speaker. I'm sorry.

Ms. Dunbar, after the last minimum wage increase in 2002, do you have figures on the growth or lack thereof of the restaurant industry in California?

MEMBER ABRAMS: I'm sorry. I couldn't quite hear --

MEMBER WEI: I'm sorry, Mr. Abrams. I misspoke. Not to the maker of the motion, but to the prior speaker, Ms. Dunbar.

Looking at the restaurant industry that you represent, can you talk to jobs, the number of jobs in the restaurant industry after the last minimum wage increase?
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MEMBER DUNBAR: Well, I can tell you that there is --
what happens is that basically the potential for new jobs
and the employees per unit goes down. And the people who
end up suffering are the back-of-the-house folks who get
lesser.

If they're -- if they're expected to get a higher
increase, they actually lose out on the benefit to the
tipped employees who are the ones paid minimum wage. They

get --

MEMBER WEI: I'm speaking to just in terms of the
number of jobs. My question is, what happened after the
last minimum wage increase in California in your industry?
MEMBER DUNBAR: The number of potential jobs
decreased.
MEMBER WEI: The number of the jobs in your
industry decreased?
MEMBER DUNBAR: Potential jobs. I just mentioned
that every year there's an estimate, and the number of
potential jobs decreased.
MEMBER WEI: What I heard you arguing is that the
back-of-the-house employees may not enjoy the benefits of a
minimum wage increase, not necessarily that there would be
less jobs created in the back of the house.
MEMBER DUNBAR: I would have to argue that. It's
both. I think that you lose employees per unit, which
means less jobs, and the potential for new jobs are
decreased as well as the amount that the back-of-the-house
folks can enjoy in higher wages --
MEMBER WEI: In terms of the jobs in your industry in
the state --

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CHAIRPERSON COHEN: Let her finish.

MEMBER DUNBAR: I think I just answered that. Yes,
lower jobs.

MEMBER WEI: -- jobs versus the number of jobs in
2004 in the restaurant industry.

By California or --

MEMBER DUNBAR: I don't have the specific figures,
but that's what happens in the industry.

MEMBER WEI: What about, do you have figures for what
happened in the city and county of San Francisco after
their minimum wage increase?

MEMBER DUNBAR: No, none.

CHAIRPERSON COHEN: Ms. Broyles.

MEMBER BROYLES: Actually, Mr. Chairman, I was going
to ask the favor of the Chair to permit one of our employer
members who actually runs a specific restaurant, Mr.
Monahan, to respond to Ms. Wei.

CHAIRPERSON COHEN: As I said before, alternates are
permitted to participate in the discussion. So --

ALTERNATE MEMBER MONAHAN: Would that be okay, Mr.
Chair?

CHAIRPERSON COHEN: Yes.

ALTERNATE MEMBER MONAHAN: Thank you, My name is
Gary Monahan representing basically myself and hopefully
some other small restaurant owners --

CHAIRPERSON COHEN: Excuse me just a moment. Can you
hear him?

THE REPORTER: Hardly.
CHAIRPERSON COHEN: You really need to get the microphone close and speak loudly perhaps.

ALTERNATE MEMBER MONAHAN: They've got us back in these holes here, so I'll try and speak up for everybody.

Thank you, Mr. Chair, for recognizing me now and the opportunity as an alternate to speak today. Coming in we weren't sure if we were just going to sit here like bumps on a log as you mentioned earlier and be mute.

My name is Gary Monahan, and I own a -- for the past six years I've owned my own restaurant in Orange County. Prior to that I have managed several restaurants and also worked as a bartender and several other positions, many of which were at minimum wage.

The question I believe, too, is if the minimum wage were to increase, how would that affect a small business, a restaurant such as myself? In our case, I have 20 employees including myself as a working manager. The minimum wage employees I have are at the front of the house and they're all tipped employees.

What the minimum wage increase would do is would force a raise to my most capable employees that are mostly part-time employees earning tips, but also have other ways of supporting themselves, whether it's school grants, whether they live at home, whether they have a second job.

The folks that most would need the raises are the ones that hopefully employers like myself pay more money to across the board statewide. And unfortunately I would be unable to raise those wages because we'd be forced to put
whatever money we may have in profits into wage increases for the front of the house. Secondly, this would force up our Workers’ Comp costs, our insurance costs, and our tax costs.

On top of that, the restaurant industry is very difficult to make a profit. And when you have a forced increase in costs, then your profit margin is going to go down and you’re going to have to find another way to survive. And that may mean cutting staff, cutting hours. It could be in the front of the house, it could be in the back of the house, but frankly it would probably be in both.

Again, I can't give you figures from 2002 statewide, but what I can say is that it would be very devastating to a small business owner such as myself to have to take in this type of a minimum wage increase.

We would much rather be able to -- in my case, the mention earlier was on health care, I do provide health care for my full-time employees. They are mostly from the kitchen staff. And, again, a minimum wage increase would be forced on those not needing that increase in our industry, and that would be the wait staff.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: Well, I don't know. I would be prepared to put up a bet of, say, five grand against any of you that restaurant employment has increased in total since the last time. Anybody want to bet?

Anyone looked at the statistics? You think the total employment has gone down in the restaurant industry or gone up? Are there fewer restaurants or more restaurants?
You know, it used to be -- I remember one time debating the minimum wage on the floor of the Legislature. Dick Floyd, old Dick Floyd, a former legislator said, you know, when the same issue came up -- and, of course, if you do this long enough like me, since the same thing gets said every single time at every one of these wage board meetings, every time the debate happens the exact same thing gets said, the faces just change, you know. And, you know, the ingenues show up and the old guys, you know, disappear or whatever.

But the -- I remember Dick Floyd saying, Gosh, you know, when I started in the Legislature there was a restaurant every block. Then there was a restaurant every two blocks. Then there was a restaurant on every corner. You know, there's restaurants everywhere. The restaurants aren't going to Taiwan. The restaurants are going to go where the people are. The people live in California. There's going to be restaurants. There's places to eat and people eat at them.

And what I hear from you guys -- you know, and I'd like to reach some kind of consensus on something. Now there's some of you who I would call the unreconstructed troglodytes who are saying the minimum wage as a policy is bad; we shouldn't have it.

I believe that was Mr. Dayton. We shouldn't have it. It's a bad idea. And, you know, it's okay, we have it. You know, we have the minimum wage. We got rid of slavery. We did a lot of stuff in this country, and it's the law.
under the terms of the law, then you should just get one of the alternates to take your position and go home, because what's the point if you don't believe in the law as it's now constituted. I mean, it's fine to try to change it, but it is what it is.

For those of you moving -- who have moved, you know, somewhere into the early 20th century and believe that we can have such a thing as a minimum wage, what I've heard from you is it needs to be adequate. It should be adequate. That was Ms. Dunbar's point. 6.75 is an adequate amount. It may be or it may not be depending on the measure.

So I think where we need to find some consensus is that the minimum wage does need to be raised when it's inadequate. Clearly it follows if it's adequate now and it was raised from a prior amount, it was obviously inadequate then. Therefore, the question is, if it's adequate now -- this is the question I would put for you -- when will it become inadequate? Tomorrow? The next day?

And then the question is, if we were to vote for a minimum wage that went up by one penny today, would that have a substantial effect on the economy? Two pennies? Three pennies? I think we would probably agree three pennies wouldn't have any effect on the economy, 3 cents an hour, 4 cents an hour, 5 cents an hour. How many cents an hour before it -- it bothers you?

And so that's -- let's talk about it in terms of what we can do, not what we can't do. I've heard you say, I think correctly, the minimum wage sometimes can be adequate and sometimes it can't. So
let's figure out what the adequate amount is and when --
the timing that it should go up. That's the charge that we
have together to do. Not to figure out what the Congress
should do or not to figure out what the Legislature should
do, but what we should do. They'll all do what they're
going to do.

And to the best of my knowledge, the Legislature -- I
don't know when the last time they raised the minimum wage.

I don't recall it. It's been raised once by ballot
initiative. The other times it's been raised by the
Industrial Welfare Commission in this state. And then
occasionally it gets raised by the U.S. Congress when it
raises the federal minimum wage.

So I'd like to reach for where we have some
consensus, and I think that that consensus is that the
minimum wage sometimes is inadequate. And the question is,
if it's not inadequate today in your opinion, in your
opinion when does it become inadequate and how much do we
raise it by when that time comes?

MEMBER DAVIS: Mr. Chairman?

CHAIRPERSON COHEN: Yes.

MEMBER DAVIS: I liked Barry's comment about a
restaurant on every corner because we probably also
remember when there was a gas station on every corner. And
I think that today -- or when I was young and I pulled into
a gas station and three guys jumped up and serviced my car,
raised the hood, checked the oil, checked the pressure in
the tires, did all those things, today you pull in, you get
to pump your own gas and there's one guy sitting behind a
MEMBER BROAD: It is a shame the burden of memory.

MEMBER DAVIS: That's it.

But my point is, is that you couldn't afford to run a gas station today even at minimum wage and pay three people to run out and service everybody's car that pulled in. And there are many industries in this country that are moving overseas and out of this country because they can no longer be competitive.

And the farm workers in the United States on minimum wage may not have a job. If it becomes cheaper to import everything from South America or Mexico or somewhere else, those people either have to move there to get a job, which I doubt, or they're going to be out of a job.

And I would be more concerned that as the minimum wage increases, there are more people who cannot find a job, there are more people that become a burden on society and cost us more money in our tax dollars than we've actually benefited.

CHAIRPERSON COHEN: Mr. Abrams.

MEMBER ABRAMS: The gentleman over there.

CHAIRPERSON COHEN: Oh, I'm sorry. Yes, please.

State your name --

ALTERNATE MEMBER SANDAHL: Everybody hear me okay?

CHAIRPERSON COHEN: Yes.

ALTERNATE MEMBER SANDAHL: You know, I have some real concerns here. And like --
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1 CHAIRPERSON COHEN: Could you state your -- excuse me. Please state your name.
2 ALTERNATE MEMBER SANDAH: Lee Sandahl. And I'm looking at this wage, I'm looking at this $6.75 an hour, which translates into $54 a day, which after taxes probably gets you down to $38 a day. We're talking about $185 a week.
3 And the gentleman in the back, the other alternative that said that he has some restaurant employees that are part-time that he feels are his best employees, but, you know, the part-time employees are not getting probably any health and welfare benefits. And like he also said, they're working second jobs.
4 What are we doing here? We're expecting people to work -- live on $37 a day, $38 a day after taxes? We're expecting them to buy food? Where are you going to live? Are you going to live in a house with other people? But you're not going to pay less than $400 a month to live anywhere here in California. And then you're going to have to buy some food, you're going to have to buy some clothes. You're damn well not going to have a car. You're certainly not going to be able to afford car insurance.
5 Let's -- let's try to take care of these people. I mean, these people that we're trying to take care of are the people that are making the profits for the business people here.
6 MEMBER BROYLES: Julianne Broyles, California Chamber of Commerce. And this is, first of all, a question to the
Chair.

I believe that honest is part -- as to the issue -- is really important. And I would ask the Chair if personal comments or derogatory comments are made from one side or the other, that the Chair immediately step in in the future instead of the questions as to somebody's ability to serve on a wage board based on their opinion be challenged by the other side. That's already been decided. We are here and we are serving and we are here to look at the adequacy of the minimum wage here in California.

MEMBER BROAD: Well, excuse me. Point of personal privilege.

I don't think it's personally offensive to say that if someone says that they philosophically oppose the idea of having a minimum wage, that really from an ethical point of view --

MEMBER BROYLES: My question is to the Chair.

MEMBER BROAD: -- they ought to step down.

That's not personally offensive, Ms. Broyles. That's just reality.

CHAIRPERSON COHEN: Mr. Broad, first of all, let her finish her remarks.

MEMBER BROYLES: It was a request to the Chair, not to anyone else, sir.

And second of all, I would like to ask -- ask Mr. Sandahl, who had raised the issue of living today in California and what is and what is adequate and to bring -- and he is correct to bring the discussion back to point, that we are looking at what works and what doesn't work
here in California, and what is appropriate and what isn't appropriate in terms of what we have as a measure of adequacy.

Yes, economic conditions change. They go up, and they go down. Mr. Schacht had brought up the issue of farm profits. In the last three-and-a-half to four weeks, many farmers have lost all profits for the year based on cattle dying, based on milk production dying, drying up. Six months ago, other produce commodities suffered great devastation with continuing rains during part of their critical -- part of their growing season. So any industry has cycles up and down.

Mr. Broad was correct in raising the issue of do we talk sometimes the minimum wage is adequate and sometimes the minimum wage is not adequate. The point raised in the initial motion made by Mr. Abrams was we believe today, at this time, the minimum wage is adequate here in California. We believe, the California Chamber, that is so and would like to call the question.

CHAIRPERSON COHEN: A couple things.
MEMBER BROAD: Rule of order.
CHAIRPERSON COHEN: First of all, if you have spoken to the motion, I'm not going to let you call the question.
MEMBER BROYLES: I'm sorry. I apologize, Mr. Chair.
CHAIRPERSON COHEN: So if somebody else wants to call the question, they -- also I would point out that you asked a question of a prior speaker, and I am going to give that speaker in a moment the opportunity to respond.

I will say that I think -- although I didn't recognize it was merely rhetorical, I think it's a
legitimate question to say that if any member of this wage board really questions the appropriateness of this wage board or thinks that the IWC erred in appointing this board, it's legitimate to say, do you believe it's inappropriate to continue and participate? I think that's the legitimate question.

On your other point, I will speak to this in a general way. I do not believe that it is expected that we will agree on the issues. Inherently when they appoint these wage boards, setting it up as employer and employee representatives, they're presumably appointing sides, if you will. So I don't know that it's expected that we will all agree on the issues we are confronting.

We're not expected to agree. We do not certainly have to like one another. I don't know that it's required that we particularly respect one another. But I would ask everyone who's a member of this wage board to treat one another in a respectful manner. I don't think the discussion and the debate is enhanced in any way by terms that people may consider to be derogatory.

So I would ask everyone to keep that decorum in mind. I think we can vehemently disagree with one another over the issues of the day without descending to personal comments. And I think we'll get through our task, however it may come out, in a more reasonable fashion if everyone keeps that in mind, and I would ask you all to do so.

There was a question to Mr. Sandahl. I don't know if you care to respond?

ALTERNATE MEMBER SANDAHL: Could I have Ms. Broyles
repeat the question for me, please.

MEMBER BROYLES: You were discussing the issue of whether or not at 6.75 per hour and you were breaking out pieces of rent and other basic requirements, and you -- you said that that was not adequate.

What do you consider adequate?

ALTERNATE MEMBER SANDAHL: What I consider adequate for one person supporting himself would probably be somewhere between -- between --

CHAIRPERSON COHEN: Okay. Mr. Sandahl --

ALTERNATE MEMBER SANDAHL: -- twelve and fifteen dollars an hour.

CHAIRPERSON COHEN: -- could I ask you to hold that thought for a moment. We want to get it on the record, and I believe I'm being told that the recording device needs a break. So hold on just a second. I'll ask you to repeat that last bit.

(Off the record.)

CHAIRPERSON COHEN: Okay. We are back on the record, and I will return the floor to Mr. Sandahl who was responding to a question about what he would consider to be an adequate minimum wage.

ALTERNATE MEMBER SANDAHL: And I'm talking about a single person here, not -- not a family situation, not a single wage earner with a -- one parent at home, looking at two children. I'm looking at one single person, somewhere between twelve and fifteen dollars an hour.

MEMBER BROYLES: Thank you, Mr. Sandahl.

MEMBER AGEE: I would like to ask a question.

We've heard a lot of discussion on what would happen
if we increase the minimum wage. But according to a study
done by the Public Policy Institute of California, it's
showing that in 2004 the California Restaurant Association,
the sector most affected by minimum wage increases,

employment actually increased by 8.9 percent. So obviously
there are other alternatives to when the minimum wage is
increased other than laying off employees.

So can you provide me with other alternatives that
you might have if we do increase the minimum wage other
than laying off your employees?

MEMBER DUNBAR: This is Lara Diaz Dunbar of the
California Restaurant Association.

I just want to say that a lot of the statistics don't
take into account the fact that while there may be more
units, there are less employees per units. But if there
are more units, you're looking at, you know, more units,
more restaurants, but there are less employees per unit.
And it doesn't take into account the hours that are cut.
You may have more part-time workers.

Overall if you're looking at the detriment to the
employee, those one statistics, oh, there's more jobs,
there's more restaurants do not take into account the fact
that, you know, health care was taken out, there's less
hours, there's more part-time workers, there are less --
you know, more employees are servicing more restaurant -- I
mean, tables as opposed to more employees per unit.

MEMBER AGEE: Is there some type of study to refute
what we have here? Because other than what I've seen, it
seems like there's other ways other than laying off
employees when we increase the minimum wage. I mean, I understand what you guys are saying, but I haven't seen any documentation to refute the studies that are saying just the opposite.

MEMBER DUNBAR: Oh, sure. You can -- well, you can -- you know, unfortunately a lot of people have to choose how to absorb the labor costs. Do they increase prices? Do they offer health care? Can they afford to offer health care? Can they afford to give the back-of-the-house employees raises as they should when the compression factor goes into play. All those answers typically they're being -- you know, they're cut from those aspects as well. And there's not a lot of studies on that, but that is what happens, as Mr. Monahan said, in reality.

MEMBER AGEE: Okay. Thank you.

CHAIRPERSON COHEN: Ms. Broyles.

MEMBER BROYLES: There have been a number of studies, and usually there are studies that both sides have -- have favored institutes or foundations that perform these studies. But there has been studies. There was a study done under the -- in 2001 under the Davis administration that showed the impact of -- the economic impact of the 2001 minimum wage increase. There was a -- an additional study. There is the Milton study from 1995 that talked about what happens in employment instances. And they were looking at the Card &
Krueger studies that have been done in the past that says it's important to understand that the traditional argument that raising the minimum wage reduces employment among low-skilled workers.

And in the Milton Institute study for job --

CHAIRPERSON COHEN: Excuse me, Ms. Broyles. Could you slow down just --

MEMBER BROYLES: I'm so sorry, Ms. Mercado. I will go slower.

They said that the demand for labor, the number of man-hours, not workers, to produce the product or service that the employers are basically purchasing at that wage rate, if you -- if it gets out of synchronization, it's determined by the productivity of those given workers.

If they rise by a decree, by a government mandate, by IWC action, by ballot initiative rather than because the workers can produce more per hour, employers will just hire fewer hours of work. That's the Milton Institute on job productivity and capital formation of '95.

The Levy Institute noted that -- at about the same time that unskilled workers faced increased unemployment whenever minimum wage rates go up because, again, they're going to keep the people with the most skills and either take the wages you would have paid that one lowest skilled worker and divide it into raises for those with the better skills that you keep on staff.
base wage in total. The first thing that an insurer looks at is how much do you pay in wages? When that base wage goes up, that overall pool of wages that you pay goes up, there is a percentage increase that goes up in those wage costs as well.

And so you -- you do have to find some way to -- to either absorb the cost, cut some hours, change somebody's designation as either an exempt from overtime worker or a nonexempt from overtime worker. And when you do that, you -- again, you change the fringe benefits they receive.

You might decide to stop matching 401(k) payments. You might not be able to offer health care benefits. All those things you do, rather than let somebody go, an employer has to look at all of those different pieces and decide what is going to work best in their particular economic sense.

But -- but nothing makes it any -- the worst possible decision that most employers have to face is to let somebody go because they can no longer afford to keep them on staff. That is the worst decision an employer is going to have to make.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: Well, unlike my past experience as a wage board member, technology does come to the rescue, and here I am on the EDD website with --

THE REPORTER: I'm sorry. You need to use the microphone.

MEMBER BROAD: I'm sorry.

And if you look at 2001 employment in food services
and drinking places, you get around 940,391 employees. And if you get to the fourth quarter of 2005, you get 1,039,855. So whatever happens, there has been an increase in the total of number of people employed.

Now, I can probably mess around here and find out how many hours they worked and at what wage level they worked and so forth. I'm perfectly prepared to do that. I suspect that the total number of hours has increased.

Now, were I to prove to you that in fact the total numbers of hours has increased and the total number of employment has increased, would then somebody be prepared to concede that raising the minimum wage did not in any way harm the employees in terms of their level of employment or number of hours that they worked in the restaurant industry the last time we went around? Just -- or are we just so fixed in our view that we won't let reality intervene?

CHAIRPERSON COHEN: Mr. Abrams.

MEMBER ABRAMS: Well, let me have some reality intervene.

MEMBER BROAD: Please.

MEMBER ABRAMS: I think the number of -- everything you said is absolutely true, Mr. Broad, and therein lies the problem. What that doesn't adjust for are two very important factors. The fact that we have more employees in the restaurant or hotel or any other industry needs to be looked at in the context of whether the economy is rising or falling.

Since -- if you look at that we started to have a recession in late 2000, early 2001 and then everything fell...
off the chart on September 11, and we have been digging out since then.

If you look at San Francisco -- I think Ms. Wei, you know, I think appropriately brought this up -- you know, business is booming in San Francisco if you look at the hotel and the restaurant industry because we are on an upswing. And for that reason, because there is increased demand, there will be a need to provide increased numbers of labor to serve that demand.

The problem, though, is, is that by arguing solely that because employment in a particular industry -- and I'll just take the hotel industry -- is higher today than it was two years ago or whatever doesn't answer the question of whether it would have been higher still but for the impact of a variety of things, including wage costs, including -- and if you go to look at some of these studies, I've never seen -- I've never -- I haven't looked at it this way, but I don't recall ever seeing anybody look at it and say, let's adjust for whether the economy is expanding or contracting.

Because people will hire more if the economy is expanding and more business is being done. People are eating in more restaurants, they're going to stay in more hotels, they're getting on airplanes. They're doing whatever they're doing.

The question -- the real question is and what the studies that the employer side looks at and the employee side would dispute or discount, the studies indicate that there is in fact an impact. And so while employment may
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grow in a rising, expanding economy, the number of jobs
that would have been there but for the countervailing
impediments, the minimum wage and other issues -- there is
Workers' Comp and whatever else -- that has to be taken
into effect. Are we nonetheless losing jobs that would

have been there?

Secondly I think it's very critical to point out that
we compete just as agriculture does. Agriculture competes
with people who grow in Mexico, people who grow all over
the world often at cheaper cost. That's not good or bad;
it's just a reality.

Similarly, the California economy -- and I'm just
looking at the lodging industry, the convention, the
business, the tourism the travel business -- competes
around the -- with people in -- in I don't care what city.
San Francisco fights with New York, fights with Chicago.
Sacramento fights with Tucson and Phoenix and everything
else.

And research that we have done in the past -- and I
need to update it, and I will say that -- the cost -- we
took a hypothetical, everyday convention and we priced it
out in different cities in California and in the markets
where we compete the most with. We compete all over the
world. And at that time, the cost of that convention in
California was -- depending on where you were, the time of
year -- between 40 and 50 percent more in California for
the exact same number of rooms and meals and bagels and
whatever else as elsewhere.

And so to that extent it's fine to say -- well,
strike that.
While one might argue that -- you know, let's assume that we say that the minimum wage for agricultural workers ought to be $X$ instead of $6.75$. At some point the fact that it is so much lower in other countries means that jobs are going to get lost because people just can't compete; similarly in the lodging industry.

So what happens as a result is that employers are forced more and more to do whatever they can to reduce the cost of labor, which means I'm going to automate, so -- and I'll leave this up to Gary Monahan and others in the restaurant industry -- so people aren't hiring people to chop up lettuce and to chop up vegetables. They're buying it in bags. So somebody's -- somebody's not working those hours.

Automation -- and I go back to the study, it wasn't the one Mr. Agee referred to, but the minimum wage -- the economic impact of the 2001 minimum wage increase that was done by the Division of Labor Standards and Statistics, you know, points out that -- that, in their view, it did not hurt employment. I would dispute that because I don't think they factored for the state of the economy, but they did find that there was impact on the hours worked; i.e. you may have more workers, but the total number of hours worked by people went down.

And then they also pointed out a few pages later that this is one of the pressures and, in fact, occurred at that time to cause employers to start utilizing machinery,
automation to whatever extent they maximally appropriately
can to cut down on the number of people. Because a
machine -- and I don't think this will sound facetious --
doesn't carry taxes, it doesn't carry Workers' Compensation, et cetera.

So I do with respect, Mr. Broad -- and I mean this sincerely, I do feel that the sense of reality that you need to insert here is not quite as simple as you first put it.

MEMBER SCHACHT: Could I talk a little bit about reality?

Attached to our submission to the IWC was a declaration from Alfredo Silva, who is an irrigator from Riverside County where he's lived for 24 years. He works at a minimum wage job. He's had to take a second job in order to make ends meet. He's working 13 hours a day.

We asked him to prepare a budget which we submitted as part of his affidavit. And it -- it shows that his average monthly budget in 2005 was $1,700. His average monthly budget in 2006 is $2,193. And that reflects increases of $6 a month in water; $4.80 in gas; $40 a month in electricity; $120 a month in gasoline; car pay -- insurance is the same; there are no car payments, he drives an old car; $140 a month in food. He's allocated $70 a month for clothing and shoes; he has no health insurance.

He does have a $52 cost related to his granddaughter's Pampers, but those -- the clothing and the Pampers seem to be the only discretionary funds. There's nothing in here for fun or entertainment. And that 2,193
comes very close to what 13 hours a day at 6.75, five days a week, is. And that's the reality that clients of ours face at 6.75 an hour.

It's clearly inadequate and obviously should be adjusted upward significantly.

CHAIRPERSON COHEN: Just a moment.

Ms. Wei, you had --

MEMBER WEI: I'm prepared to defer to the Chair if you want to hear from the other side.

CHAIRPERSON COHEN: Okay. We have another alternate who has not spoken.

ALTERNATE MEMBER MARTIN: Well, I was going to mention --

CHAIRPERSON COHEN: Please state your name for the Reporter.

ALTERNATE MEMBER MARTIN: I'm sorry. I'm Thomas Martin, Small Manufacturers Association of California. And I'd like to talk about one industry that has consistently lost jobs over the last ten years, and that is manufacturing. And the minimum wage has had an impact there.

Grant you a lot of the larger manufacturers are way above the minimum wage, but a lot of the smaller manufacturers are tied in, especially if they don't have government contracts. If they are competing with what's coming in on the docks, they are having a hard time competing with the exports and imports coming in.

In some particular fields you have employees that are working near the minimum wage. They are impacted by this.
And the alternative for those employers, as they have done over the last ten years, is when it becomes too expensive for them to do business in California, they leave. In some cases they leave to go to Iowa or Ohio or other states. In many cases they go across the border. They create maquiladoras or they go across the sea.

So you're losing jobs on a regular basis of low-income workers who have one choice: They can either follow those jobs across the border or they're going to be looking for other jobs here in the state at the minimum wage.

Manufacturers are having a hard time meeting the costs, and you're going to continue to raise these costs. And if you look at your -- your list there, you'll see that manufacturers over the past ten years have lost more than a quarter million jobs.

MEMBER WEI: The loss of manufacturing jobs in our state and in our country is a tragedy that we share, and that's exactly the problem with this economy. Those good-paying, middle class jobs are gone. But not because we've increased the minimum wage. Not because manufacturers in California can't compete against manufacturers in Nevada or Washington state or Arizona. Those jobs are gone beyond our borders. They will never compete with jobs in developing countries that pay a dollar an hour, that pay three dollars an hour.

A loss of manufacturing jobs is a concern that we share, but it's not because the minimum wage has increased. This is the exact problem with what's wrong in our economy.
We have an hourglass economy where the middle class is squeezed out because those jobs are fleeing this country, and the rich continue to get rich and the poor are stuck where they are.

It's a tragedy that those jobs are gone and other people are working now full time and still living in poverty. Whether it's the federal poverty level or a Minnie's Budget or self-sufficiency standard, they're still working full time and living in poverty.

So we're concerned about the loss of manufacturing jobs, but increasing the minimum wage will do nothing to either stem the tide of those losses or make a difference in those -- the number of jobs that might leave.

If you look at -- it's the same Public Policy Institute of California study that Mr. Agee already cited. Both in December 2005 and October of 2005 the loss of jobs across state borders to other states from California is negligible, and those jobs that are measured to be lost come from the manufacturing industry.

We consistently hear from the employer community the sky is falling when we increase the minimum wage, when we have to pay a prevailing wage. Some of us have called it respectfully the Chicken Little caucus, the sky will fall whenever these things happen, and the data just doesn't prove it.

Again, the Public Policy Institute of California study -- you know, I agree with Ms. Broyles, everybody has their favorite think tanks. The PPIC is not one of ours. And they have also documented that the loss of jobs across state borders is negligible even in a time when Workers'
Comp premiums were skyrocketing.

So I want to speak to the issue of the manufacturing jobs, but what it means is a bigger problem for our economy not around the minimum wage.

I do want to take a second and go back to the restaurant industry figures. Mr. Broad has laid out kind of the longitude of annual figures. I want to add in both from Oregon, the restaurant industry, since indexing of the minimum wage has happened in the state of Oregon, the restaurant industry has grown 91,500 jobs, almost a hundred thousand jobs in Oregon. There are not that many people in Oregon, so that's got to be a very significant increase.

I'll also look at -- point to what's in the members' materials, the Economics of Citywide Minimum Wage is looking at the city and county of San Francisco.

You know, San Francisco does have a minimum wage that I believe now is at 8.60 an hour and indexed. And this study --

ALTERNATE MEMBER MARTIN: 8.82.

MEMBER WEI: 8.82 and indexed. Thank you.

And this study looks at the impact -- the direct impact on employment after the higher minimum wage was elected by the voters in San Francisco. And it shows not only the number of restaurants in San Francisco increasing, the amount of full-time employment increased by 2.5 percent. The average job tenure in the actually affected restaurants that were paying the higher minimum wage, the job tenure increased by 3.5 months. And 6 percent of the workforce moved from part-time to full-time jobs.
So looking at the overall effect, there seems to be a positive overall impact on each of those fronts for the workers of San Francisco and for the restaurant industry in San Francisco. So, again, the empirical evidence proves that -- documents in this case that a higher minimum wage has helped to create jobs.

And if we look back at Mr. Abrams' statements from prior, post 9/11 -- you know, the hospitality industry has taken a significant -- took a significant hit post 9/11. Since that time, the economy has recovered, jobs have gone up and unemployment rates have gone down both in California and across this country.

One could then reasonably and rationally conclude that an increased minimum wage actually leads to and is the economic generator for a growing economy, because that is the experience that we've seen at least in terms of the facts in California.

CHAIRPERSON COHEN: At this point, allow me to point out to the body, it is about -- just about noon by my watch, and I think we have two choices. We can take a break and come back and continue to debate on this motion, or we can decide -- we've been debating this motion for roughly an hour and a half. We've heard eloquent points on both sides. If the body wants to go ahead and take a vote on the motion that is before us, we could come back and pick up from that point. It's really your choice.

I'd ask for comments on whether or not you're ready
to take a vote or do you want to just stop -- I'm not going
to -- I don't want to have any more debate at this point.
So my question merely is, are you prepared to take a vote
or do you want to come back and have further discussion on
this motion?

Mr. Abrams.

MEMBER ABRAMS: Jim Abrams.

I would suggest that we take a vote. I -- and for
those that might say that that ought to end the whole
process, I would suggest that we are one small piece of the
overall puzzle dealing with minimum wage, so I think we
have the other issues in the charge that definitely need to
be discussed. But I would submit that this would be an
appropriate time to take a vote.

CHAIRPERSON COHEN: Anyone -- how do you feel about
taking a vote on the motion that's in front of us?

MEMBER BROAD: My clairvoyant self tells me that
we're okay as long as we go to lunch immediately afterward.

CHAIRPERSON COHEN: That's the plan.

MEMBER BROAD: Okay.

MEMBER BROYLES: To support the restaurant industry.

MEMBER BROAD: In that case, I would move the
previous question.

CHAIRPERSON COHEN: Is there a second?

MEMBER BROYLES: Second.

CHAIRPERSON COHEN: The question has been called.

Does anyone object to voting on the motion? I will restate
the motion. Mr. Abrams, please listen carefully.

The motion was that the wage board finds that the
minimum wage, the current minimum wage of 6.75 per hour is
adequate and should not be increased.

Is that accurate?

MEMBER ABRAMS: Yes, sir.

CHAIRPERSON COHEN: Okay. On the motion, I will call the roll starting with the employer representatives.

Ms. Broyles.

MEMBER BROYLES: Yes.

CHAIRPERSON COHEN: Mr. Davis.

MEMBER DAVIS: Yes.

CHAIRPERSON COHEN: Mr. Dayton.

MEMBER DAYTON: Yes.

CHAIRPERSON COHEN: Ms. Dunbar.

MEMBER DUNBAR: Yes.

CHAIRPERSON COHEN: Mr. Abrams.

MEMBER ABRAMS: Yes.

CHAIRPERSON COHEN: Ms. Barsuglia.

MEMBER BARSUGLIA: Yes.

CHAIRPERSON COHEN: Okay. That was not a real shock.

For the employee representatives, Mr. Agee.

MEMBER AGEE: No.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: No.

CHAIRPERSON COHEN: Ms. Wei.

MEMBER WEI: No.

CHAIRPERSON COHEN: Mr. Jones.

MEMBER JONES: No.

CHAIRPERSON COHEN: Mr. Schacht.

MEMBER SCHACHT: No.

CHAIRPERSON COHEN: Ms. Mercado.
CHAIRPERSON COHEN: Okay. The motion does not carry.

We're deadlockad at six to six.

With that, we've reached an excellent break point, and I would suggest a one-hour break. We will reconvene at one o'clock.

(Off the record.)

CHAIRPERSON COHEN: Oh, yes. Thank you.

Before we break -- this should be on the record, please -- I do want to remind everyone that we are operating under the provisions of the Bagley-Keene Open Meeting Act. Since this is a 12-member board, 12 voting members, six members represent a quorum and, therefore, six members of this board may not meet in any place outside of the public arena to discuss the matters before this board.

So it would be imprudent for six -- any six of you to go have lunch and continue this discussion because it would be in violation of Bagley-Keene Open Meeting Act.

So with that said, enjoy your lunch. See you all at one o'clock.

(Lunch recess taken.)

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CHAI RPERSON COHEN: I think we're going to go ahead and get going. I'm going to call this meeting of the 2006 Minimum Wage Board back to order.

You probably all remember, but when we left, there was a motion we had voted on. The motion was the minimum wage should not be increased, and the panel deadlocked.

That motion was introduced by employer representatives.

I'm going to offer to the employee representatives an opportunity to introduce a motion on the question of the adequacy of the current minimum wage.

MEMBER AGEE: I'd like to make the motion the minimum wage of 6.75 should be increased.

MEMBER WEI: Second.

CHAI RPERSON COHEN: It's been moved and seconded. The motion was -- to put it in the same language, the motion was the current minimum wage of 6.75 is not adequate and should be increased.

MEMBER ABRAMS: Thank you.

CHAI RPERSON COHEN: The motion made speaks specifically to question number 1. That is the motion.

You want to go ahead and make any statement to back that up? I'll let Mr. Abrams make a statement after you. You want to state your reasons why everybody else on the employee side wishes to do so?

MEMBER AGEE: The reason for my motion here is off of reference to earlier statements that were made that purchasing powers since 6.75 was implemented has diminished 88 cents, or 11.5 percent, since 2002. Based off the information, I make my motion.
Any discussion from the employer side?

With respect -- based -- for the reasons articulated this morning -- I would oppose the motion, for the reasons articulated.

I appreciate both of your remarks. I think, frankly, the issues were pretty thoroughly discussed. I think people's positions are fairly clear on this question. Does anyone wish to make a comment to this motion, specifically?

Question to the maker of the motion: If 6.75 is inadequate, what do you wish to raise it to? Maybe I didn't hear him.

He did not state that. Again, I'm going to point to -- I'm really going to try to follow the charge pretty directly. The charge the Wage Board asks us, the first question is to the adequacy of the minimum wage and whether or not it should be increased. The second question is, should it be increased, what's the appropriate amount?

You want that as a separate -- No. This motion has been made in that fashion, recommending a finding that the minimum wage -- current minimum wage is not adequate and should be increased, without any statement as to what the increase might be.

Further discussion on the motion? Seeing none, I'm going to go ahead and call the question. The motion is that the current minimum wage of 6.75 is not adequate, and the state minimum wage should be increased. At this time
I'll start with the employee representatives.

Mr. Agee?

MEMBER AGEE: Yes.

CHAI RPERSON COHEN: Mr. Broad?

MEMBER BROAD: Yes.

CHAI RPERSON COHEN: Ms. Wei?

MEMBER WEI: Yes.

CHAI RPERSON COHEN: Mr. Jones?

MEMBER JONES: Yes.

CHAI RPERSON COHEN: Mr. Schacht?

MEMBER SCHACHT: Yes.

CHAI RPERSON COHEN: Ms. Mercado?

MEMBER MERCADO: Yes.

CHAI RPERSON COHEN: Remember, we have a court reporter, so speak clearly.

Employer Representative Ms. Broyles?

MEMBER BROYLES: No.

CHAI RPERSON COHEN: Mr. Davis?

MEMBER DAVIS: No.

CHAI RPERSON COHEN: Mr. Dayton?

MEMBER DAYTON: No.

CHAI RPERSON COHEN: Ms. Dunbar?

MEMBER DUNBAR: No.

CHAI RPERSON COHEN: Mr. Abrams?

MEMBER ABRAMS: No.

CHAI RPERSON COHEN: Ms. Barsuglia?

MEMBER BARSUGLIA: No.

CHAI RPERSON COHEN: Okay. Again we deadlock. The motion does not carry.

The charge next asks us to make recommendations on a series of specifics.
MEMBER WEI: Mr. Chair, as back draft to leading us to item number 2 in the charge, we'd also offer a motion on the floor. I move that the minimum wage should reflect the purchasing power and reflect the cost of living.

MEMBER JONES: I second it.

CHAIRPERSON COHEN: The motion was that the minimum wage should --

MEMBER WEI: My motion would be to move that the minimum wage reflects the true purchasing power of low-wage workers as well as the cost-of-living standard in California.

MEMBER JONES: I second.

MEMBER BROYLES: Mr. Chairman, is that out of order? I was corrected on asking what the amount was. Is this asking for a indexing?

CHAIRPERSON COHEN: It's -- frankly, it is not clear to me. Before I accept the motion, let me back up a step and just say, again, the charge was specific and led us through several specific points. The first question was the adequacy. We have failed to reach agreement on adequacy in either direction.

There are three questions -- four questions, really, remaining: If there is an increase, what should it be? What the timing of some increase should be, whether it should all be in one or if it should be a phase increase over a period of time, and whether or not the minimum wage should be indexed. And the final question is whether or not the minimum wage be increased, whether or not the amount credited against meals and lodging should be increased as well.
23 MEMBER BROAD: Mr. Chairman, I think, perhaps, you're taking a somewhat narrow view of the Wage Board's power with regard to the charge. The Wage Board, as I understand the law, is a separate entity from the IWC, with its own set of powers to operate independently of the IWC. To some extent, we can kind of make our own rules and operate under them and hold as many hearings as we want or not or start or stop.

While we can't, for example, legally vote to change the overtime standard, I think, we're pretty much, I think, free to operate fully within the confines of a discussion related to the minimum wage and the minimum wage order. The IWC actually doesn't have the power to control the IWC through the charge to the degree that I think you may be thinking it does.

I certainly -- it's never been -- I've never seen a wage board where there are a series of issues related in the charge, you just vote on those issues, and then you're done. I'm kind of seeing the employers, on the other side, agreeing to that. I think we might find it to be a little more clear on this discussion that, okay, we're done with item number 1. We're moving to item number 2. We vote on item number 2. We're done with item number 2.

Things may evolve. The intent of this is to try to reach an agreement. Maybe the agreement cannot be reached. There's a lot of ways to probe toward agreement. It may happen at 9:00 in the morning. It may happen at 4:45 in the afternoon. I would just caution that we not be too proscriptive here.
MEMBER SCHACHT: Mr. Chair, just to concur with both Julie and Barry, as a former Wage Board member twice, it's really up to the Wage Board to decide how to dispose of the charge, whether to add other items or not. So you're obviously in a position to rule.

MEMBER BROYLES: And if I might be recognized. Again, it's rare that Mark Schacht, Barry Broad, and Julie Broyles agree on anything. I would agree with their reading that the Wage Board has latitude.

MEMBER BROAD: Maybe we can vote on something, then, about ourselves.

CHAIRPERSON COHEN: A couple responses: First of all, I will agree that I have been sticking to a fairly narrow reading.

A couple things I would not agree: that the Wage Board, for example, could decide to hold a multiday hearing. The IWC, it is charged -- the Chair of the IWC, in his discussion of this, was particularly concerned about the timing of this, and the vote was for a meeting on this day. So on that, certainly, I think we need to -- however far you want to probe or what you think may be the agreement, I think we need to do that today.

I am willing to, if both sides think it will help discussion, be a little less structured in how we address the questions and entertain the notion that was offered.

Staff has put in front of me California Code of Regulations, and it does say specifically that the Wage Board shall limit its deliberations to those matters specified by the Commission in its charge to the Wage Board.

So like I said, I'm willing to veer off of the
I've been steering us on, which is to take them sort of 1, 2, 3, 4, but I think we need to limit the scope to the charge that we have been given by the IWC, even if we consider them if you will, out of order.

MEMBER BROYLES: Mr. Chairman, again, as a member of past Wage Boards, there are a number of issues that come underneath the purview of minimum wage, and issues, even if they weren't in the charge, have been sometimes dealt with by the Wage Board, even if they were not on a specific charge; specifically, things such as learning wages and the application of minimum wage to somebody in their first three months of employment, such as issues that went along that venue that were left to a Wage Board to consider, along with items that were listed in the wage for a charge such as meal and lodging credits and of those ilk.

I really just would -- again, having been a member of a number of other Wage Boards, both minimum wage and nonminimum wage issues, usually, historically, the Chair kept, basically, both sides equal in terms of time to speak on their issues and didn't try to dictate the discussion and what they could and could not discuss. It really is what our experience has been in the past.

And again, the IWC, when it was put together, was very specifically -- in their wage orders were very specifically exempted from the APA because of their very extensive process of including the public in their deliberations. So I would just add that as an item of information if you're trying to limit us to APA process.

CHAIRPERSON COHEN: No. Again, what I'm specifically referring to is language in the California --
I can give you the reference, if you like. In the California Code of Regulations, in the Administrative Code, it speaks specifically to Department of Industrial Relations, the Industrial Welfare Commission, regulations governing Wage Boards. It talks about the scope of the Wage Board’s deliberations.

I quote: The Commission shall define the scope of the industry, trade, or occupation to be considered by each Wage Board. Any person may at any time recommend to the Commission the scope of that Commission [unintelligible] be designated by the community at large, modified or restricted. B: The Wage Board shall limit its deliberation to those matters specified by the Commission.

Regardless of past practice, I think the language is really clear.

I did discuss the issue with Chairman Curtin. Not this specific issue, but just how he thought this should be voted. He was interested in ensuring there was as much opportunity for discussion and debate as we could allow. So I am willing to entertain the motion and see where this takes us. I am going to keep an eye on the topic of the conversation.

Again, while I’m willing to sort of let go of this notion we’re going to go A, B, C, D, we are going to go through the charge in order as its listed. I think I am going to stick to saying we have a fairly narrowly asked charge. I’m going to ask you to try to stick to that question of whether or not the minimum wage should be increased; if it were to be increased, how much?
19 whether or not it should be indexed.

20 The motion speaks clearly to those concepts. I wouldn't move the motion out of order on that basis. Since the body seems willing to let us meander a little on the order we take the question, I'm willing to entertain this motion and have a discussion about that and see where it takes us, if that's okay with you, Mr. Broad. If I'm cutting off something in error, you can raise the issue again.

3 MEMBER BROAD: I just want to add, the charge of the Wage Board is to deal with the minimum wage. Minimum wage covers all employees of California and all employers subject to the minimum wage. And unlike the other Wage Boards which are industry or occupation specific, the Minimum Wage Board is not, and so anything that touches on the minimum wage, I think, is fair game for discussion and is relevant.

4 Whether -- the Wage Board, if it votes by a two-thirds vote, can bind the Commission as to -- that's it. It's over. It's decided. If we decide to raise the minimum wage here to $32 an hour, it's done, unless there's no evidence to support it. Therefore, the question of the jurisdiction of our deliberations is really an issue for whether we've acted lawfully on a particular motion and whether the motion binds the IWC.

5 In terms of a discussion, discussion is far ranging. The agenda is our own to create, with our own power. With all due respect, the position of the neutral Chair in this forum is fairly limited, and I just don't think you really want to get into cutting off debate. Let...
IWC's view, if the Wage Board wants to go do this five days in a row, it can as well. There's really -- it's out of the control of the IWC. I don't care what Mr. Curtin's timing is, or not timing, or anybody's timing. He is not -- he has no jurisdiction at this moment over the operation of this Wage Board, and that's stated as someone who was on that IWC. It's a unique process in which citizens are given full governmental power to operate. If we come to the end of the day and we want to meet tomorrow or the next day or a week from now or whenever we can do it with proper notice, I think that's fully within the authority of this Wage Board to decide as a group, notwithstanding anybody's agenda.

So having said that, I will not say any more on that subject.

CHAIRPERSON COHEN: Your comments are noted, Mr. Broad. If you want to introduce a motion as a result of this discussion, I will entertain that motion. Do you want to restate it?

MEMBER WEI: Thank you, Mr. Chair. I move that the minimum wage should reflect the proper cost of living and reflect the purchasing-power increase needed for low-wage workers.

The reason for my motion is, if we were to return to the Chair's goal and look at the framework of the charge, whether or not you agree with that charge, it's a big leap between number 1 and number 2. We just deadlocked...
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as the Wage Board on whether or not the minimum wage is
adequate or inadequate. Therefore, before we can begin the
discussions of what the minimum wage should be, presuming
that it's inadequate, we need to talk about some concepts.
The concept there is being able to maintain purchasing
power for the lowest of wage earners.

Again, I make this motion because we cannot get to
the -- an accurate dollar amount of what should be an
adequate minimum wage unless we discuss the concept of a
minimum wage that reflects the proper cost of living.

CHAIRPERSON COHEN: Is there a second to the
motion?

MEMBER JONES: Second.

CHAIRPERSON COHEN: Seconded by Mr. Jones.

Response? Mr. Abrams?

MEMBER ABRAMS: Yes. Regardless of how people
choose to move on this, I think Ms. Wei's motion is a
proper one. I think where we might be hung up a little bit
is, notwithstanding the fact there have been two votes over
the adequacy of minimum wage, period, that doesn't then
drive, necessarily, all of our subsequent discussions into
the next step judged by whether or not we've agreed there
ought to be an increase.

The IWC will take whatever input, even if it's a
deadlock, when they consider all of these issues. It's
quite possible that the IWC might elect to increase the
minimum wage. That -- if that happens, then I think any
guidance that they get out of this Wage Board, whether we
vote it's two-thirds majority or deadlock, is extremely
useful and is, in fact, part of the function the Wage
Boards are to decide. However I might choose to vote on
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Ms. Wei’s motion, I think it is exactly the kind of thing we should be doing. I say that with respect to the Chair.

I would, then -- to the motion itself, I think the Devil is in the details, and this is one of the things we discussed a bit this morning. What is the, quote, purchasing power, and what is the cost-of-living standards? I understand the concept, but depending upon what one chooses as his or her definition of purchasing power and cost-of-living standards, the result will be dramatically different, obviously. And for that reason I would oppose the motion. I say that with respect to the maker of the motion.

MEMBER BROYLES: Call a question.

CHAIRPERSON COHEN: A question has been called for. Is there an opposition to voting on the motion?

MEMBER BROAD: We object.

CHAIRPERSON COHEN: Do you want to continue?

ALT. MEMBER MARTIN: It’s my understanding when the question is called, the question is called.

CHAIRPERSON COHEN: Excuse me, sir. I’ll take procedural questions from the body, but with respect to the alternates -- well, if you want to be that procedural, we can be that procedural. Having just been chastised that you all ought to be able to discuss what you want, is there a second to call for the question?

MEMBER ABRAMS: I’ll second it.
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CHAIRPERSON COHEN: We'll now vote on whether or not to call the question. The vote is whether to close debate and vote on the main motion. We'll call roll on the closing debate on this motion. We will start with the employer representative Ms. Broyles.

MEMBER BROYLES: No.

CHAIRPERSON COHEN: Since we're being technical, we have to take a vote on closing debate.

MEMBER BROYLES: I apologize, Mr. Chair. Yes.

CHAIRPERSON COHEN: Mr. Davis? The vote is on closing debate.

MEMBER DAVIS: Yes.

CHAIRPERSON COHEN: Mr. Dayton?

MEMBER DAYTON: Yes.

CHAIRPERSON COHEN: Ms. Dunbar?

MEMBER DUNBAR: Yes.

CHAIRPERSON COHEN: Mr. Abrams?

MEMBER ABRAMS: Yes.

CHAIRPERSON COHEN: Ms. Barsuglia?

MEMBER BARSUGLIA: Yes.

CHAIRPERSON COHEN: Mr. Agee?

MEMBER AGEE: No.

CHAIRPERSON COHEN: Mr. Broad?

MEMBER BROAD: No.

CHAIRPERSON COHEN: Ms. Wei?

MEMBER WEI: No.

CHAIRPERSON COHEN: Mr. Jones?

MEMBER JONES: No.

CHAIRPERSON COHEN: Ms. Mercado?

MEMBER MERCADO: No.

CHAIRPERSON COHEN: Mr. Schacht?

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The reality is the cost of daily goods of California and across this country goes up every year. From 2000 to 2005 -- this is now old data, and you'll know why I say that when I read it -- a gallon of gas went up from a dollar sixty-six a gallon to 2.39 a gallon. All of us have seen gas prices posted up at over $3 a gallon. A buck sixty-six to 2.39, that's already a 44-percent increase in the cost of a gallon of gas. Taking the reality of over $3 a gallon, that's a two-thirds, 66 percent, increase in the price of a gallon of gas.

A gallon of milk has gone up from $2.91 a gallon to 3.59 a gallon, up 23 percent; a two-bedroom apartment at fair market rate in urban counties in California, up 45 percent from 2000 to 2005. Tuition at Cal State University went up from 1328 a year to 1572 a year, up 18 percent; child-care costs up $8,494 a year, up to $9,691 a year, up 14 percent.

The price of day-to-day goods and services goes up every year, and yet the minimum wage does not reflect those annual or sometimes monthly increases. Therefore, the minimum wage should be increased and potentially should change depending on what the cost of living is in California.

Now, we have maintained that the proper standard
is the Consumer Price Index. In fact, the measure that we've utilized is the Consumer Price Index of urban counties in California, which is the indexing mechanism that the state's Department of Finance uses. It's also, in looking across the states that index, the similar conceptual index, urban counties, used in the state of Washington as well as in the state of Oregon. Therefore, we believe the minimum wage -- without getting into how much the index should be or what the wage should be, we believe the minimum wage should reflect the proper cost of living on an annual basis.

CHAIRPERSON COHEN: Mr. Abrams?

MEMBER ABRAMS: Yes. I now have a better understanding of the motion, and I would like to add an additional ground for opposition.

I had inferred from the motion, and I should have listened more carefully to the word "reflect," that the suggestion in the motion was that when one looks at what the minimum wage should be, one ought to take into consideration, among other things, purchasing power, etc. But the motion, Ms. Wei has made it very clear, is that whenever the cost of living goes up, purchasing power, otherwise, would go down; if minimum wage would not increase, that it should go up to reflect those changes, which is indexing.

For the reasons we stated -- and we need to discuss this issue here, but the issue has been discussed, the legality of the IWC doing the mixing, all of those
4 things need to be discussed here. On the basis I understand the motion fully, I strongly oppose it on that basis.

CHAIRPERSON COHEN: Mr. Broad?

MEMBER BROAD: I don't know that I see Ms. Wei's motion actually determining whether there's indexing of the minimum wage. I don't think we're at that point. I think we're discussing whether -- by whatever mechanism the minimum wage is raised, whether by the people, by the Legislature, by the IWC, by God, in his or her infinite wisdom however it gets raised, whether it should reflect the proper cost of living by some measurement, whatever that is.

Now let me step back and just ask Ms. Dunbar a question, because she said earlier in the day that 6.75, looking at it historically from 1959 -- that 6.75 was about right, and I just would like to know why she thinks it's about right; in other words, what is the measurement?

She said she looked at it -- or they, the restaurant association, has looked at it historically as it's gone from 1959, '57, to now and decided it is about right. What is the measurement that you used to determine that it was about right?

MEMBER DUNBAR: This is Lara Dunbar, from the California Restaurant Association.

All I said is since 1956 the minimum wage, if you adjust the minimum wage every year for inflation, it goes up and down. If you take the average of all that, then -- and add them together and take the average of all the different adjustments, you come to about right where we are now. So that's what I meant.
MEMBER BROAD: Does that mean you believe a proper way of looking at it is to adjust the minimum wage by that standard so that it maintains that level of average adjusted for inflation? If it's about right, I assume you meant that's where it ought to be, and if it was wrong, it would go up.

MEMBER DUNBAR: No. I said it's about where we are right now, and I also said that 6.75, I believe, is not inadequate.

MEMBER BROAD: Is not inadequate. Okay.

MEMBER DUNBAR: I never said 6.75 was right. I said 6.75 was inadequate. If you look at the historic average over the years since 1956, whenever minimum wage was applied to women as well, then it's about where we should be, and that was just a statement.

MEMBER BROAD: I'm trying to understand, though, from your view, how do you -- is there an actual mathematical calculation that you and your group came up with that determined that it's about right at 6.75?

MEMBER DUNBAR: Yes. We adjusted for inflation every single year, added those up, and then took the average.

MEMBER BROAD: So if in six months from now the IWC was to look at it and do exactly that calculation and determine that it was lower than it was from 1956 or whatever arbitrary date we're going to take -- starting date -- we can go back to 1916, if we want -- and adjust it, you would be favorable to adjusting it up at that point, right?
MEMBER DUNBAR: No. I just said 6.75 is about where the state would be if you took the average of the historical minimum wage. This is mainly in response to the argument that we are below where we should be.

MEMBER BROAD: So you're actually against raising it even if we're below -- I just want to understand your personal point of view; that if we came in here and it turned out to be different and it was actually 20 percent lower in real-dollar buying terms than it was in 1956, you'd still be opposed to raising it to the 1956 level?

MEMBER DUNBAR: I think it's inappropriate, first of all, to state my personal point of view. I am here as an employer representative.

And that being said, I think, basically, all that is being said is that 6.75 is not inadequate to -- when we view it. We see that -- there's all this talk about, well, right now you're below -- we should be, what, 8.44 -- I've heard figures -- if you adjust it for inflation since 1968, stuff like that.

We're just saying that is an inaccurate way to look at it; rather, a better way, if you want to see where we should be or should not be, just so you know, the average of the historical minimum wage since 1966 is around 6.75.

MEMBER BROAD: Where do you think it should be?

What purchasing power should we be trying to keep the minimum wage at? You have an opinion. You're on here. What do you think it should be: 0?

MEMBER DUNBAR: On behalf of the industry, we feel the minimum wage is the starting wage, first of all. That being said, there are a lot of employers who pay more or
I think if you look at the adequacy of the minimum wage, there's a lot that goes into that. You have to look at different factors. Putting a dollar amount, right now our view is 6.75 is not inadequate. We do not think the minimum wage should be raised.

MEMBER BROAD: Do you think it should be lowered?

MEMBER DUNBAR: I'm not prepared to say that either. Is that a question here we're supposed to be voting on?

MEMBER BROAD: You can make a motion to lower it. You can make it disappear, if you want.

MEMBER DUNBAR: I'm not doing that. Are you making a motion to lower it?

MEMBER BROAD: No. I'm for raising it. I'm trying to find out what you're actually for.

MEMBER DUNBAR: We're not for raising the minimum wage.

MEMBER ABRAMS: Point of order. With all due respect to Ms. Dunbar and Mr. Broad, what a particular association or employee representative's organization's point of view is, if there's a motion on the floor -- and I think the question is, let's discuss the merits of the motion, which I, quite frankly, still am not sure whether it's indexing or not indexing -- what Ms. Dunbar might feel is an adequate level of minimum wage, what role inflation should play in it, with all due respect, is not subject to debate here in this body today.

CHAIRPERSON COHEN: Let me say this: I think, in light of Mr. Broad's earlier comments about an effort to find common ground, if some exists, as opposed to a series of polemics...
of 6-6 motions, I think it's important to explore, a little bit, each person's opinions, trying to draw out whether or not there's grounds to a common ground that gets past 6-6 on each question. I think a back-and-forth, if it devolves into that, isn't particularly productive. We have at least one other member of the Wage Board patiently waiting to speak.

Mr. Broad, it's my sense you have an answer as much as you're going to get.

MEMBER WEI: Mr. Chairman, when it's appropriate, I do have some follow-up questions.

MEMBER BROYLES: Thank you, Mr. Chairman. First, a comment and a question. As I understand the motion to this point, what is really before the Board -- or the Commission -- the Wage Board at the moment is whether or not we should be tying this to some sort of increase mechanism. And I know from the California Chambers' point of view, we do have great concern about tying anything to an auto-pilot factor that doesn't take into account what is happening in the economy at that time.

Again, whatever you may believe in or not believe in, if indexing had been part of the equation of the minimum wage calculation prior to September -- to September 11th, it could have had great damaging effect if there was no way to also examine at that point in time whether the minimum wage should be going up that following January, if such a mechanism had been in effect.

So we would have great concerns and urge great caution against ever putting something like the minimum wage
wage because of its wide effects on other parts of the economy, on many industry, many businesses, and many employees at that time, and would not want to see that happen, if that is what is being said.

That being said, I would like to make a question to Ms. Wei, asking her to more fully explain what kind of mechanism she would envision, and would that mechanism also look at downturns as well as upturns in the economy as that mechanism?

MEMBER WEI: Let me try and clarify, because I do sense some confusion. As the maker of the motion, I have not moved that we should index the minimum wage yet. What I'm trying to get at here is to have a conceptual discussion about whether or not the minimum wage should reflect something rather than it be an arbitrary dollar amount that's put forward or whether it should be a political football that politics dictates it sounds great to increase the minimum wage by a dollar-fifty or $2, whatever it is.

And I think it's probably a frustration that's shared, potentially by both labor and management, about the standard of adequacy. We have yet to come up with a standard of how do you measure adequacy.

What I'm trying to get at here is a discussion about whether or not one measurement of adequacy is -- whether or not the minimum wage reflects the true cost of living. We are not at the indexing question yet, but we are at a conceptual question about how do we judge adequacy. I can't get to pegging what a dollar amount should be until we have some conceptual framework questions about how to judge that adequacy.
So in terms of, I think, Ms. Broyles' question, what's it to be tied to, I think that's right for our discussion here. If we do agree and we do get to a unanimous 12-0 vote on the concept that the minimum wage should reflect cost of living, then we can have a fruitful discussion about what kind of index, for lack of a better term, we'll be able to tie it to.

MEMBER BROYLES: That still avoids the point I was asking you about, Ms. Wei, which was, should any kind of mechanism in looking at whether something is adequate or inadequate to supply the proper cost of living -- would that be a mechanism that could go down as well as up?

MEMBER WEI: If fair-market rents plummeted, then it's likely that we could see a lowering of wages, including the minimum wage. If the cost of gas plummets --

I think the discussion I'm trying to engender here is, what should the minimum wage reflect? If that's fair rents going down in California, those can be reflected in whatever the marketplace of goods is to determine what the index is.

MEMBER BROYLES: So you would support the minimum wage going down?

MEMBER WEI: I'm here to support an increase in the minimum wage.

MEMBER BROYLES: I wanted to be sure we had that on record.

MEMBER WEI: I did at some point, Mr. Chair, just have some clarifying questions for Ms. Dunbar when that's appropriate.

CHAIRPERSON COHEN: I have two other members of
the Wage Board that would like to make a comment. I'm going to go first to Mr. Schacht.

MEMBER SCHACHT: Mark Schacht, California Rural Legal Assistance Foundation.

I'm looking at Labor Code section 1178, which is the statutory basis upon which the Commission has appointed this Wage Board. In order to justify statutorily the appointment of the Wage Board, the Commission has to find that wages paid to employees may, quote, be inadequate to supply the cost of proper living, end quote.

In the section that describes the composition and duties of the Wage Board, 1178.5, the statute states: The Wage Board shall report to the Commission its recommendation of a, quote, minimum wage adequate to support the necessary costs of proper living.

If you go back in time, I have here a 1967 interim report by the Assembly Industrial Relations Committee trying to make some recommendations about how to discharge that statutory requirement, and it proposes some -- a definition for proper living, for example, that reflects that it necessarily changes as the general standard of living changes. And the definition they propose -- this did not become law, but this was as a result of an interim hearing -- that the proper living shall meet at least a subsistent standard of living and may exceed that standard to the extent that the Commission, in its discretion, finds appropriate considering the standard of living prevailing among all waged and salaried workers.

So I think these concepts of cost of living, what's proper living, what's adequate are all fluid and all evolve as this society evolves. For example, in some of
the early stages of Minnie's budget, Minnie didn't even
have a wristwatch.
So I think it's fair for us to be suggesting that
people shouldn't have to live as some of my clients live,

1 ten to a garage. They ought to be able to be in reasonable
2 habitable housing, and you can't get reasonable habitable
3 housing at eight hours a day at 6.75. This wage needs to
4 reflect those kinds of reality. I think at some point
5 we're going to get to a discussion about Minnie's budget.
6 Are we? Yeah.
7 But I think this all anticipates that. 6.75
8 doesn't begin to reflect the increases in the cost of gas,
9 the increases in the cost of -- and that is inherent, and
10 some reflection and recognition of those costs of proper
11 living are in the statutory construct under which we're all
12 operating.

13 CHAIRPERSON COHEN: Mr. Abrams.
14 MEMBER ABRAMS: Jim Abrams.
15 I think this is an appropriate discussion. No
16 question about it. I think the challenge when you use the
17 word "reflect," that implies, or connotes, that if the cost
18 of living goes up, ergo, the minimum wage ought to go up.
19 What I would suggest instead, and the reason I
20 oppose the motion as it's presented, is that -- I would
21 agree that if you take a look at all the factors and
22 considerations that should be analyzed in deciding what the
23 minimum wage level should be, the cost of living is
24 certainly one of them. The problem is that we end up
25 typically stopping the discussion at that point because
there's been inflation, cost of living has gone up. I'm not going to sit here and pretend it hasn't.

But I want to go back to what I said in the very beginning this morning. One cannot just look at that in a vacuum. The debate over what the minimum wage should be needs to take into consideration not only the cost of living. I don't know I would use exactly the words Ms. Wei would use, but we're all on the same page, I think. But we need to look at whether or not action the IWC takes or whether actions it would take would cause harm. That's when we get into the discussion of all the other factors making businesses viable to provide jobs to people.

We have had debate after debate after debate whether raising minimum wage causes people to lose jobs. I think it's implicit. The fact the employee community argues that it doesn't is the fact if it did, they would rethink their position; that in fact if we could establish once and for all that raising the wage decreased overall employment and didn't create any more disemployment, loss of benefits, loss of hours, loss of shifts, go to automation, things like that.

These are all proper considerations, but to take one of them cost of living, quote/unquote, or purchasing power, quote/unquote, and to say that, if it changes, will drive by itself and be a defining mechanism to drive minimum wage, I think, is totally inappropriate because it leaves out all the other relevant factors. For that reason I continue to oppose the motion.

MEMBER SCHACHT: In response to that, the statute compels the Wage Board to report on a minimum wage adequate
to supply the necessary cost of proper living to and
maintain the health and welfare of employees in this state.

MEMBER ABRAMS: If you look at the intent
language -- I don't know which enactment it might be,
Mr. Schacht. In the intent language, there is a very clear
statement. I wish I could show it to you today. I don't
have it with me. You won't find it in the Labor Code. It
was the intent of the Legislature: Do no harm. Do what
we're telling you to do, but be sure you don't do harm when
you do it.

CHAIRPERSON COHEN: Mr. Broad?
MEMBER BROAD: I just want to say, injecting some
serious reality into this, the Governor proposed raising
the minimum wage by a buck. There's no rational basis for
it at all. Just a buck. The Davis Administration proposed
raising it by a buck because it's a nice round number, a
dollar; same thing, same calculation.

Probably where we agree is that the decision to
raise the minimum wage and how much to raise it to is
fairly arbitrary. I'm sure that these federal Congressmen
who came up with their number, they dithered around back
and forth like, you know, debating between the guys who
didn't want to raise it at all and the ones who wanted to
raise it even more. Okay. Let's get in the middle and
raise it by something. It's inherently a political
process. The question is whether we can advise the IWC,
even if we agree on nothing else, that the minimum wage
ought to not be arbitrary.

Now, whether the mechanism to actually raise it is
automatic, which I recognize the employers virulently
oppose, is a wholly different question than whether the
number you get to reflects some calculation of something.
Now, frankly, I think this is an area where we all actually agree, that it shouldn't be arbitrary, and embedded in that agreement is about a thousand disagreements. I understand that. But I actually think that it probably serves the labor and business interests of this state equally if the minimum wage was not a political football that arose every few years when it couldn't be avoided any longer and was something that more or less all the parties could, if it was possible, agree was based on some formula that reflected a reality that had enough of a buy-in that people generally said, well, yeah, that kind of makes sense.

And I think that that is the heart of Ms. Wei's motion. And however it was articulated and however scary it might have sounded, I think that's the heart of her motion. Whether we believe that once you reach that number it should be indexed automatically every year, every two years, every 15 seconds, whatever it is, that's an entirely different question.

MEMBER ABRAMS: Just a question to the Chair. I'd like to revisit the announcement you made at the beginning of the day, because I think it is critical to where we are right now. It has been your opinion that six people constitutes a quorum. I would like to respectfully question that, because I think -- and I do appreciate what Ms. Fong has said, that it is probably, under the Bagley-Keene Act, better to be safe than sorry -- I think it is very important we be able to caucus at this point. Otherwise, I can predict how things are going to come out.
If groups -- as new things come up, if we are unable -- the six of us and the two alternatives or the six employee representatives and their two alternates can't caucus and discuss things, I would respect whatever decision you make, but it would be helpful.

MEMBER BROAD: May I speak to this? In the past the two sides have always been able to caucus. I would be willing to offer a motion of a procedural sort basically saying that in the absence of both sides -- that we be permitted to caucus.

First of all, a caucus doesn't mean you lose the quorum since you could be in the back of the room if that's a real problem and secondly, that we bind ourselves that no party will make a motion while a caucus is in effect.

MEMBER ABRAMS: I also do think -- Ms. Fong raised the point that if we caucus -- does the Bagley-Keene Act require that whatever our office, for example, discusses [unintelligible] -- is that part of your concern?

MS. FONG: That is correct. Under the regulations specified, 50 percent of appointed voting members does constitute a quorum

MEMBER ABRAMS: We are here in a public meeting, and any result of what we're going to do is going to be in a public meeting.

MS. FONG: The purpose of the Bagley-Keene is also to give the public an opportunity to view the discussion, the dialogue that goes on and takes place between the Board and its members, so if you were to caucus outside of the public's view, that would kind of defeat that purpose.

MEMBER ABRAMS: What if we do it right here? I'm
not trying to be funny, not how many angels can dance on
the head of a pin. If the eight employer representatives
were just to go in this corner here, talk quietly among
themselves right here, and we just chatted off the record,
so to speak --

MS. FONG: The problem is Bagley-Keene requires
everything on the record.

MEMBER ABRAMS: If that's how we're going to
operate, I respect that, but that drives a certain result.

MEMBER BROYLES: Question on the same issue: If
one of the six stands away from the caucus, can five of the
people on that voting side still meet separate and away
from the dais?

CHAIRPERSON COHEN: I'll hear what counsel has to
say. I would also point to the fact that in the 2000 Wage
Board, this question came up. Mr. Abrams, it might have
been you, or somebody with your name raised it. Were you
on the 2000 Wage Board?

MEMBER ABRAMS: I believe so.

CHAIRPERSON COHEN: The question of the ability to
caucus came up, and the Chair of that Wage Board cautioned
that the members should remain in the room so the
deliberations could be observed by the public.

MEMBER ABRAMS: We have no problem with that,
being in the room letting the public observe us.

CHAIRPERSON COHEN: However, I have to tell you
that I'm leery of -- I'm warned and rely on the advice of
counsel that -- I think it's appropriate for me to do so in
you wish to talk, I don't think there's any -- I would ask you to do it sort of under the same umbrella. I'd ask you to do it off the side, in the room.

I don't see any reason why five members of the Wage Board couldn't gather together to discuss a point, particularly if any of you think that that's going to move the discussion along and find any kind of common ground about any point that we're discussing. I'm all in favor of it. So if you think it would be fruitful to talk at the moment --

MEMBER ABRAMS: I would ask for a break of five minutes to be taken in place up here, please. Whoever wants to talk, anybody else can talk to them.

MEMBER WEI: That's fine with us. We're all about rest breaks.

CHAIRPERSON COHEN: Let's do five minutes. We'll take a break in place.

(Recess.)

CHAIRPERSON COHEN: It does appear that we're all back in the room anyway. We went a little over five minutes, but you all did a good job. Thank you all for being quick and getting back.

I guess it's the employer representatives requesting an opportunity to discuss among some of themselves. I wonder if any of you --

MEMBER ABRAMS: Jim Abrams.

On behalf of some of the employer -- we have discussed not only what Ms. Wei has said with regard to her motion and what Mr. Schacht said and others. At this point, with respect, we are opposed to the motion.
Chairperson Cohen: Any --

Member Wei: Mr. Chair, I have taken another moment to flip through the packet of materials that have been presented to the Wage Board, and I've pulled some of the reports that I believe the employer community has cited in discussing the adequacy of the minimum wage. I want to just take a second to run through, quickly, these reports.

My premise here is -- my contention is that none of these reports are actually an evaluation of what has happened to jobs, both in terms of number of jobs, full-time versus part-time work, number of hours. None of them are an evaluation-type study of increases in the minimum wage.

The 2001 DLSR DIR study is a prospective look at the potential implications with the 2001/'02 minimum wage increase. The NCPA study is a theoretical model study based on -- I think these are supply-and-demand curves. I don't even know what these are -- about the possibilities of a minimum wage increase.

I reviewed, yet again, the Chamber of Commerce and the members of the California Employees Coalition, and they do not cite any studies that are a direct evaluation of what has happened to jobs in California opposed to a minimum wage increase, whether it's an evaluation after the passage of prop 210 by the voters or the last minimum wage increase carried forward by the Industrial Welfare Commission in '01 and '02.

On the flip side, if you look at the other dead trees on our table, we have submitted a number of reports that are direct evaluations of the minimum wage increases both in California and across the country, and have
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13 presented both in a petition filed by the state federation
14 and in our testimony today that there's well-documented
15 evidence of the diminutive impact on the number of jobs,
16 the quality of jobs, or the number of hours of the jobs
17 worked postminimum wage studies.
18 We submitted a study from UC Berkeley looking at
19 the evaluation of the San Francisco minimum wage and the
20 actual impacts of that. We've submitted a study from
21 Florida looking at the impacts of the -- Florida's increase
22 in the minimum wage and what's happened to jobs there.
23 We've submitted the PPIC studies that have looked at actual
24 number of jobs, state-by-state migration, that evaluates
25 pre- and postjob figures.

So if we were to return to the charge of the Wage
Board to review the documentation that's submitted before
us, I am challenged to find where the empirical evidence
comes forward that shows the deleterious consequences of
the increase of minimum wage that the employers are
arguing.

MEMBER DAYTON: Mr. Chairman, Kevin Dayton,
Associated Builders & Contractors of -- I did not caucus
with the employer group. I actually agree with what I
believe is the original sentiment that we on the Wage Board
have been given a very strict direction from the Industrial
Welfare Commission what to do.

I can tell you -- I actually thought maybe
appealing the decision -- I do believe this motion is out
of order. I am a little uncomfortable that we seem to be
moving into an area which, perhaps, is better suited for
the Legislature. I don't think I came here representing
the ABC [unintelligible] thinking over policy issues and what the various definitions are and things like that. With all the competing material we have here, it's as difficult as it is just to fulfill the strict responsibility that the Wage Board gave us. So I just wanted to make that feeling known.

CHAIRPERSON COHEN: Thank you, Mr. Dayton.

MEMBER SCHACHT: Just in response to that, again, the charge is specific to the extent that it's asking us to consider some specific items and to make recommendations. It is not exclusive, however. It doesn't say the Wage Board cannot consider any other matters or take votes or issue recommendations to the Board that relate to this subject matter. I think that's the point that Ms. Broyles and Mr. Broad made earlier and which we all find ourselves in concurrence.

MEMBER DAYTON: I disagree with that too.

MEMBER BROAD: Can I make a comment? This is really -- just so you all really think about this, there is no other place in California government, that I'm aware of, where regular people, wherever they come from, are actually given the power to do something. So it probably behooves us, whether we reach agreement or not, not to spend part of the time just saying, "I don't want to do it. I don't want to exercise that power."

This is a unique opportunity. There's no other group of people that get it except the people that do this. So while I understand the limits and the anxieties and concerns and fears, whatever, of overstepping our boundaries, supplying information to the IWC about what our opinion is of anything is what our job is related to the
minimum wage. And I think at the core of the minimum wage debate, always, is, how much should the minimum wage be, and what goes into the decision?

Now, the reason these Wage Boards are always deadlocked is because we’re deadlocked in the political script that gets written; that is to say -- I don't know that we ever get out of this because of the way it works, but the deadlock is this: The employers vote no on everything, no matter how reasonable it is. The union votes yes on everything, no matter -- or the labor side -- however unreasonable it is, to raise the minimum wage, because neither side has any faith that the ultimate determination of the minimum wage will be based on anything except something arbitrary.

Therefore, the best way from the employers' side to minimize the increase -- it's not like you guys actually believe it's not going to go up -- it's the best way to minimize the increase and do what your side wants, and the best is for you to vote no, and the best position for us in a political process, ultimately, is to vote yes.

It actually doesn't advance the real policy issue, which is what I was trying to raise before and which I think Ms. Wei is raising, and which Mr. Abrams actually agrees, in fact, we all actually agree; is that the minimum wage, when it goes up, ought to reflect something related to the reality of workers' lives, the economy, whatever the standard is; and that that is sort of a good thing.

Now, we may -- I think you could probably predict, maybe, we're not going to get there today. We may not get
the next day. Whatever. We may get there. We may not get there. Even if we predict we won't get there, this discussion has never actually been held at one of these Wage Boards, where the group sort of hammered out -- you don't even have to do it by a two-thirds vote. You could be doing it by a majority vote, in which you said, to the IWC, "IWC Members, when you look at this minimum wage thing, base it on something rational, not arbitrary."

And I don't think -- I think that's reachable with this group, whether or not we could reach any other agreement on any other issue.

CHAIRPERSON COHEN: Ms. Broyles.

MEMBER BROYLES: First of all, thank you, Barry. I think that was a very fair description of -- you do. And the peeking into the mind of Barry Broad is always illuminating. And I agree with you, and I agree with Ms. Wei, that the arbitrariness of some political discussions can be a problem depending on what side and what issue is being discussed.

I would be speaking solely for the California Chamber. I doubt -- and I agree with you -- I doubt this is, today, a decision possibility. We would be more than open to continuing the discussion over the coming months on just that one factor, on deciding and looking at what rational process you go into -- regardless of the forbidden zone of indexing, what goes into a discussion of raising the minimum wage, and what calculation might be brought to bear?

When you look at those things -- because I've heard on our side, the employers' side, today, many times
I just do not see it occurring and coming to a fruitful conclusion today.

So while today there may be no agreement on what the cost of proper living or the living -- or any of those factors that we come to agreement today, I do believe it's a viable avenue for us to look at. Even if we come to no agreement, I think it's a discussion that needs to be held at some point.

CHAIRPERSON COHEN: I'm going to let Mr. Dayton respond, and then I'll come back to you, sir.

MEMBER DAYTON: I'm going to respond. I think it's going down the wrong road to say let's open up the Wage Board discussion to anything having to do with minimum wage. You know how many issues you can tie into minimum wage. You can tie in welfare. You can tie in immigration. Once again, these are responsibilities that our representative legislators should be talking about.

We talk about, why is there a deadlock? Well, you know, when you look at this -- and I don't open myself up for criticism in pointing this out here, but the reality is we're talking about at least two different types of groups here being affected by minimum wage. We recognize first there seems to be a group that has a starter wage, and it's economically mobile and increases wages over time as the worker gains work proficiency. Then there is the segment of the work force that's perpetually at the minimum wage. These are two different groups.
What we're talking about here is one broad policy that applies to both of them with no distinction between the two. No wonder you look at all the materials and have a deadlocked group. You're really talking about two different categories of people.

In addition, I mentioned before, obviously, one person who is trying to support a household of several people on minimum wage, I don't know how high that wage would actually be for that sort of thing. You have a person working at a restaurant as a single person, a young person. That's an entirely new condition.

Once we've gotten into all these discussions --

CHAIRPERSON COHEN: We have two alternates that would like to speak.

MR. MARTIN: Speaking on behalf of the Small Manufacturers' Association --

CHAIRPERSON COHEN: Mr. Martin, I'll remind you --

MR. MARTIN: I'm sorry. Tom Martin, speaking on behalf of the Small Manufacturers' Association.

Our concern is responsibility. We are very upset that the Legislature has a free ride, where they have raised their wages from $40,000 to a hundred and twelve thousand dollars in 15 years, and now you want to do the same thing with the minimum wage by tying it into an index that has no controls and no responsibility. Then there's nobody that's going to be responsible.
Yes, if you have an index like that, you're automatically going to get an increase every year. It's going to go up. You're going to have inflation. It's going to be self-perpetuating. That's what we're concerned with. We want there to be some responsibility. You can call it arbitrary, if you like. I won't argue that. The bottom line is we need to have somebody responsible that we can point the finger at when they make a mistake.

Under the system you propose for an indexing, it would never go down. It would never go down; so that if the cost of living in the state went down, it can't decrease. This would bankrupt companies. This would certainly cost companies a lot.

But the bottom line is nobody would be responsible, and there'd be nobody to point a finger at, the same thing we're doing with the Legislature.

CHAIRPERSON COHEN: Over here. Same reminder for you for the reporter.

MR. SANDAHL: Lee Sandahl.

Chairman Cohen, this actually is a question for you. As I read here in this first paragraph -- and I've been reading it off and on throughout the whole day -- the way I'm interpreting this is, if we were to make a decision here on a minimum wage, which I don't want to say it's highly unlikely, but it seems somewhat unlikely today that that's going to happen, that we would also be responsible to ensure that that wage is adequate to supply the cost of proper living. Am I correct?

CHAIRPERSON COHEN: That is the language. There's simply no question. The charge reads, specifically, IWC charge 2: Consider all material provided for review.
After your review, report to the IWC your recommendations on the following matter consistent with the basic statutory responsibility to ensure the minimum wage is adequate to supply the cost of proper living.

So that notion is itself contained within the charge. Now, the motion that we have been discussing and debating for a good hour now incorporates that concept and adds an additional concept. I do think it falls within the parameters. It doesn't follow the strict framework I suggested this morning, but I do think it falls within the limits of the charge of this body.

To restate the motion -- and tell me if I miss it -- I have it as the minimum wage should reflect the proper cost of living, which is statutory, what the language says, and should consider purchasing power of low-wage workers.

Do I have that right? So that's introducing a concept beyond merely the cost of living, and whether or not that concept should be considered or whatever it means has been the subject for debate for an hour.

One question I have for the group is whether or not it's productive to continue debating this particular motion or whether we should again test a vote on this and see if anyone has been swayed.

MEMBER ABRAMS: I was going to call for the question.

CHAI RPERSON COHEN: I think we did that once.

MEMBER BROYLES: I tried.

CHAI RPERSON COHEN: I will -- I'm going to repeat
myself; and that is, it is my understanding of the charge that we have today is to do this: I know we have the room until no later than five o'clock. I personally would just as soon be out of here a little earlier than that, but it is my interpretation and my understanding from staff that we are not, despite Mr. Broad's comments, empowered to decide that we're going to take days, weeks, or months to discuss this. We were assigned a day to discuss this. So the time -- I'm perfectly willing to allow time to have a discussion of this particular motion, but at some point I need to tend discussions of other motions people may want to introduce.

With that said, Ms. Wei, you indicated you're not done. I'm going to allow you to comment, if you have more to say, on the motion.

MEMBER WEI: I felt, potentially naively, a little glimmer of hope from Mr. Abrams' comments to recognize that the cost of living should be one factor in deliberating a rational increase in the minimum wage. And he's offset that by what he considered, I believe, mitigating economic factors, whether there's job loss, whether there's loss of hours, whether there's movements to more part-time work.

I want to take us back to the materials that have been presented for investigation before the Wage Board, and I want to find out, where is the empirical evidence? If we're looking at what all the factors are to go into a rational databased minimum wage increase, what are those other factors, and how do we measure them? How do we find the empirical data to document there are, potentially, mitigating impacts to an increase of the minimum wage?
What's in the basket of goods? I mean this not as a facetious comment, but really to push us to look at the data. I want this to be a data-driven conversation.

MEMBER ABRAMS: Jim Abrams.

Very fair question. And I will start my comment or my response by agreeing with what Ms. Broyles said. Today, in this setting, is probably not the best -- in terms of productiveness, not the best forum to discuss these issues. And to whatever extent you got a glimmer of hope from some things I said, they were sincere and heartfelt, and I think Ms. Broyles has put her finger on it. These are issues going to all of the things you were leading up to in your original motion, are all fair game for discussion, and ought to be discussed. What I came back and said was today is not -- for whatever reasons -- is not the day to do that.

But with that said, in response to your question,

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I would just point out, for example, the study that was done by the Division of Labor Statistics and Research. I do take, as appropriate, your comments on the study of that, but I point out, as an example, the comment on page 4, in the second paragraph at the top. I don't know who the "aye" was. I think there were several people involved. I find, during the later stage of the lengthy economic expansion -- so one issue I keep bringing up is, if you look at unemployment that might be caused by raising the minimum wage or disemployment, you have to look at whether the economy is expanding or contracting. I would offer that out as an issue. The offer of this study, I think, implies that might be a factor.

Then he talks about the rise of the minimum wage
and the full impact on employment. Again, I would suggest to you that if all you do is look at whether there are more jobs today than there were before the minimum wage increase without adjusting for whether the economy is expanding or contracting and other factors, you're not really getting to the answer whether or not people lost hours, people lost shifts, people got replaced by packaged produce in the restaurant or something like that.

But there was -- he did notice that there was a greater effect on work hours. If you read through, it's my understanding work hours went down.

Just to close the loop on this, if you go to page 12, the middle paragraph, the last half, it says: The decline in short-term employment for firms appears negligible.

This all comes down to jobs, how people can afford to pay people. Over the long run, firms may redesign jobs by using more capital relative to labor that gets it in the bag, lettuce and everything else.

In response to your question where is the evidence to refute the conclusions reached in some of the studies that increases in the minimum wage do not negatively impact employment, I would just point these out as examples of the kind of debate that needs to be -- the kind of consideration that needs to be given to this issue.

MEMBER WEI: Mr. Abrams, I appreciate your thoughtful ness. My point here, to be on point for me, is that the author says this research report predicts the impact of 2001. These are forward-looking prediction studies, not backwards-looking evaluation studies. I think
that's what's missing, frankly, from the employer side; is
that we don't have anything in the record to document
either the evaluation of either the '88 or the 2001/'02
increases and their effects on the economy.

Again, on the flip side of it, we have
documentation both post minimum wage increases in California
and across the country that are actually "looks back,"
evaluations, longitudinal studies occurring pre- and
post minimum wage increases.

So I appreciate the predictions and the potential
theoretical supply-and-demand models that some of these
academics have put forward, but in terms of real
 quantitative evaluation, what the real impacts have been, I
yet to see that in the record.

MEMBER BROYLES: Mr. Chairman, in response to
Ms. Wei -- and I apologize if they did not get in, but I
will have them submitted for the actual Industrial Welfare
Commission members to take a look at -- if I might refer
you to a few studies. First of all, there was the 1993
study carried out by Lowell Taylor, of Carnegie Mellon
University, that looked at fast-food studies that had been
done prior by Card-Krueger --

MEMBER WEI: Respectfully, Mr. Chair, with all due
respect --

CHAIRPERSON COHEN: If these haven't been
submitted --

MEMBER ABRAMS: They are referred to in the
materials that are in our packets. That said --

MEMBER BROAD: Can I say something here? I
actually think it probably makes sense for us to have the
benefit of whatever is out there and [unintelligible] find
a way to ask the IWC, the staff, to go to the Commission,
and at the soonest possible time, if there's more
information out there the employer-side representatives
would like the whole group to listen to, or vice versa,
that we should have the Commission submit those back to the
Wage Board in accordance with the regulations so that we
can consider them and go through them.

I really think it's -- if we're policymakers for
the day or couple days or whatever this turns out to be, we
shouldn't be bereft of information of information that any
member of this Wage Board thinks is relevant.

MEMBER BROYLES: What I was trying to do was give
a list of some reports you might find of help. Again,
there's the 1993 --

CHAIRPERSON COHEN: I don't know if it's
productive.

MEMBER BROYLES: Fine, Mr. Chairman. I tried.

CHAIRPERSON COHEN: I take the thrust of your
comment to be there are studies out there that you believe
to validate your position.

MEMBER BROYLES: Yes. And I do say, and they are
specific to the California experience with the minimum
wage, we have submitted them in the past to the Industrial
Welfare Commission itself, if not to the Wage Board. I
apologize if they are not available today to Ms. Wei. But
there is some very specific work that has been done, and it
has been submitted in the past, and is the record of the
IWC. It is part of their records and should be part of
their consideration.
I was trying to make sure they were at least noted today. Again, recommendations go back to the IWC themselves. It might be something they find useful to examine. I was trying to give you the names of the reports.

Chairperson Cohen: I think you're certainly going to be entitled to submit those to the IWC -- resubmit. It's unfortunate they're not part of the written record.

Member Wei: Were they submitted to the Wage Board? They're not cited. I'm looking and relooking at the employers' comments, and I don't see any of the studies that have been cited.

Member Abrams: They're not in the written comments from different organizations but in the materials that were in there, articles from magazines and other documents. Some of the studies that are in here refer to other studies. But the studies themselves --

Member Broyles: And I will make sure they're submitted to the IWC prior to their next meeting.

Member Agee: Not the ones you're giving to Angie, the ones you referred to earlier --

Chairperson Cohen: The language is pretty clear when stuff needs to be submitted by for our consideration today. Anything for future discussions or debates are fine and should be included.

Member Schacht: Mr. Chair, I can't cite you the case, but the counsel may be able to do that for us. It's clear that this Wage Board is not permitted to take into consideration matters that were not submitted to the IWC, but it is also clear that individual Wage Board members may...
I was trying to respond to Ms. Wei's request for studies.

I understand that. I think you could make your point without being quite as specific as to give a list. If you want to make an argument based on saying there are studies you believe there are [unintelligible], I would agree you're entitled to discuss whatever you wish within this framework.

If you want to state you believe the data backs up X, Y, and Z, I would encourage you to go ahead and state X, Y, and Z, and you can later on submit specific studies. I want to walk that fine line and not introduce evidence that was not submitted within the deadline. I'm going to give the floor back to you.

Very briefly, Mr. Chair, I was trying to say that there was a 1993 study by Carnegie University -- Melon University that looked at the fast-food studies and the actual impact on employment. There was a 1995 study that followed up on that. I will make sure the information is submitted. The study -- they did a specific study in 19- -- looking at the 1988. The name of the study is "The Employment Effect on the Retail Trade of California's 1998 Minimum Wage Increase," and the industry where the minimum wage increased had more bite, suffered large employment losses. For every one percent of the increase in minimum wage, employment fell by nearly the same amount, .9 percent; of the 2000 study by the Public
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16 Policy Institute, by Margaret O'Brien-Strain and Thomas McCurty, titled "Increasing the Minimum Wage, California's Winners and Losers," looking at the various -- again, the specific minimum wage increase empirically in California, found that the very people that were supposed to be helped by the minimum wage actually paid more in taxes and goods and services and ended up actually losing dollars in the long run.

Those are three studies you might want to take a look at; again, along with the 2001 minimum wage study done by the Division of Labor Standards [unintelligible], which actually refers to some of these reports in their own data.

CHAIRPERSON COHEN: Comments? Response?

MEMBER WEI: Thank you, and I'll look forward to reviewing them.

MEMBER ABRAMS: At this point I think we've discussed the motion and would hope perhaps parts of this dialogue can go on outside of this meeting. I would call for the question.

CHAIRPERSON COHEN: Is there any objection? I don't think we need a vote. Just by observing your reactions to my left, I think I'll accept the call for the question. We'll go ahead and vote on the motion. The motion is that the statement that the minimum wage should reflect the proper cost of living and should consider purchasing power of low-wage workers. I'll start with the employee representatives.

Mr. Agee?

MEMBER AGEE: Yes.

CHAIRPERSON COHEN: Mr. Broad?
MEMBER BROAD: Yes.

CHAI RPERSON COHEN: Ms. Wei?

MEMBER WEI: Yes.

CHAI RPERSON COHEN: Mr. Jones?

MEMBER JONES: Yes.

CHAI RPERSON COHEN: Mr. Schacht?

MEMBER SCHACT: Yes.

CHAI RPERSON COHEN: Ms. Mercado?

MEMBER MERCADO: Yes.

CHAI RPERSON COHEN: Employer representatives.

Ms. Broyles?

MEMBER BROYLES: No.

CHAI RPERSON COHEN: Mr. Davis?

MEMBER DAVIS: No.

CHAI RPERSON COHEN: Mr. Dayton?

MEMBER DAYTON: No.

CHAI RPERSON COHEN: Ms. Dunbar?

MEMBER DUNBAR: No.

CHAI RPERSON COHEN: Mr. Abrams?

MEMBER ABRAMS: No.

CHAI RPERSON COHEN: Ms. Barsuglia?

MEMBER BARSUGLIA: No.

CHAI RPERSON COHEN: It was an interesting discussion. Again, I don't know we need to necessarily get to a back-and-forth. Mr. Abrams beat me to it.

MEMBER ABRAMS: Jim Abrams.

I would like to make a motion that if the IWC chooses to raise the minimum wage, that the amount of meal and lodging credits that may be taken against the employer's minimum wage obligation be increased.
proportionately. That is item 3 on your chart. I'm taking it out of order.

CHAIRPERSON COHEN: Is there a second to that motion?

MEMBER BROYLES: Second.

CHAIRPERSON COHEN: Seconded by Ms. Broyles.

As we've been doing, do you want to make an opening statement?

MEMBER ABRAMS: Yes, I would.

Notwithstanding the fact that it is historically always been the case that when the minimum wage goes up, there are proportional increases in the meal and lodging credits that employers can take, I'm not making this motion solely because it historically has been the case that happens. It's because providing meals and lodging for employees is a very good way for employers to augment the overall level of compensation employees get.

This is particularly true in the hospitality industry. Restaurants and motels provide meals not only to food-service employees, but in the motel, certainly room cleaners and everybody else. These are valuable benefits for employees. To make it possible and to provide incentives to employers to continue doing this at the maximum level possible is to -- would be to permit them to have a proportional increase. Not greater than the

MEMBER ABRAMS: Proposed to index something related to the minimum wage.
MEMBER ABRAMS: No, sir, I am not. Indexing is, in the context that we have been discussing, with respect, Mr. Broad, contemplates an automatic mechanism that would occur without any vote by the IWC. I am proposing that if they decide to raise the minimum wage and concurrently with it, only for that increase, that they change the values for the meal and lodging credits. I'm not arguing for anything other than that.

MEMBER BROAD: I would respectfully suggest to you that that is an index, because it's going up by an amount that's indexed to something that's independent of the true costs of those things to the employer. Why do we think the cost of food or lodging has gone up by the same percent that the minimum wage goes up? What factual basis is that?

MEMBER ABRAMS: I base it on everything you have said -- not you personally, but you and your colleagues have said today -- about the cost of living going up, housing going up, food going up, and everything else.

And I think, whether you want to call it indexing or not, if you don't think that having better meal and lodging credits and the incentive that gives employers to provide maximum benefit to employees, then vote no against the motion. Whether it's called indexing or toad stooling or broad jumping, with all due respect, is irrelevant.

MEMBER WEL: With that being said, I would speak an opposition to the motion. Not necessarily because at the end result we may disagree. I think it's too early to tell right now without knowing what level the minimum wage would be increased to, without knowing what Congress may be doing. There could be some severe potential changes for
I would oppose this motion. Potentially not because of the substantive matter in which it was offered, but more of a procedural question that it's too early to tell right now.

MEMBER DAVIS: If I understand -- Acie Davis -- if I understand if the meal credit was worth a dollar-fifty and the raise was a dollar, you would still be opposed to the meal credit and lodging credit?

MEMBER WEI: I don't know yet.

MEMBER DAVIS: It seems there's more value in the meal and lodging credit than there is in the increase of the minimum wage.

MEMBER WEI: I don't know the answer to that, both to the fact we don't know what the increase in the minimum wage would be, but also, Congress is discussing things that are going to affect workers like tipped employees, who would be benefit or be availed of the meal and lodging credit. If things change for those service employees, things may have to change with the meal and lodging credits. I believe it's too early for us as the Wage Board to reach a policy decision on that without knowing what Congress will be doing when they return.

MR. MARTIN: I'm Tom Martin, Small Manufacturers' Association.

Are you aware the Senate, yesterday, voted against the increase of minimum wage?

MEMBER WEI: Yes, I'm aware of that loss, and I'm
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17 also aware the leadership in Congress is wanting to come
18 back after recess, the month of September, to continue to
19 deliberate on the minimum wage, as it seems the tip penalty
20 issue was a hang-up and may be something they return with
21 when they come back in September post-Labor Day. Again,
22 given that we are not sure what Congress will do, and
23 neither will I trust what Congress does, it's too early for
24 us to weigh in and support that motion of Mr. Abrams.
25

CHAIRPERSON COHEN: Other comments on the motion?
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1 If there's no objection, Mr. Abrams, check me, the motion
2 is that if the Industrial Welfare Commission chooses to
3 raise the minimum wage, the amount credited against the
4 minimum wage for meals and lodging provided by the employer
5 should increase proportionate to the increase?
6
MEMBER ABRAMS: Yes, sir.
7
CHAIRPERSON COHEN: On that motion, starting with
8 the employer representatives, Ms. Broyles?
9
MEMBER BROYLES: Yes.
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CHAIRPERSON COHEN: Mr. Davis?
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MEMBER DAVIS: Yes.
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CHAIRPERSON COHEN: Mr. Dayton?
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MEMBER DAYTON: Yes.
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CHAIRPERSON COHEN: Ms. Dunbar?
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MEMBER DUNBAR: Yes.
16
CHAIRPERSON COHEN: Mr. Abrams?
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MEMBER ABRAMS: Yes.
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CHAIRPERSON COHEN: Ms. Barsuglia?
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MEMBER BARSUGLIA: Yes.
20
CHAIRPERSON COHEN: Employee Representative Mr.
21 Agee?

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MEMBER AGEE: No.

CHAIRPERSON COHEN: Mr. Broad?

MEMBER BROAD: No.

CHAIRPERSON COHEN: Ms. Wei?

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MEMBER WEI: No.

CHAIRPERSON COHEN: Mr. Jones?

MEMBER JONES: No.

CHAIRPERSON COHEN: Mr. Schacht?

MEMBER SCHACHT: No.

CHAIRPERSON COHEN: Ms. Mercado?

MEMBER MERCADO: No.

CHAIRPERSON COHEN: That motion deadlocks as well.

MEMBER SCHACHT: Mr. Chair, my motion?

CHAIRPERSON COHEN: Sure.

MEMBER SCHACHT: I move that the IWC updates Minnie's budget. I have a few things to say about that in support of it.

MEMBER JONES: I second it.

MEMBER SCHACHT: Minnie's -- the concept of Minnie's budget has been used by the IWC since 1916, and it's basically a list of items necessary to maintain good health and welfare. It hasn't been updated in quite some time. I'm not quite sure exactly when the last time was. I do know from looking at this interim report on the proposed increases in the '60s that the AFL pointed out that Minnie's budget -- Minnie didn't own a wrist watch, she only went to eight movies per year, and she shared an apartment with another girl. That's a quote. The employers at that time thought that Minnie's budget was
adequate; the employee side didn't.

I think to the extent we're going to get back to try to give some meaning to the statutory language of what proper living is, and I think we have to embrace the notion that it necessarily -- that the definition of proper living necessarily changes as standards of living change in this state.

I think it's appropriate for the IWC to look again at Minnie's budget as one way to move this toward that objective. And I'm not proposing to include in the motion the mandated use of it. It's just to update it and see where we stand.

CHAI RPERSON COHEN: Okay.

MEMBER DAYTON: Mr. Chairman, I'm wondering, like a motion from Ms. Wei, if this motion is out of order. We didn't get anything in our packet about Minnie's budget. Nor is it mentioned at all in the federal regulations.

CHAI RPERSON COHEN: You are correct. However, I think Mr. Schacht walked a very fine line. He is not asking us to make a recommendation as to a specific content, not asking us to debate what should or should not be included. He very, I thought, deftly tied the issue of Minnie's budget, which has historically been used as a factor in consideration of a point we are told to consider by statute; and that is, how does one determine --

essentially, what we've been debating all afternoon -- how do we determine whether or not minimum wage provides for the cost of proper living?

I think it is within the scope to go just this far and no farther a recommendation that the IWC should look at the content what makes up Minnie's budget. It's another
7 way to get at the issue of how does one -- in some sense, 
8 how does one determine what it means to determine the cost 
9 of proper living? As long as we keep the debate on that 
10 very narrow focus, I think it's reasonably tied to our 
11 charge.

    MEMBER DAYTON: I'm wondering, who is Minnie? 
13 Maybe you can elaborate on this a little bit.

    MEMBER SCHACHT: Minnie, I believe, at the time 
15 when she was created, was a single, self-sufficient, 
16 working woman in good health and welfare.

    MEMBER BROYLES: Mr. Chairman -- and certainly, 
18 Mr. Schacht has the ability to bring up Minnie's budget as 
19 one of our -- as an item to be considered as a determiner 
20 of a proper cost of living -- if my memory is correct -- 
21 and it may not go back as far as some -- the issue of 
22 Minnie's budget has been one of great contention and has 
23 never been adopted as a determiner. It has been suggested 
24 as a determiner of looking at what a wage rate might be, 
25 but it has never been accepted as a -- and I have to 

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1 correct the Chair's statement of saying that it was a de 
2 facto mechanism used by the IWC in determining what the 
3 wage rate should be. It was a piece of information that 
4 was proposed by the employee side and disputed by the 
5 employer side during the minimum wage discussions.
6 I just want to make sure, because it does go back 
7 and it is one that has had -- have been points of 
8 disagreement historically between the two sides.

    CHAIRPERSON COHEN: I thank you for that 
10 clarification. If something in my remarks led you to think 
11 I was saying it was a de facto mechanism, I did not mean to
suggest that. I merely meant in my ruling whether or not the motion was appropriate, I believe it historically has been within the debate discussion about the minimum wage every time a Wage Board has looked at increasing it. Therefore, the motion narrowly tailored in front of us, I think, is an appropriate one for this board to discuss, as long as we stick to that narrow concept.

With that?

MEMBER SCHACHT: I don't have anything further.

I'd move the question, unless there's an additional comment.

MEMBER BROAD: I have an additional comment.

Barry Broad.

Again, we have to look at what a standard of adequacy is at some point if we are to move this off into rational policymaking from sheer politics. Again, I would say -- I'll bet you anywhere -- I'll bet you anything -- my guess is that somewhere in the recesses of the Governor's operation, somebody said, "How about a buck?"

And somebody said, "Okay. That sounds right to me. Let's make it a buck."

And then there's somebody over in the Legislature going, "Let's index it."

"No. Let's make it a buck-fifty. That sounds about right."

I think that's how this thing is getting done, frequently, over the years. I don't know I think our goal ought to be to dig into how it ought to be done right. That's why we're here. I don't know why we want to defer the discussion, Mr. Abrams, to a future date. I think we can discuss that now, if we can't finish today, come back
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18 tomorrow, next week, or whenever we can come back and
19 finish it. I think it's a worthwhile debate. I think we
20 should move forward and work through the details and advise
21 the IWC of something real, in my own opinion. I'm going to
22 vote for this motion.

CHAIRPERSON COHEN: Mr. Abrams?

MEMBER ABRAMS: Yes, Jim Abrams.

For the reasons we discussed when Ms. Wei

1 originally made the motion that the minimum wage should
2 reflect purchasing power of lower-wage workers and cost of
3 living -- I can't remember the exact terminology -- I think
4 we all around this table agree that it is extremely
5 important from a public policy standpoint that an
6 intelligent, good-faith discussion take place around the
7 question of what factors should be included in determining,
8 so it's not arbitrary, what the minimum wage should be.
9
10 I don't disagree with Mr. Schacht. Minnie's
11 budget might be an appropriate factor. If it's determined
12 that it is an appropriate factor after we look at all the
13 things that should be proper considerations, then I think
14 the debate at that point should be, what ought to be in the
15 budget, and how do we -- do we include housing? What kind
16 of housing do we include? Transportation?
17
18 Those are proper discussions. For the same reason
19 I think it was appropriate to take the result that we had
20 with Ms. Wei's motion and to say that we really need an
21 in-depth analysis, not just with those in this room today,
22 over all the factors that ought to go into determining a
23 nonarbitrary minimum wage amount, that it needs to take
24 place other than in this sitting today. That's the reason

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I'm going to vote against it.

I will say Mr. Broad is too sanguine. When the people in the Legislature said, "Does a buck sound right, a buck-fifty?" what they really said is, "How do we shove it to the Governor this November?" But that's arbitrary as well.

MEMBER BROAD: Touche.

CHAIRPERSON COHEN: It is very, very rapidly approaching three o'clock, at which point we're going to have to give our faithful court reporter a break from this fascinating discussion. My question to all of you is, as we did before lunch, would you like to vote on the motion right in front of us and then break?

MEMBER SCHACHT: Could I have one chance to retrieve from the jaws of defeat? If the IWC reconstituted this and updated it, there's no real harm or risk in that, because this motion doesn't mandate that they use it. What it would do is it would give somebody other than you guys or us guys the job of come up with the factors and the criteria that would go into a modern Minnie's budget.

And I think that would be a starting point for a discussion, the discussion that we contemplate. That would be a starting point with somebody who has clean hands, who doesn't have a dog in the hunt, kind of a ministerial thing to be done by the agency evenhandedly. And that's what I contemplate. That's what I would hope you could support.

MEMBER ABRAMS: Call for the question, Mr. Chairman.

CHAIRPERSON COHEN: Have you had your say?
MEMBER SCHACHT: Yes, I have.

CHAIRPERSON COHEN: I don’t remember which order I went last time. Did I start with the employers last time? I believe I did. I’ll start with the employees. The motion is to recommend that the Industrial Welfare Commission should update Minnie’s budget. Starting with the employee representatives.

Mr. Agee?

MEMBER AGEE: Yes.

CHAIRPERSON COHEN: Mr. Broad?

MEMBER BROAD: Yes. And a brilliant motion it was.

CHAIRPERSON COHEN: Ms. Wei?

MEMBER WEI: Yes.

CHAIRPERSON COHEN: Mr. Jones?

MEMBER JONES: Yes.

CHAIRPERSON COHEN: Mr. Schacht?

MEMBER SCHACHT: Yes.

CHAIRPERSON COHEN: Ms. Mercado?

MEMBER MERCADO: Yes.

CHAIRPERSON COHEN: Employer representatives.

Ms. Broyles?

MEMBER BROYLES: No, at this time.

CHAIRPERSON COHEN: Mr. Davis?

MEMBER DAVIS: No.

CHAIRPERSON COHEN: Mr. Dayton?

MEMBER DAYTON: No.

CHAIRPERSON COHEN: Ms. Dunbar?

MEMBER DUNBAR: No.

CHAIRPERSON COHEN: Mr. Abrams?

MEMBER ABRAMS: No.
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8 CHAIRPERSON COHEN: Ms. Barsuglia?

9 MEMBER BARSUGLIA: No.

10 CHAIRPERSON COHEN: With that deadlock, it is
11 three o'clock. We will take a break. Let's try to get
12 back here -- it's about two minutes after. Let's be here
13 in ten minutes.

14 MEMBER ABRAMS: The question is, if I understand
15 correctly, the items still to be questioned are items 2(b)
16 and 2(c). Is that your understanding, Mr. Chairman?

17 CHAIRPERSON COHEN: You know, I tried to hold this
18 to a strict reading of that. The Board wanted to be able
19 to have free range. We have not answered the question of
20 if there's an increase, what the amount should be, what the
21 timing should be, and the indexing.

22 MEMBER ABRAMS: We have answered that we don't
23 agree on whether there should be a minimum wage increase,
24 but I do think we can still discuss if the IWC raises the
25 minimum wage, what our recommendation might be vis-a-vis

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1 timing and what our recommendations might be vis-a-vis
2 indexing.

3 CHAIRPERSON COHEN: I don't think we've, also,
4 discussed an amount. Again, to your point, given that the
5 IWC is -- apparently intends to take up the question --
6 MEMBER ABRAMS: If somebody wants to make a motion
7 for a specific amount, that's fine. We can deal with that.
8 CHAIRPERSON COHEN: We're going to take a break.
9 We're going to come back here at 3:13, ':14, thereabouts.
10 ---00o---
11
12

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It appears that everybody is back at their proper places. We're only a few minutes over what I had hoped to do that.

(Off-the-record discussion with staff.)

Okay. Just for the record, one of the employer alternates had to catch a flight. The other employer alternate is giving him a ride to the airport and will be returning.

So hopefully the employer representatives are all --

We're all here and ready.

-- for the remainder of this afternoon.

Just to remind everybody where we were, there was a motion on a recommendation of updating Minnie's Budget, and that vote went along consistent lines and that was where we stopped.

So at this point the Chair is willing to entertain a motion.

Thank you, Mr. Chairman.

We would like to make a motion dealing with the issue of timing.

The motion is that should or if the minimum wage is increased by the Industrial Welfare Commission, that the timing of any increase be -- if it is of any substance, an amount of any substance, that it be spread out in 12-month increments: January 1, January 1 or July 1, July 1.

I'd like to second the motion.
CHAI RPERSON COHEN: I'm sorry. Who was the second?

MEMBER DAVIS: Acie Davis.

CHAI RPERSON COHEN: Thank you.

Do you want to make a comment in support of that to start off the discussion?

MEMBER BROYLES: Employers -- in terms of timing of increases, again, when an employer considering -- and I'm basing this on the May 18th request made by the Governor to the Industrial Welfare Commission to increase the minimum wage in a very quick fashion. And I quote -- he was talking about implementing a one-dollar increase in two phases over a nine-month period.

We would -- employers have many issues that deal with minimum wage, including posters and other mandates that we are required to change and payroll systems that we are required to update and sometimes in computerized systems. And that when you have such tight increases within a nine-month period, it is difficult to meet one mandate and not violate another mandate such as having the correct poster on the wall.

And I would ask then that, again, the timing be considered in increments of no less than 12-month increments of any increase.

CHAI RPERSON COHEN: Okay. Thank you.

Any response from any of the employee representatives?

MEMBER WEI: Angie Wei to speak in opposition to the -- to the motion.

Again, it's not necessarily that we may come out in
disagreement, but without being able to answer the question of how much, we wouldn't be able to agree to an annual increase.

For example, a two-dollar increase could be, you know, backend loaded twenty-five, twenty-five, fifty, a dollar, and that may require a different set of decisionmaking than if it were a different increase.

So without knowing what the increase is, we wouldn't be able to vote on this motion in terms of a straight time frame for how that, whatever that increase is, is phased in.

That wasn't the most articulate way, but basically that the two issues are tied together. How much of an increase could dictate what the timing is of that increase.

MEMBER BROYLES: Understood.

I do -- again, because the State does require us to have accurate postings, it is difficult for any employer, whether it is big or large, to make sure that they are up to date.

MEMBER WEI: Again, it's not necessarily something that we may disagree with once we figure out what the adequacy level is. Just without that first information, it's hard to make that determination.

CHAIRPERSON COHEN: We've had a fair statement of position from both sides. Does anybody else wish to weigh in on the discussion?

MEMBER BROAD: Yeah, can I just say one other complicating factor here, is that -- and we've had this happen before -- is that if the federal government raises the minimum wage, you can wind up with these things where
it's, like, 15 cents, then 25 cents, then 72 cents, and it
might -- it might be impossible to actually space that out
that way. Because it's -- with things that are -- with
issues and timing questions that are outside the control of
the IWC itself.

MEMBER BROYLES: If I might respond, Mr. Chairman.

In terms of what the federal government does and what
the state government does, the IWC and the minimum wage
board today can only deal with what the State minimum wage
rate is, and that's the point of what -- at least that
we're making.

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Unless employers are permitted to post online and do
it electronically where something like that would be
feasible to deal with the federal and the state and any
other local ordinance that could be involved, I'm talking
about the state mandate and the federal mandate. In many
cases we have to have two different posters up today
anyway.

But in terms of dealing with State-ordered and state
government mandated increases, again we would just ask for
that very -- for that to be part of the consideration, when
the Industrial Welfare Commission looks at an increase,
that they take into consideration what posting requirements
are as well.

CHAIRPERSON COHEN: Any other discussion on the
motion?

Okay. Seeing no one, I will restate the motion. And
that is that if the minimum wage is increased by action of
the IWC, the recommendation is that it be spread in
12-month increments; for example, on January 1st and the subsequent January 1st, or July 1st and the subsequent July 1st.

And on the motion, the employer representatives, Ms. Broyles.

MEMBER BROYLES: Yes.

CHAIRPERSON COHEN: Mr. Davis.

MEMBER DAVIS: Yes.

CHAIRPERSON COHEN: Mr. Dayton.

MEMBER DAYTON: Yes.

CHAIRPERSON COHEN: Ms. Dunbar.

MEMBER DUNBAR: Yes.

CHAIRPERSON COHEN: Mr. Abrams.

MEMBER ABRAMS: Yes.

CHAIRPERSON COHEN: Ms. Barsuglia.

MEMBER BARSUGLIA: Yes.

CHAIRPERSON COHEN: For the employees, Mr. Agee.

MEMBER AGEE: No.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: No.

CHAIRPERSON COHEN: Ms. Wei.

MEMBER WEI: No.

CHAIRPERSON COHEN: Mr. Jones.

MEMBER JONES: No.

CHAIRPERSON COHEN: Mr. Schacht.

MEMBER SCHACHT: No.

CHAIRPERSON COHEN: Ms. Mercado.

MEMBER MERCADO (In English): No.

MEMBER WEI: Mr. Chair, I'd like to raise the next motion.
I move that we raise the minimum wage to $9.78 an hour and index it to the cost of living.

CHAIRPERSON COHEN: Let me make sure I got that right.

MEMBER WEI: I move --

CHAIRPERSON COHEN: The motion is to raise the minimum wage to $9.78 per hour and index it to the cost of living.

MEMBER BROAD: No more messing around.

CHAIRPERSON COHEN: Is there a second?

MEMBER BROAD: Second. I love that motion.

MEMBER WEI: To speak to the motion --

CHAIRPERSON COHEN: Please.

MEMBER WEI: -- Mr. Chair.

I hate to come back to Minnie, but given that we've, you know, spent a little bit of time talking about the adequacy of the minimum wage through a Minnie's Budget, and given that no other form of adequacy has been identified that we can agree to, we're left with the standard of Minnie's Budget.

And if we're looking at Minnie's Budget in 1961 dollars, the IWC found -- and here's from the IWC report. People are asking what is the Minnie's Budget. It is a little bit more than what Mr. Schacht read earlier.

Four decades ago the California Industrial Welfare Commission developed an annual budget sufficient to -- and here's the quote -- "permit a working woman entirely
dependent on her own resources and supporting no dependents
to maintain a minimum but adequate mode of living."

And Minnie’s Budget in 1961 was estimated to be an
hourly wage of a dollar thirty-seven, which translated for
a full-time wage of $2,855 in 1961. Taking that to the
current value of that dollar -- of that wage in 2006
dollars would bring us to the $9.78 level. So that's the
rationale for this motion.

And then to tie it back to maintenance of purchasing
power, we'd add the cost of living adjustment plus the wage
increase.

Chairperson Cohen: Okay.

Member Barsuglia: Question to the maker of the
motion. Heidi Barsuglia on the behalf of the Retailers
Association.

When you say tie it to cost of living, are you
referring to the rate of inflation?

Member Wei: I think that's an open discussion we'd
be happy to have. We'd love to hear what all the possible
ties -- I hesitate to use the word "indexing," but I'm
empty of what different word at this point, because I think
indexing is such a hot button word. But, yeah, we're happy
to discuss what possible indexes could be.

Member Barsuglia: So just --

Chairperson Cohen: Please.

Member Barsuglia: One point of further
clarification, then.

So cost of living then would be still that open
discussion on --
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MEMBER WEI: Well, I think you raise a legitimate point, and I should be more on point with the motion. And then I would move -- amend my own motion to say tie it to the cost of living using the Urban Counties CPI Index utilized by the Department of Finance.

MS. LEACH: (Inaudible.)

MEMBER WEI: I'm sorry. It's the Urban Counties index for the Department of Finance.

MEMBER BROAD: She's restating her motion.

MEMBER WEI: I've got Robert behind me.

CHAIRPERSON COHEN: I will allow that for the purposes of clarification.

Ms. Dunbar.

MEMBER DUNBAR: Lara Diaz Dunbar, California Restaurant Association.

I just wanted to bring up a concern that we have over the topic of indexing. And we certainly believe that the IWC or the wage board does not have the authority to index and is prohibited by law to do so.

CHAIRPERSON COHEN: I thought this was going to come up.

As you are aware, I think probably everyone is aware, the IWC spent some time discussing this in voting on the charge to this wage board. The conclusion of three of the four members -- I'm sorry -- four of the five members of the Industrial Welfare Commission was that whatever legal issues might be raised by the issue of indexing, they would be moot unless or until there was a recommendation specifically for indexing.

I take the language specifically reading the
transcript of that meeting, which I actually attended, but
rereading. It's very clear that the Commission intended,
should this body by a two-thirds vote or even in a
recommendation or should the Commission decide after their
hearings and deliberations to consider indexing, that that
would be the appropriate time for the Commission to seek
legal review of this question and request a legal opinion
on it.

You may decide if you believe that indexing is
illegal and beyond the power of this board and the IWC,
that may inform your vote. But I see no reason to rule any
motion out of order since the discussion was clear that
they reserved -- the IWC reserved to itself seeking a legal
opinion on the issue of indexing at the appropriate time.

So I don't think that's a bar to the motion or to a
discussion of it. Like I say, you're certainly free to
vote however you wish on this motion. But I don't think we
need to defer it for a legal opinion since the IWC -- the
Commission will handle that appropriately.

MEMBER DUNBAR: Okay. Thank you.

And I do respect that, and I just want to say for the
record, though, that I do believe that it would be
inappropriate for us to consider indexing due to the
long-standing laws that govern this. And so to the extent
that we could even consider indexing in the context of a
minimum wage I think is improper and to the extent it might
be against the law.

And so that being said, I understand that, you know,
there are different opinions as well.
MEMBER BROAD: Let me respond to that.

CHAIRPERSON COHEN: Yes.

MEMBER BROAD: I do believe that we can consider -- I don't know what the long-standing law is that you're referring to, but the IWC has indexed things for a long time, and it's used indices of various sorts.

It -- as we discussed just a couple of motions ago, it has, as it's raised the minimum wage, indexed the -- the credit for meals and lodging to that amount.

In a prior period, the IWC used -- it was a minimum salary amount that an employee had to have in order to be exempt from overtime and other provisions of the wage orders as an administrative, executive or professional employee. And that actually -- that dollar amount was actually increased based on the percentage increase of the minimum wage until the Legislature, in its infinite wisdom and -- decided to pass a law that required explicitly that that amount be two times the minimum wage. So, in fact, the Legislature has passed and blessed on such an indexing type of situation.

So -- and there are other provisions of the wage orders that have similar dollar amounts that change related to changes in other dollar amounts and various things. So I don't think an index is an inappropriate way of looking at things.

Now, let -- leaving that for the moment, the question is, why are we for it and why are the employers against it, which I think is -- is a good thing to discuss. Let's try to get to the meat of it.

We're for it primarily because -- and it's a bit of
an outgrowth of the discussion we had earlier about the somewhat arbitrary nature of the way the minimum wage has increased over the years, that what we have is a -- and -- a script that gets run over and over and over again like a bad dream.

Which is to say that after some period of agitation from those supporting a minimum wage increase and resistance depending on who's running the government, which political party is running the government, the minimum wage gets increased. The employers make the argument that it's too much, the labor frequently makes the argument that it's too little, and the matter remains a political football.

Then some time passes, the pressure builds up -- we happen to be in one of those moments right now -- and for whatever reason the politicians decide it's time to raise the minimum wage, and it gets raised again. And then it's repeated and repeated and repeated.

Now, sometimes the minimum wage doesn't go up for quite a few years. Like, the federal minimum wage hasn't gone up for a really long time because the various branches of government are controlled by the more conservative of the two political parties which doesn't like the minimum wage. So it hasn't gone up in about ten years.

Now, they're a little on the rocks politically, so they figure --

MEMBER DAYTON: Mr. Chairman, these comments are out of order.

MEMBER BROAD: Why?

CHAIRPERSON COHEN: I don't believe they are.
MEMBER BROAD: It's a free country. You can trash
the Democrats if you want. I'll get to them if you like.
Anyway, the -- so we were left in this situation that

then the minimum wage, if you look at the -- in our -- in
our packet, you'll see the percentage minimum wage
increases that have occurred over time. And, for example,
on November 15th, 1957, it went up by 33 percent. On June
1, 1947, it went up by 44 percent. On April 1, 1978, it
went up by 6 percent. On July 1998 [sic], it went up 26.87
percent. You know, on September 1997 it went up 3 percent.
The percentages vary, but the general thing that
occurs or trend is that the longer the distance between
minimum wage increases, the bigger the hit, if you will, on
the employers, the larger the percentage increase.

So instead of planning for basically smaller and more
frequent increases that reflect a commonly agreed upon set
of costs that go into it or factors that go into it, if you
will, that I believe Ms. Broyles and I, if we lived to 175
will probably be able to work it out, but -- but basically,
based on some common principles, an index, whatever the
index is, would raise -- would remove this sort of process
of sort of stressful and cataclysmic politics in which it
goes up by sometimes very high percentages, which arguably
are going to be more difficult for employers to absorb
however well-deserved, it's kind of like making up for the
past all at once, it's going to be harder for employers to
absorb, and it leaves workers for many years going without
increases at all.
So, you know, some days it works for the employees, the day after it's raised by a huge percentage, and some days it works for the employers, all the days leading up to that day.

And to me, having casually observed this over the last twenty or so years of my life in a professional capacity and then prior to that in a junior capacity, the -- it's not a very good system. It's just not a very good system.

It really doesn't -- it -- it means that workers are constantly falling behind. And probably historically the minimum wage has gone -- it has not kept up with inflation. And employers are faced with less frequent, but more stressful minimum wage increases.

Now -- and, frankly, I think our view is that this is one of those things that would be best to take out of the realm of politics as much as possible, and it's obviously not going to be completely the case, but as much as possible to make it work appropriately.

Now, we now have indexed minimum wages in the neighboring states of, what, Nevada, Oregon, Washington -- they even indexed it in that great repository of progressivism Florida -- and the world has not come to an end in those states. In fact, Nevada is frequently cited as the place where all the mythical jobs leaving California are going to as it turns out. Oregon is another one.

If I've heard it once, I've heard it a thousand times. Well, we're going to move our business to Nevada because they have a more friendly business, you know.
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situation than we do in California.

So we think it's time, it's high time that we consider this. Other states have done it. We've got a decade or more of experience with it. The world hasn't come to an end, and it's time to have that discussion.

So we would ask that you -- that -- with all respect, that you not reject this out of hand, that we talk about it, and we figure out what kind of an index we can have.

CHAIRPERSON COHEN: Okay. It -- it appears that the entire employer panel wants to -- wants to respond to --

MEMBER BROAD: Excellent.

CHAIRPERSON COHEN: And the first one I saw was Mr. Abrams.

Are you still --

MEMBER ABRAMS: No, I --

CHAIRPERSON COHEN: Okay.

MEMBER ABRAMS: Ms. Diaz -- Ms. Dunbar, excuse me.

CHAIRPERSON COHEN: Ms. Dunbar.

MEMBER DUNBAR: Okay. I just wanted to mention that when I was talking about the long-standing rules, I was talking about statute and about case law which supports the statute. And from my understanding, the IWC has never indexed the minimum wage itself, tied it to inflation, and that's the context that I was referring to.

And I think it's pretty clearly laid out in, you know, various sections of the Labor Code that there's a process they have to adhere to. That includes appointing a wage board, having at least one public hearing, having a meaningful investigation, et cetera. And case law supports
that and says, in fact, that if they don't do that, it nullifies their actions.

I think this is a pretty strong stance to take, and the purpose is to protect the intent and the purpose behind the IWC and the public hearing process to ensure that when something like the minimum wage that affects all employees is increased, that there is meaningful debate, there are opinions and arguments taken into consideration, that this right of the people to voice their opinions and tell -- and say how it's going to affect them is protected.

If you index it, you put it on auto pilot. You're not only, I think, on a slippery slope for so many policy reasons just tying it to one economic factor, but if you do that, you're taking away the right and the public -- public hearing process to debate these types of things that we're doing here today.

You are taking it out of the control even of the IWC and of the wage board and just putting it on auto pilot and putting it on one factor that is not controllable by the IWC, the Legislature or the wage board.

And so I think it's -- and going back to employers planning, et cetera, I think it's more irresponsible if they -- they not have a say in how it affects them because you just can't tie it to one factor without looking at unemployment, without looking at the strength of the overall economy, et cetera. So that's why we're opposed to any type of indexing provision.

CHAIRPERSON COHEN: Thank you.

Ms. Broyles.

MEMBER BROYLES: Thank you, Mr. Chairman.
Just looking at what's being proposed with the 9.78 per hour increase, it's a $3.28 increase. Yes, Mr. Broad, it is a big, you know, economic goal for employers to take a look at.

I think what you have to also look at is that it does have real world impacts beyond -- not going to the indexing question quite yet, but looking at what it does mean to the average employer in terms of what our overall base costs are.

You're looking at a sixty-eight -- a $6,822.40 per minimum wage worker increase. For an employer with 20 employees, that's a $136,000 hit. That's an out-of-business hit. So that's those 20 employees not working at all in some cases. They wouldn't be able to absorb such a hit. For our economy as a whole, you're looking at a 6.8 billion dollar hit.

Again, it's -- we're not just saying this is good or bad. You have to look at what the facts say. And economically that would be a very large economic impact. And, again, it's reasonable to question why or if that should be done.

So I -- I can't see where raising it that much that, you know, quickly and then indexing on top of that would be the appropriate thing to do to the California economy.

Just as Mr. Broad feels capable of predicting what the employer response is, I can predict as well what the employee response is. Let's just go ahead and raise it and hope that the sky doesn't fall.

Well, if you look at states like Nevada, they don't
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have a state income tax. It's a different situation. It's a different economy. It's based on gambling. I don't feel like gambling with the economy here in California. I don't think looking at the economic base of other states that have a far less diversified economy than California does is a responsible thing to do.

If you're looking at a million workers approximately -- and we've talked about this number back and forth over the years of who actually makes the minimum wage, that -- it really does have a significant impact, and I can't see it being one where we would ever agree to a $3.28 increase -- $3.28 increase in a fell swoop at any point. It would not be responsible.

So I would oppose the motion.

CHAIRPERSON COHEN: Mr. Schacht.

MEMBER SCHACHT: Mark Schacht. Just a couple of responses. And this I'm going to put on the same hat that Barry sometimes puts on, which is his small employer hat.

I'm a small employer. Our law firm has about 25 employees. We do all the things you do. We post the notices. We pay Workers' Comp insurance. We do -- we're subject to all of the other laws that apply to employers.

A few years ago when Workers' Comp premiums went up dramatically for many, they went up for us 25 percent in a single year. We had no reported claims in the entire history of our law firm, no Workers' Comp claims, in other words, and it was just painful to come up the twenty-five. It was thousands and thousands of dollars to come up with.

And even though we don't employ anyone at the minimum wage, it would seem to us that it makes sense from a
business standpoint. You know, every year, I'm deputy
director and I sit down with the accountant and we do the
operational budget and we build in the expenses. What do

we think our liability insurance is going to increase by
next year? What do we think the wage package is going to
increase by next year?

And it seems to me if you knew as a business person
what that increase was going to be, that makes it far
easier to plan and accommodate those costs than to wait for
five years when it goes up 44 percent in one fell swoop.

MEMBER BROYLES: As the daughter of a small business
owner, this is a small business owner who doesn't have the
ability to charge by word as some of the attorneys in the
room might be able to do so. She works on a very small
profit margin, and this is to supplement her Social
Security.

$6,000 would erase all of her profit for most of the
year. And, again, that means one of her two part-time
minimum wage employees loses their job, and I just don't
see where that's the fairness in your proposal of -- of
saying that -- that you're just going to backtrack cost.
Sometimes you can't control the cost of your service or the
cost of your product. The -- the economy won't bear it.
The consumer won't buy it at that level. Those are
realities. It just doesn't happen.

MEMBER WEI: Question to the speaker, Mr. Chair.

CHAIRPERSON COHEN: Please.

MEMBER WEI: Ms. Broyles, are you aware of at any
point where the Chamber of Commerce has supported any increase in the minimum wage?

MEMBER BROYLES: We were represented on the board, the wage board in the late 1980s where they did agree to a minimum wage increase, Ms. Wei.

MEMBER WEI: And that representative did support and vote for a minimum wage increase?

MEMBER BROYLES: They came to a compromise agreement. So I will -- I wasn't the lobbyist at the time, Ms. Wei, but I would be happy to get the information for you on it. But I do believe that they came to an agreement, and we were represented -- represented on that wage board, so I believe that that probably was the case.

MEMBER DAVIS: Mr. Chairman, I have --

CHAIRPERSON COHEN: Yes, a couple other hands.

MEMBER BARSUGLIA: Heidi Barsuglia, California Retailers Association.

While it sounds like a great idea that we'd be able to forecast what our increased wage costs would be, the problems we can't also forecast other factors such as high inflation, not always, or a slowed growth productivity or higher unemployment. And unless we take all those factors into account, then we're -- we're gambling with the economy as a whole.

And while the wage costs we're being able to forecast
ignore the other factors and could result in situations where there's job losses or decreased hours worked that could be offered by the employers.

CHAIRPERSON COHEN: Comments over here? I'm going to go back to the employer side.

MEMBER BROAD: There's a signal going on.

(Off the record.)

CHAIRPERSON COHEN: Okay. We're good.

We were about to hear from Mr. Davis.

MEMBER DAVIS: Yes, I have a little quick question for Mr. Schacht. He said he didn't have anybody at minimum wage. Do you have anyone that works for you that makes ten dollars an hour?

And my question then may be just a rhetorical one, and that is, if you did have someone at ten dollars an hour and the minimum wage went to ten dollars an hour, wouldn't that person want a raise?

MEMBER SCHACHT: We don't have anybody that makes as little as ten dollars an hour. Everybody makes somewhat more than that. And raises are based on merit, evaluations every year --

MEMBER DAVIS: I understand. But if a person --

And there are people within the same job classifications making more money than other people. And while they're not supposed to know that, everybody sort of does know that some people are making more than other people. But --

MEMBER DAVIS: I understand. But if the minimum --
if the wage -- if the minimum wage went up to ten dollars an hour, 9.78, and someone who was already making 9.78 was suddenly making minimum wage, do you think they would want a raise?

MEMBER SCHACHT: I think it depends on their personal situation. I mean, if they're making 9.78 and minimum wage is 9.78, I don't know that it follows necessarily that they're going to say, well, I should be making 11.78.

MEMBER DAVIS: So if you think --

MEMBER SCHACHT: Everybody wants a raise.

MEMBER DAVIS: Everybody wants a raise, I would agree with that.

My point is if you were making -- if the minimum wage is six and it goes to nine and nine is what you are making, I -- I believe that most people are going to go, I'm worth more than the minimum wage. I want to make more money. And that will put pressure on many, many people to give raises in order to keep that -- to keep the pay above the minimum wage for those that make above minimum wage now.

MEMBER SCHACHT: I -- I just don't think that there's a -- that's the -- the stigma of working at the minimum wage isn't because it's the minimum wage. It's because it's 6.75 an hour.

MEMBER DAVIS: So if we raised everybody's wages to equal that of an attorney, you wouldn't want to make more money? We could all make --

MEMBER SCHACHT: There was actually a proposal like about 20 years ago that the secretaries, the paralegals and the attorneys all make the same amount.
MEMBER DAVIS: I think the very reason that there's inflation is because people do demand more money for skills, and that people are not going to be content to find that the person at minimum wage who makes 9.78, and they have a skill which is worth more than minimum wage, are going to go. Yeah, that's fine with me. I'll settle for 9.78.

MEMBER SCHACHT: You know, we pay people according to what we have to pay to get them to get the skill set that we -- we need. And we pay them also because -- in conjunction with labor collective bargaining to the extent that wages go up as a result of that. And there's a constant upward pressure on wages at all levels and in all businesses, and I don't think it's the disparity between employees that's driving that. I think it's what people need to survive and need to live.

And -- and these wages that are at the low end of the spectrum whether they're seven, eight, nine, ten dollars an hour, you have all these people, they want over time, they want to find some way to do something in addition to what they're doing to increase their wages.

So I just think at this end of the labor market that the pressures to increase wages are so strong that they don't arise because of the movement in the minimum wage. They arise because people are in need of more to care for themselves and their children.

CHAIRPERSON COHEN: We had a couple other people that wanted to speak. I'm going to Mr. Agee and then Mr. Abrams.

MEMBER AGEE: I think Mark pretty well addressed the
I start my comment. I don't have anything else to say.

CHAIRPERSON COHEN: Okay, Mr. Abrams.

MEMBER ABRAMS: I would like to address the two distinctly different pieces of Ms. Wei's motion.

One, the portion of it that would raise the minimum wage to 9.78 an hour. For the reasons that we've articulated before during our discussion this morning, I'm going to vote against the motion. And if one were to say, well, what would you vote for, to kind of forestall that discussion, again, our position is, is that the minimum wage -- and we had a motion on this -- is adequate and should not be increased.

I would then address the indexing portion of Ms. Wei's motion. And I think it's important -- Mr. Broad mentioned a number of instances where when one thing happens, something else happens. But the cause of the cause and effect relationship if the minimum wage goes up, then if you want to have an exempt employee, you must pay him or her at least a salary equal to at least two times the minimum wage.

But there has been a conscious decision made by a body -- the voters, the Legislature, the IWC -- to raise the minimum wage. There are a lot of other factors that are -- that are cause and effect of minimum wage. The uniform cleaning allowance is a factor. If you provide uniforms for employees, the amount you pay for cleaning is a function of the minimum wage.

And I respectfully disagree with Mr. Broad. He says that because the conscious decision has been made to
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increase the meal and lodging credits -- which is a conscious decision, it doesn't automatically happen -- after there has been a conscious decision that didn't automatically happen to raise the minimum wage is not in any way, shape or form indexing and is not precedent for any kind of an argument that we ought to set something on auto pilot, which is what the indexing proposal -- and whether you select the Urban Counties CPI or anything else, where it is set on auto pilot, where it happens irrespective of whether people looking at it reasonably would say this isn't the time to do it, that does not now exist, and the IWC has not ever done that.

And so aside from the legal issue, which I appreciate we aren't going to debate here and resolve here today but has been raised before the IWC and raised here by the Restaurant Association, we feel that indexing, which is an auto pilot mechanism has so many inherent problems and takes into consideration so few of all of the different considerations, all the different aspects of whether the minimum wage should go up -- and we've talked about a few of them, disemployment, all of the other factors we've talked about -- it is a very counter-productive public policy to adopt per se.

And for that reason, I'm going to vote against the motion for that second reason as well. And if you were to say if we just had a separation motion on indexing, my vote would be the same.

MEMBER WEI: Question for Mr. Abrams.

CHAIRPERSON COHEN: Go ahead.
MEMBER WEI: They won't be surprised if I ask you this, Mr. Abrams. When would be the time to increase the minimum wage?

MEMBER ABRAMS: If you're asking me -- if inherent in your question is would I always say that raising the minimum wage is wrong and we should not do it, no, I won't say that.

I will tell you that at the present time and based on the -- this is my own personal view. It is not necessarily my employer's view, and if I get fired tomorrow morning so be it.

I think that if we could get to the point where we had a -- a good public policy debate divorced from politics, and I think it is possible -- and I think Ms. Broyles indicated this, too -- that it is possible that good thinking people could sit down and say here are the factors that ought to be considered. And if we came up with a comprehensive list of those factors, and all of those factors taken into consideration indicated that there ought to be a minimum wage increase, my own personal view, one human being, is that's the appropriate time.

MEMBER WEI: If I may just follow up here.

Understanding, you know, it takes a whole number of different factors for consideration, what would be the focal point for when a minimum wage would be deserved, an increase?

MEMBER ABRAMS: You're asking me to debate -- this is my reading of your question. Forgive me, that's
presumptuous.

My reading of your question is what's going to be the defining factor for you and --

MEMBER WEI: The point in which --

MEMBER ABRAMS: -- I don't know that I -- I really am unprepared to answer what the defining -- the straw that breaks the camel's back, however you want to take that, the thing that tips the scale, I don't know how to answer that in a vacuum And I'm being absolutely honest with you.

CHAIRPERSON COHEN: Mr. Schacht.

MEMBER SCHACHT: Can I make one point about the automatic nature of the indexing provision.

You know, the way I read 1173, which are basically the duties and powers of the Commission, there's a very broad statement that the Commission may on its own motion or upon petition amend or rescind any order or a portion of any order, adopt any order covering any occupation.

If this IWC raised the minimum wage a dollar and indexed it to Ms. Wei's indexing, that would only apply until you -- in the next cycle, two years from now, if you decide inflation is 12 percent, the minimum wage shouldn't be going up that much, you could petition the IWC or the IWC could itself open up the order, change it, lower it, raise it, eliminate it.

So it's not truly speaking an automatic --

MEMBER ABRAMS: Well, but with all due respect, it is. And I think the IWC could certainly say we're going to raise the minimum wage, we're going to raise it 50 cents an hour now and 50 cents an hour next March or whatever,
they've made a conscious decision. And it is not something
that just happens in default of some conscious decision or
action being taken by a body, whether it's the electorate,
the Legislature or the IWC. And that is the piece of it,
and I'd leave it up to the lawyers to worry about whether
or not the IWC has that power.
I understand your point, it is taken, and I disagree
with your conclusion.

CHAIRPERSON COHEN: Not seeing any hands, we've got
one alternate to speak. Go ahead.

ALTERNATE MEMBER SANDAH: Lee Sandahl.
I'm probably going to get myself in trouble here
again, but -- let's see.
The 6.75 has been there since 2002, and it's just
hard for me to sit here and believe that the cost of
everything in the last four years hasn't -- hasn't
warranted some sort of raise here in the minimum wage.
I don't understand why we're waiting for the straw to
break the camel's back all the time, why we can't do
something before that happens.

MEMBER ABRAMS: Bad choice of words on my part.

CHAIRPERSON COHEN: Okay. We have a motion on the
floor. I will restate the motion.
The motion is to recommend that the minimum wage be
raised to $9.78 and thereafter be indexed with the cost of
living using the urban counties index as used by the
Department of Finance.

Seeing no further debate on the motion --

MEMBER BROYES: I actually do (unintelligible).

CHAIRPERSON COHEN: Carry on.
I apologize, Mr. Chairman. And it's one that really just got kind of glossed over in the overall discussion of the $3.28 increase. I do --

A point of clarification. Oh, I'm sorry. You want to make it or -- It's $3.03. $3.03. I'm sorry. In the $3.03 increase that you have, I believe no one has talked about the link between exempt and nonexempt workers that you have. And with the minimum wage, with any increase in the minimum wage, the base wage for exempt workers also must increase by double that amount. And we think as -- as employers, that when you have such a large increase and you're talking somewhere around $13,000 in an increase that would have to occur to maintain that exempt worker status, a lot of things would occur.

Employers already are caught in a catch-22. With exempt workers, you would have to decide whether to increase the wage from where they must be now, which is approximately $28,000, up to the new base wage amount that a minimum wage increase would -- would require, and then decide whether that was worth keeping that status. Exempt status is -- has a lot of different things that are attached to it. Sometimes it changes the amounts of the 401(k) contributions and other times it changes different types of benefits and accrual of different...
benefits based on that manager status. And, again, you would have to increase it with such -- with such a large amount.

And we think that, again, is not something that's been examined and, in fact, would want to make a recommendation to the Industrial Welfare Commission that they look at the impact that any increase that they do in the minimum wage, also examine the impact on exempt workers and -- and possibly look at the delinkage of the two in the future as a recommendation they could make to the Legislature.

But we do want to make sure that as this issue is looked at and examined by the Industrial Welfare Commission, they also examine the impact on exempt workers as the issue goes back to them for consideration. And that's the only point I wanted to make, Mr. Chairman.

CHAIRPERSON COHEN: Thank you.

Any further comments?

Seeing no one --

MEMBER WEI: Well --

CHAIRPERSON COHEN: Go ahead.

MEMBER WEI: Mr. Chair, I've held my tongue on this point all day, and I feel I would be remiss if I didn't put it on the record.

I want to raise issue with the terms no-skilled or low-skilled employment as a justification to earn the minimum wage.

I think those are subjective terms and that we should be reminded of who's actually doing work that earns the minimum wage. It's child care workers. It's adult daycare
workers. It's people who is taking care of our parents and our kids. It's school employees, school bus drivers, bus drivers, people who have -- paramedics, first responders, people who have our day-to-day lives in their hands, who have our kids' and our parents' lives in their hands.

You know, I can't -- I'm not one to judge if these are low-skill or high-skill jobs, but I sure know that I value them more than calling them low-skill or no-skill jobs.

If you look at the agriculture industry, and I draw -- my parents ran a restaurant, and when I was able to work there I had to peel shrimp. One of the only jobs they'd let me do is peel the shrimp. And for every tail of the shrimp I peeled off, my dad said, You're taking a nickel off my money. I didn't have the skills to peel the shrimp correctly.

And I think it's a similar situation with the farm workers today. Every miscut you make on a piece of fruit, every scrape that you lose when you pull the bunch, everything that you miss, there's a cost there and that -- it takes skill. It takes skill to -- to till the fields in a way that protects our food and bounty and brings the greatest bounty for us that we can here to our tables.

So, you know, I just want us to think about -- and I understand where the employer -- the concepts the employers are trying to speak to here. But in terms of how we value the work, that these are in my argument some of the most important jobs in our economy, some of the most protective jobs in our economy, and that I think it's somewhat knee
jerk to call them low skill or no skill just for us to be able to have this debate.

MEMBER BROYLES: Mr. Chairman?

CHAIRPERSON COHEN: Yes.

MEMBER BROYLES: And, again, no denigration is meant by using the terms no skill or low skill. Every profession, every job, every piece of labor performed in this state requires knowledge of some sort. At the beginning of a job, you don't always know an employer's process, you don't always know the tools, and it requires training to get you to a level where you're not reducing the cost of providing that service or that product to the consumer at the end. And, again, you gain that experience and make yourself more valuable as an employee when you gain skills and increase your skill base.

So when you talk about the terms no or low skill, it does have value, and it does have meaning within the employment context, and that is how it must be considered.

If you do not have knowledge of how a component is put together, if you don't know how to correctly harvest a crop, that means to that employer you don't have the skill base that that employer values in order to pay them anyway regardless of what it is going forward, that it's not worth their -- it's not worth it to the employer for the time and effort it would take to train up a worker to the point where they would get immediate value for what they're paying per hour for you, for your knowledge base or an
And so, again, that is part of the equation and, again, when we sit down and have a separate discussion at some point in the future on what might go into considering factors for calculating a base wage rate for California, that might be something that you want to add to your list.

ALTERNATE MEMBER SANDAHL: This is just for a little history for where I come from.

CHAIRPERSON COHEN: Just -- excuse me. Just let the record note that Mr. Martin has returned.

Okay.

ALTERNATE MEMBER SANDAHL: This is just a little history to let you all know where I come from.

I've been in the longshore industry, I started there in 1962. I was in high school. I was 16 years old.

When I first started working on the waterfront, every single job as a longshoreman whether you drove winches -- I think winches was a 15 cents an hour differential; if you drove a forklift it was 10 cents an hour more; if you worked in the hull on grease cargo, I think you got 25 cents penalty pay. And basically our contracts have always been the same for whether you have worked there for one minute or whether you've been in it for 40 years. Everybody made the same.

CHAIRPERSON COHEN: Seeing no other hands, let me take a run at this again.

Are we prepared to vote on the motion? Okay. I'm going to restate the motion.

The motion is to recommend a raise in the minimum wage.
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wage to $9.78 an hour and index it thereafter to the cost of living using the Urban Counties Index used by the Department of Finance.

I will start with the employee representatives. Mr. Agee.

MEMBER AGEE: Yes.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: Yes.

CHAIRPERSON COHEN: Ms. Wei.

MEMBER WEI: Yes.

CHAIRPERSON COHEN: Mr. Jones.

MEMBER JONES: Yes.

CHAIRPERSON COHEN: Mr. Schacht.

MEMBER SCHACHT: Yes.

CHAIRPERSON COHEN: Ms. Mercado.

MEMBER MERCADO (In English): Yes.

CHAIRPERSON COHEN: Okay. For the employers, Ms. Broyles.

MEMBER BROYLES: No.

CHAIRPERSON COHEN: Mr. Davis.

MEMBER DAVIS: No.

CHAIRPERSON COHEN: Mr. Dayton.

MEMBER DAYTON: No.

CHAIRPERSON COHEN: Ms. Dunbar.

MEMBER DUNBAR: No.

CHAIRPERSON COHEN: Mr. Abrams.

MEMBER ABRAMS: No.

CHAIRPERSON COHEN: Ms. Barsuglia.

MEMBER BARSUGLIA: No.
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CHAIRPERSON COHEN: Okay. I would like to take this opportunity to point out to you that by my reckoning, we have in fact touched on every aspect of the charge through one or another of the motions presented today. We have discussed the adequacy of the current minimum wage and whether or not it should be increased. We've discussed at least one amount as a recommendation for increasing the minimum wage. We've discussed the timing of such an increase. We've discussed whether or not the minimum wage should be indexed. And we have discussed whether or not any increase, should there be one, should be credited against the meals and lodging provided by the employer.

So we have -- although we have not apparently changed anyone's position and moved off in any one of those votes,

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a 6-6 deadlock, we have at least had the opportunity to have a discussion and debate about each of the questions we've been charged to address by the Industrial Welfare Commission.

I will tell you that as a non-voting observer, I think there have been good points on both sides of those debates. I think the most interesting discussions have been in some of the more philosophical discussions, but at certain points offered glimmers of some agreement, but not in any time frame that fits into our charge.

I think that those have been interesting. I would encourage those who wish to participate in those discussions to try to find a venue to pursue those, but I think it comes back -- as Mr. Broad has reminded us several times, this continues to be a political process driven by political agendas, and I'm not sure that this wage board
really has any power to alter that.

    With that said, if someone feels there's a motion that would, you know, hold out a hope of advancing the discussion or covering some topic not covered or somehow find a vote that comes out different than 6-6, I'm not prepared yet to cut off debate. I just would remind you that we have covered each of the topics charged to us by the IWC, and I don't hold out much hope of any different outcome than we've seen in each of the seven votes that we've taken today.

    MEMBER WEI: Mr. Chair?

    CHAIRPERSON COHEN: Yes.

    MEMBER WEI: Some call me naive, I consider myself eternally hopeful, and I do feel that there is some glimmer of light here in which we may -- both the employee and employer representatives seem to agree that we'd like to see a standard of adequacy to judge the minimum wage against. And while we both also agree we're not going to be able to develop that standard, I believe that the -- potentially the wage board is the deliberative body to have that conversation about what -- how to measure adequacy of the minimum wage.

    And I would, with some caution from the Chair, like to consider putting forward a motion for us to have the IWC Commission and staff charged with developing standards of adequacy to bring back to this wage board for consideration and deliberation.

    MEMBER BROAD: I'll second that.

    CHAIRPERSON COHEN: I'm not going to accept it as a
motion in its current fashion. So -- I think that at the
end of that statement you took us outside the scope of the
charge to this wage board.

And I -- as I've said before, I think the -- the
language is pretty clear. I know Mr. Broad has disagreed
previously, but I don't believe it's a right to just expand
our scope.

If you wish to offer a motion that said that there's
been discussion that seemed to be some agreement that
standards ought to be developed by which there could be
some objective measurement and you want to recommend to the
IWC that they work on that and put that -- give that as a
charge to a wage board and possibly suggest they
reconvene -- they appoint this body again with that charge,
that's a motion you can offer as part of our recommendation
back to the IWC. But I don't think it's appropriate to say
that you want more information about something totally
outside the charge given to this wage board.

MEMBER WEI: Mr. Chair, if I may ask a point of
clarification.

Do you think that the motion is outside the realm of
the charge in either, A, the time frame issues or, B,
substantive issues?

CHAIRPERSON COHEN: Frankly I think both. We were
asked -- you were all asked to determine the adequacy, to
make a recommendation as to the adequacy and whether or not
there should be an increase and then, subsequent to that,
several other subsidiary questions.

What you're proposing and what the discussion has
touched on at times during the day is whether or not a new
formula not previously used by any previous minimum wage board, that some other objective standard ought to be established or could be established that would take into consideration a number of factors for determining adequacy of the minimum wage in California, that's a recommendation I think well outside the question given to and placed in front of this wage board.

It's not a recommendation that's unreasonable to make to the IWC, that they step back and look at a different way of approaching this. But I think it is well outside both in terms of timing and in terms of the scope of the charge given to this wage board to talk about establishing an entirely different method for measuring adequacy.

The -- the IWC has followed the current method, which is to say here's all this information, use it to your best judgment, among the parties here make a determination. That's the charge.

MEMBER WEI: And with -- in terms of the charge itself, I'm rereading it more carefully now, as carefully as I can, and I don't see anything that references the time frame in terms of the consultation, the maintenance of the wage board. So it's not anything that I see on the charge that would limit us to a day only meeting in terms of the timing issue.

On the substantive issue, you know, we deadlocked on the question of adequacy, and I think that the one potential place of consensus is that we cannot agree to
what a standard or benchmark is to measure that adequacy.

It could be that this body is the -- should be the
body in its public deliberative process, under all of the
Bagley-Keene requirements, that we may be the most
deliberative body to develop that adequacy standard.

CHAIRPERSON COHEN: Again, I think that determination
is not for this body to decide. That's for the IWC.

As to the timing, the action of the IWC was I believe
very clear in appointing this body. The California Code of
Regulations states that the wage board shall meet at the
time and place designated by the Commission. The IWC set
August 4th as the day for this wage board to meet.

I understand Mr. Broad doesn't necessarily agree, but
the Chairman of the IWC, Mr. Curtin, stated clearly for the
record he was concerned about the timing and wanted the
IWC -- wanted to allow time for the IWC to have its process
and still offer minimum wage workers a hope of an increase
next year should this body not be able to reach a
recommendation, a binding recommendation by two-thirds
vote.

I don't see anything in the discussion today so far
that leads me to think there's a motion that can be offered
that's going to get us a two-thirds vote on any part of

I think that, again, if you wish to recommend to the
IWC -- if you want to go back and request to the IWC an
extension of time because you think there's truthful debate
to be had among the members of this wage board, I think
you're entitled to make that request. But absent the
motion to the IWC to extend the time period or set another meeting of this wage board, I think that we're done today.

MEMBER SCHACHT: Can I -- Mr. Chairman, can you point to a page in the transcript which shows that the IWC considered limiting this to one day? I've got the transcript in front of me, and I'm not sure -- I haven't made my way all the way through it.

MEMBER BROAD: One day? One biblical day?

MEMBER SCHACHT: One legislative day.

MEMBER BROAD: One legislative day.

MEMBER BROYLES: One business day.

MEMBER SCHACHT: Yeah, the way I'm reading the transcript -- and it's on page 124 -- they adopted the motion with the charge prior to discussing that it would take place on August 4th. And I -- I take the comments of I believe it was Chairperson Curtin to be outside the -- the actual charge.

CHAIRPERSON COHEN: I'm going to take that statement in the transcript as that the wage board meeting is going to be August 4th.

MEMBER SCHACHT: No, but prior to that he says -- Chairman, okay. The motion has passed. The charge has been reviewed and approved.

CHAIRPERSON COHEN: I understand that. I understand that.

I am going to take the statement in the transcript that the meeting is to be August 4th, combined with Chairperson Curtin's comments about his concerns for the timing of this to mean that the IWC -- since no one objected to that, nor was there anything in the charge that...
said that you shall meet until such time as you reach a
resolution, until you have debated every possible motion
you can make and deadlock 6-6 on, that the clear intent
expressed by the Chairman of the Industrial Welfare
Commission was that this wage board meet today, the 4th,
and discuss the issues as given to us in the charge, and
there's no basis for extending this meeting.

And frankly, objectively there's no hope -- I mean,
if you can articulate some reason to believe that this wage
board as composed could reach agreement even 7-5 on any of
the issues here --

MEMBER SCHACHT: Well --

CHAIRPERSON COHEN: I mean, if you want to go through
this just for the sake of going through it, I don't think

that's a compelling enough reason. And, again, I think the
transcript is -- is pretty clear, and I believe I'm going
to stick to that.

MEMBER SCHACHT: I also think it's clear that the
charge passed without a date and it's -- and that that was
added by the Chairperson, but -- without debating that
further, unless Barry or Angie want to debate it.

You know, you look at this interim report of the
Assembly Industrial Relations Committee, and I read some
portions of the proposed bill, it never got enacted, that
went into the issues of what is proper living, what is a
standard of living that's adequate for a proper living?

This is really no different than drafting a
regulation or drafting a bill. If we did it correctly and
gave it to the IWC, it could include all the factors that
Mr. Abrams has talked about. We could have those discussions about upturn and downturn in the economy, job losses, job creation. We could have those discussions.

And it's -- it seems clear from the whole history of this -- this -- of wage boards on this topic that these issues haven't ever been thoroughly resolved, because at the end of the day everybody goes with a political script, and we're deadlocked 6-6, and this never gets resolved.

CHAIRPERSON COHEN: I don't dispute that caption of it, but I also don't read the charge to this wage board proposing that we do anything different. That may be unfortunate. You might be right. This might be a good venue to just sit here for days and days and try to hammer something out that would get us out of this pattern of deadlock.

But I don't see that at all in the charge or in the transcript that it was the intent of the IWC that we be charged -- or you all be charged with hammering that out while I tried to run the meeting.

So -- Mr. Abrams.

MEMBER ABRAMS: To the Chair, it is my understanding that there is currently no motion properly before the wage board. And if I am correct in that understanding, then I would move for adjournment.

CHAIRPERSON COHEN: Is there a second?

MEMBER WEI: We'll call for a caucus or -- or whatever --

CHAIRPERSON COHEN: If five of you wish to talk for a moment, that would be fine.

MEMBER DUNBAR: I second the motion.
CHAIRPERSON COHEN: Okay. We do have a motion to go ahead and adjourn. That motion was seconded. I believe under Robert's Rules of Order a motion is not debatable.

MEMBER ABRAMS: Exactly.

CHAIRPERSON COHEN: But recognizing that there was a caucus, I guess we've got to do this one as a roll call vote as well.

We'll start with the employer representatives.

Ms. Broyles.

MEMBER BROYLES: Aye.

CHAIRPERSON COHEN: Mr. Davis.

MEMBER DAVIS: Yes.

CHAIRPERSON COHEN: Mr. Dayton.

MEMBER DAYTON: Yes.

CHAIRPERSON COHEN: Ms. Dunbar.

MEMBER DUNBAR: Yes.

CHAIRPERSON COHEN: Mr. Abrams.

MEMBER ABRAMS: Yes.

CHAIRPERSON COHEN: Ms. Barsuglia.

MEMBER BARSUGLIA: Yes.

CHAIRPERSON COHEN: Mr. Agee.

MEMBER AGEE: No.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: No.
MEMBER WEI: No.
CHAIRPERSON COHEN: Mr. Jones.
MEMBER JONES: No.
CHAIRPERSON COHEN: Mr. Schacht.
MEMBER SCHACHT: No.
CHAIRPERSON COHEN: Ms. Mercado.
MEMBER MERCADO (In English): No.

Okay. That motion fails on a deadlock.

It's 4:30. Would someone care to introduce a motion for consideration by the wage board.
MEMBER BROAD: Mr. Chair.
CHAIRPERSON COHEN: Mr. Broad.
MEMBER BROAD: I would like to entertain a motion that the -- that the wage board require that the IWC, should any federal legislation pass imposing any tip credit on California, do everything that it can legally do to oppose that tip credit.
CHAIRPERSON COHEN: Yeah, I understood it. Yeah, I understood it.
MEMBER WEI: Second.
CHAIRPERSON COHEN: You want to make any comment on that, Mr. Broad?
MEMBER BROAD: Yes.

There is perhaps no more evil thing in the world of...
wage and hour law than the tip credit. Tips are left by
all of us for -- for good service for the employees
involved. They shouldn't -- they're not left for the owner
of the business to rip off for themselves.

The fact that 43 states or something allow it and
seven don't is no argument for evil. And evil is bad, and
we're against evil on our side. And anyone who is for the
tip credit is evil. And for that reason, we wish to keep
the IWC from straying along the path of evil.

So I would urge an "Aye" vote on this motion of mine.
MEMBER DUNBAR: I have a comment.
CHAIRPERSON COHEN: Mr. Broad --
MEMBER BROAD: Yes.
CHAIRPERSON COHEN: -- it's late. We're almost done.
I'm tempted just to let you take some time up on this
because you made such a passionate pitch, but tell me how
this is in the charge.

MEMBER BROAD: Because tip credit is potentially
related to the pending federal legislation which has to do
with a credit against the minimum wage, which is related to
the minimum wage. And the federal legislation allows
states to opt back in to avoid the tip credit. And,
therefore, the IWC's action on this could in fact be both
timely and necessary in order for it to deal with the

problem that it will face, which is that California law
prohibits a tip credit and federal law is attempting to
potentially, should it pass, to enforce it.

And I think that they should understand the sense of
this body, that we would be outraged at such an intrusion
by the jackals of the federal government against states'
rights. And as people that support the right of states to operate within our constitutional system free of the intermeddling of the evil federal government, we believe that the state should maintain its freedom to act within our constitutional system and have the laws that we choose from our elected officials and not have some guy who's elected from Mississippi decide what we want to do with our tips for our waiters and waitresses when we leave it for them in California.

Hell, I just want to, like, start the American Revolution again.

CHAIRPERSON COHEN: I got that impression.

MEMBER BROAD: And that -- so it's entirely relevant to us because it could be right in the middle of their deliberation.

CHAIRPERSON COHEN: Yeah, it's entirely relevant for you to raise the issue with the IWC, but really I'm still listening for you to convince me that it's inside the scope of the charge.

MEMBER BROAD: Well, it's how much the minimum wage should be, that's what it is. It's how much the minimum wage should be for some group of workers. That's what it means is there is a sub-minimum wage for tipped employees. And it -- who gets the minimum wage is certainly within the charge.

MEMBER DAYTON: Mr. Chairman, I'd like a ruling on whether this is in order. I don't believe this is in our charge nor is any of this material part of the information
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that we were (unintelligible). It sounds more theoretical
to me.

CHAIRPERSON COHEN: I think as stated, Mr. Broad, I'm
still finding it outside the charge. We are not charged
with considering federal action on tip credits.
I'm just -- as the motion is stated, I guess I'm
going to have to rule it out of order.

MEMBER BROYLES: Motion to adjourn.

MEMBER DAYTON: Second.

CHAIRPERSON COHEN: I'm not sure that's good, either,
at this moment.

MEMBER ABRAMS: Well, it is with all due respect to
the Chair.

MEMBER BROYLES: You just ruled the other motion out
of order.

CHAIRPERSON COHEN: That's true. We can do this
again.

There's a motion and a second to adjourn. It's not
debatable. We'll start with the employee representatives
this time.

Mr. Agee.

MEMBER AGE: Yes.

CHAIRPERSON COHEN: Mr. Broad.

MEMBER BROAD: No.

CHAIRPERSON COHEN: Ms. Wei.

MEMBER WEI: No.

CHAIRPERSON COHEN: Mr. Jones.

MEMBER JONES: No.

CHAIRPERSON COHEN: Mr. Schacht.

MEMBER SCHACHT: No.
CHAI RPERSON COHEN: Ms. Mercado.
MEMBER MERCADO (In English): No.
CHAI RPERSON COHEN: The motion was to adjourn.
Ms. Broyles.
MEMBER BROYLES: Yes.
CHAI RPERSON COHEN: Mr. Davis.
MEMBER DAVIS: Yes.
CHAI RPERSON COHEN: Mr. Dayton.
MEMBER DAYTON: Yes.
CHAI RPERSON COHEN: Ms. Dunbar.

MEMBER DUNBAR: Yes.
CHAI RPERSON COHEN: Mr. Abrams.
MEMBER ABRAMS: Yes.
CHAI RPERSON COHEN: Mr. Barsuglia.
MEMBER BARSUGLIA: Yes.
MEMBER AGEE: For the record, I'd like to change my vote to a "No."
CHAI RPERSON COHEN: I did not restate the motion. I will --
MEMBER AGEE: I'd like to make a motion if I can.
CHAI RPERSON COHEN: Okay. Hang on just a moment.
So are we all caught up on the motions to date?
MEMBER ABRAMS: Yes, sir. There is no motion pending that I'm aware of.
CHAI RPERSON COHEN: I have a motion being introduced. I just want to make sure that we -- we've been flying fast and loose, and one of our wage board members I think lost track of the motion on the floor, so I want to make sure the record is clear.

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So now we're going to have a motion from--

MEMBER AGEE: Jovan Agee.

I'd like to make a motion to, if we can, come to a consensus on what standards we should forward to the IWC to base their decision off of. I would make a motion that housing be something they consider when they decide what the minimum wage increase should be.

MEMBER JONES: Second.

CHAIRPERSON COHEN: Okay. It's been moved and seconded that the --

(Off-the-record discussion with staff.)

CHAIRPERSON COHEN: Mr. Broad, you second?

MEMBER WEI: Mr. Jones.

CHAIRPERSON COHEN: Thank you, Mr. Jones. Sorry about that.

Okay. So the motion is a recommendation to the IWC that the IWC consider the cost of housing when they discuss how to determine the adequacy of the minimum wage.

Is that a fair statement?

It's been moved and seconded.

Mr. Abrams.

MEMBER ABRAMS: With respect, I -- and as we go through this, if we have a seriatim statement of motions to consider housing, consider automobiles, consider health care, et cetera, I would oppose those on the grounds that I think we've all expressed tacitly or implicitly that there needs to be some common understanding of what the factors should be in determining whether the minimum wage is adequate and should go up.

And I think whether we all agree with it or not,
that, you know, my own view is we're not going to come to a

So, for that reason, believing that that's

inappropriate to do here today, I'm going to oppose the

motion.

CHAIRPERSON COHEN: Any other comments on the motion?

MEMBER BROAD: I have a comment.

CHAIRPERSON COHEN: Go ahead.

MEMBER BROAD: Mr. Abrams, with all due respect, I

think that's what we're supposed to be doing. In other

words, to spend all day saying -- starting in the morning

and saying we don't have time to figure out this question

means that we -- well, of course we have time to figure out

this question. I mean, that's what we're supposed to do is

figure out this question.

MEMBER ABRAMS: Mr. Broad, that is true. That is

true. And I think -- but going back to the reality, and

that's when we called for the first rest break that wasn't

a rest break, the -- the vote of the employer

representatives here, good, bad or indifferent is that's --

that we are not willing to enter into a debate on item by

tem what is a proper factor or not.

So whether that's something that might be appropriate

for the wage board to consider or not, I'm just saying
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until we can go through this motion by motion -- I'm just trying to be realistic and honest with you -- that the employer position will be "No" on those motions. Not that anybody here individually would not at some point agree in a proper context to debate those issues. But -- I don't necessarily disagree with you that this is or isn't the proper forum. But at this point in time, this side of the table speaking is not prepared to do that.

MEMBER AGEE: What if it took into consideration market factors? I know that you brought those things up, that those are possible influences of why, you know, you guys are making the decisions that you are making.

MEMBER ABRAMS: No, I agree with you. But I am not prepared to sit down today, partly because I didn't come here prepared nor do I suspect anybody on the employer side of the equation came here prepared to discuss a list of factors. Because, quite frankly -- and to come to some sort of conclusion about what might be a good list of considerations to look at.

So I'm not prepared to say "Yes" to this one and "No" to that one or anything else.

And for that reason --

MEMBER WEI: Mr. Abrams --

MEMBER ABRAMS: -- I'm not prepared to answer --  

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MEMBER WEI: -- I believe Mr. Agee's motion is to compel the Industrial Welfare Commission to take into account housing costs as a factor in determining the adequacy of the minimum wage.

MEMBER ABRAMS: I understood that it was a
recommendation that they consider that, that's right.

MEMBER WEI: And so would you also oppose a recommendation that the IWC take into account the marketplace as factors? Or we could do a list including but not limited to.

MEMBER ABRAMS: I would, because that -- because all of them -- even the ones that I think are important, I will -- you're asking me a very fair question, Ms. Wei, and I will vote against that as well. Because we're getting into trying to come up with the definitive, comprehensive list and, quite frankly, I didn't understand that that was something I needed to come here prepared to discuss today.

And so --

MEMBER WEI: And, sir, if I may, Mr. Abrams, I feel that your position has conceded to the politics of the issue, instead of looking at the policy that should be driving our decisionmaking here today.

We are looking for a policy driven, real analysis of what is an adequate minimum wage. And with a "No" vote on such a motion or on a more expansive motion, we are conceding that this is a political decision of which facts and the economics don't have a role.

MEMBER ABRAMS: I respectfully disagree with your characterization.

MEMBER BROYLES: Call for the question.

CHAIRPERSON COHEN: Seeing no other hands, we'll go ahead and vote on the motion.

The motion is that the IWC --

MEMBER WEI: I object to the calling of the question.

CHAIRPERSON COHEN: Okay. Go ahead and speak.
MEMBER WEI: We haven't had -- I don't know that we've had a full deliberation of this specific motion.

CHAIRPERSON COHEN: With all due respect, Ms. Wei, I think it's pretty clear to everybody where we are. We can drag this out for another few minutes. We lose the auditorium at five o'clock.

I think you've heard pretty clearly, fairly or unfairly, politically or policy based, the employer representative speak and no one on that side disagreed that they're really not prepared to go any further down this particular road. That may be a good position; it may be a bad one. It may be right; it may be wrong.

I just think honestly and objectively we're not going to have any significant discussion here today that's going to get fair consideration, and I just don't see frankly why you think it's going to be productive to continue to make this particular point.

I'm certainly not saying that the point is without merit. I don't think necessarily I understood Mr. Abrams to say the point is without merit. He merely said he's not really prepared to discuss it further today.

If you want to insist on discussion, you can object to the call for the question, we can vote, and we can deadlock, and we can drag this out a little further. That's Robert's Rules of Order.

MEMBER WEI: I appreciate your caution and your counsel, Mr. Chair.

My -- the frustration by which we started today is the frustration with which I leave, and that is there is no
standard to measure the adequacy of the minimum wage. And we have taken no steps today to help us advance on developing that adequacy standard.

And as a member of this wage board, I feel that we have failed in that regard. We have deadlocked on every motion. We have made no progress here for coming up with an empirical, data driven way to determine what an adequate minimum wage is. And I feel that as a member of this wage board, we have failed.

And I understand and I appreciate Mr. Abrams and his honesty about how the employers would vote on each and every one of these motions. But I want to take my time to say that I don't believe we've met our charge today in determining whether or not the minimum wage is adequate.

And we -- you know, take it or leave it, believe it or not, we are trying to come up with the empirical discussion here. And it's frustrating not at anybody in particular, not at the Chair, at this process that we cannot engage in that conversation or even compel the Commission itself to engage in that conversation.

CHAIRPERSON COHEN: Clearly expressed. Thank you.

MEMBER BROAD: May I also make a comment?

CHAIRPERSON COHEN: Yes, Mr. Broad.

MEMBER BROAD: Just for those of you that haven't done this that many times, this is a particularly civil wage board.

If any of you go home, especially Mr. Dayton, thinking that something happened here that was nasty, as my grandfather would say, you don't know from nasty. It used to get really nasty in past wage boards.
Right, Ms. Broyles?

MEMBER BROYLES: If I might for the Chair agree that, yes, there have been more contentious wage boards on many different issues.

But, again, I do think that -- and I made this -- during the break, I did make the offer to Mr. Broad that at some point hopefully over the break or at some time in the future of their choosing -- of his choosing, that it wasn't a discussion -- an item of discussion that we thought was without merit, that looking at rational ways of creating a wage or coming to a calculation of a wage rate is definitely worth talking about.

No one that I know of on the employer side is prepared to talk about it today. All of us have memberships that we report to and members that we have to also account to. So when you bring a different item into discussion, then we have to talk about it and look at it and explore it, and it can't be done on the instant.

And we apologize that that can't be done, but it is a fact of any membership organization. Whether it's a union or a business or a business association, other people have to be consulted and talked and -- and to examine what things mean, what they do mean in a real life -- you know, if you put it to work in real life, what it really means in that situation.

So we have -- it's not unreasonable for us to want to talk about it and know what we're talking about and know what the result is for any type of -- of a wage rate factor process.
MEMBER SCHACHT: I have a motion.

CHAIRPERSON COHEN: We have a motion on the floor, actually.

MEMBER SCHACHT: Well, then I'll speak to the existing motion.

CHAIRPERSON COHEN: Okay. Just to remind you and everybody --

MEMBER SCHACHT: I'm contemplating putting forth a motion that would ask -- in response to the pending motion when it deadlocks, putting forth a motion that would ask all 12 members of the wage board to decline to adjourn and to notify the IWC that we want to have one additional day of meeting, properly noticed, which I think is a 15-day time period, so it would put this like the Friday two weeks or three weeks from now, because we haven't been able to discharge our charge.

MEMBER AGEE: I would like to add to that motion.

MS. FONG: It's a 30-day notice.

MEMBER SCHACHT: Okay. 30 days is even better.

Gives us more opportunity for consultation.

CHAIRPERSON COHEN: I'm going -- well, first of all, we have a motion on the floor.

MEMBER SCHACHT: Okay.

CHAIRPERSON COHEN: Okay.

MEMBER ABRAMS: I'd like to call for the question on
the motion that's currently on the floor, please.

CHAIRPERSON COHEN: The motion is that the cost of housing should be considered in considering the adequacy of the minimum wage.

Is that a correct statement of your motion?

Mr. Agee. On the motion, your vote.

MEMBER AGEE: Yes.

CHAIRPERSON COHEN: Okay. Mr. Broad.

MEMBER BROAD: Yes.

CHAIRPERSON COHEN: Ms. Wei.

MEMBER WEI: Yes.

CHAIRPERSON COHEN: Mr. Jones.

MEMBER JONES: Yes.

CHAIRPERSON COHEN: Mr. Schacht.

MEMBER SCHACHT: Yes.

CHAIRPERSON COHEN: Ms. Mercado.

MEMBER MERCADO (In English): Yes.

CHAIRPERSON COHEN: Ms. Broyles.

MEMBER BROYLES: No.

CHAIRPERSON COHEN: Mr. Davis.

MEMBER DAVIS: No.

CHAIRPERSON COHEN: Mr. Dayton.

MEMBER DAYTON: No.

CHAIRPERSON COHEN: Ms. Dunbar.

MEMBER DUNBAR: No.

CHAIRPERSON COHEN: Mr. Abrams.

MEMBER ABRAMS: No.

CHAIRPERSON COHEN: Ms. Barsuglia.

MEMBER BARSUGLIA: No.

MEMBER SCHACHT: Mr. Chair, motion -- I'd like to
I'd like to make that motion again now that the wage board unanimously vote to not adjourn and to notify the IWC that we have not been able to conclude our deliberations and that we would like to schedule one additional day of discussions and meetings of the wage board to occur at the minimum time period permitted by notice requirements.

MEMBER AGEE: I'd like to add to that motion.

CHAIRPERSON COHEN: I'm going to rule that motion out of order. I think the IWC -- as I said, I think the record is very clear that we are charged with meeting on one day. If you wish to request to the Commission that they reconvene this wage board, you can certainly do that.

MEMBER SCHACHT: Point of parliamentary inquiry.

CHAIRPERSON COHEN: Yes.

MEMBER SCHACHT: What would happen hypothetically if all the members of the wage board voted "No" on an adjournment motion?

CHAIRPERSON COHEN: Hypothetically speaking, do you really think there is a chance of that happening?
So, like, how I made (unintelligible) to Mr. Abrams to the situation the proposal, and you still say, you know, no, that's not possible, you have to go back and talk to the right people, can that be done prior to the meeting so we can --

MEMBER ABRAMS: I'm going to do this with a great deal of respect, Mr. Agee. I would like the Chair to confirm whether or not we have a motion (unintelligible) on the floor.

CHAIRPERSON COHEN: We do not. I ruled the old motion out of order.

MEMBER WEI: I move to adjourn.

MEMBER BROYLES: Second.

CHAIRPERSON COHEN: I have a motion on the floor to adjourn.

MEMBER BROYLES: Second.

MS. LEACH: Who made the motion?

CHAIRPERSON COHEN: The motion was made by Ms. Wei.

MS. LEACH: Second?

MEMBER BROYLES: Broyles.

CHAIRPERSON COHEN: Okay. The motion is to adjourn. It is not debatable.

Mr. Agee.

MEMBER AGEE: Yes.

CHAIRPERSON COHEN: Motion to adjourn. Mr. Broad.

MEMBER BROAD: No.

CHAIRPERSON COHEN: Ms. Wei.

MEMBER WEI: Yes.

CHAIRPERSON COHEN: Mr. Jones.

MEMBER JONES: No.
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15 CHAIRPERSON COHEN: Mr. Schacht.
16 MEMBER SCHACHT: Yes. Yes.
17 CHAIRPERSON COHEN: Yes.
18 Ms. Mercado.
19 MEMBER MERCADO (In English): Yes.
21 MEMBER BROYLES: Yes.
22 CHAIRPERSON COHEN: Mr. Davis.
23 MEMBER DAVIS: No.
24 CHAIRPERSON COHEN: This motion is to adjourn. You understand that?

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1 MEMBER DAVIS: Yes.
2 CHAIRPERSON COHEN: Mr. Dayton.
3 MEMBER DAYTON: Yes.
4 CHAIRPERSON COHEN: Ms. Dunbar.
5 MEMBER DUNBAR: Yes.
6 CHAIRPERSON COHEN: Mr. Abrams.
7 MEMBER ABRAMS: Yes.
8 CHAIRPERSON COHEN: Ms. Barsuglia.
9 MEMBER BARSUGLIA: Yes.
10 CHAIRPERSON COHEN: Okay. I lost exact track. I'm pretty sure the motion carried.
11 MS. LEACH: Ten to two the motion carried.
12 CHAIRPERSON COHEN: Okay. So the motion carried by a vote of ten to two.
13 A couple of comments, if I might, for members of the wage board.
14 MEMBER BROAD: Yes, sir.
15 CHAIRPERSON COHEN: Just, first of all, I thank you
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for your efforts and for your patience with me and your, as Mr. Broad pointed out, relative civility with one another. I think the discussion got very interesting at some points today.

MEMBER BROYLES: I do, too.

CHAIRPERSON COHEN: I think at least earlier we touched on every one of the issues in the charge to this wage board. I commend you for that.

I want to point out I believe, although it's not been publicly noticed, I believe the IWC meeting is on the 24th?

MS. LEACH: Of August.

CHAIRPERSON COHEN: Of August, yes. And any member of this wage board or any groups represented on this wage board is certainly encouraged to go appear at the IWC, stress any points you feel were inadequately made as part of this wage board and urge them to take that into consideration in their process, which as I understand it will require three subsequent public hearings. But certainly there's nothing that precludes anyone here from making any of these points directly to the IWC at their subsequent meeting.

MEMBER WEI: Mr. Chair, question.

CHAIRPERSON COHEN: Yes.

MEMBER WEI: Will you be presenting the wage board report to the IWC at their meeting on the 24th?

CHAIRPERSON COHEN: I will be issuing a report to the IWC and you will all receive a copy of my report at the same time I present it to -- I issue it to the IWC.

MEMBER WEI: So we are not allowed the opportunity to make comment on the actual wage board report.
Chairperson Cohen: You are allowed and I would encourage you to respond to my report, if you wish to add to it, make comments to it, but not as part of my report.

As I read it, I make the report -- that's what it says, I will make the report to the IWC. You will receive a copy. If you want to expand on that or disagree with anything in the report or whatever, you can submit comments to the IWC --

Member Wei: And not to say that we're going to, but I just want to be clear about our options here.

Are we allowed the opportunity -- is there a minority report?

Chairperson Cohen: No, not that I'm aware of.

MS. Fong: No, there is not.

Chairperson Cohen: If there is not a majority report --

Member Wei: That's what I'm wondering.

MS. Fong: There's an opportunity to submit your dissent.

Chairperson Cohen: Right. So that --

MS. Wei: (Unintelligible.)

MS. Fong: Separate from his report --

The Reporter: I'm sorry. Separate from his report -- I can't hear you.

MS. Fong: Oh, I'm sorry.

Separate from the Chairman's report, anyone who has a different or dissenting opinion can go ahead and submit.
that --

CHAIRPERSON COHEN: And just so --

MEMBER WEL: -- to the Chair.

CHAIRPERSON COHEN: Okay. And just so you know and so that the members -- I mean, my intent is, again, not to weigh in on this but to recap the conversation and the motions that were offered and the votes that were taken.

So -- and my report I don't think will be -- it will be as substantive as your debate was, no more and no less.

Okay. Thank you all very much.

(The public meeting was adjourned at 4:58 p.m)

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STATE OF CALIFORNIA

REPORTER'S CERTIFICATE

ss.

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I, KATHY L. SWINHART, certify that I was the official Court Reporter for the proceedings named herein, and that as such reporter, I reported in verbatim shorthand writing those proceedings;

That I thereafter caused my shorthand writing to be reduced to typewriting, and the pages numbered 5 through 83, and pages 157 through 228 herein constitute a complete, true and correct record of the requested proceedings.

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California, on the 8th day of August 2006.

KATHY L. SWINHART
CSR NO. 10150

CAPITOL REPORTERS (916) 923-5447
STATEMENT OF THE EMPLOYEE REPRESENTATIVES TO THE MINIMUM WAGE BOARD

The Employee members of the Minimum Wage Board are concerned that the meeting of this Wage Board and all actions taken by the Industrial Welfare Commission (IWC) may be unlawful because the Legislature has defunded the IWC. While we don’t know exactly from which funds the budget of the IWC is being drawn, we understand that it is from the general budget of the Department of Industrial Relations.

There is considerable legal doubt whether funds transferred to an agency that has been defunded for a use for which the Legislature has intentionally failed to appropriate money is lawful. This is based on the doctrine of separations of powers set forth in Article III, section 3 of the California Constitution and Government Code section 13332.15.

The separation of powers does not allow for the Executive branch of government to appropriate funds for a purpose that the Legislature has not appropriated funds. Article III, Section 3 of the California Constitution provides:

The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

The general constitutional principle is easily stated:

“The executive branch, in expending public funds, may not disregard legislatively prescribed directives and limits pertaining to the use of such funds. (See, e.g. Assembly v. Public Utilities Comm. (1995) 12 Cal. 4th 87, 98-104 . . . .)”


In addition, Government Code section 13332.15 provides:

“No appropriation may be combined or used in any manner to avoid budgeting the salary or operation expenses of any position or to achieve any purpose which has been denied by any formal action of the Legislature.”

The action of the Legislature to defund the IWC was as formal an action as the Legislature could take. After years of funding the IWC, the Legislature stopped doing so.
We remain extremely concerned that, any action that this Wage Board or that the IWC takes to increase the minimum wage is subject to legal challenge and could be reversed by court order.

As such, to avoid the strong possibility of a minimum wage increase will be subject to legal challenge, we believe that the minimum wage should be raised by action of the Legislature.