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DEPARTMENT OF INDUSTRIAL RELATIONS

INDUSTRIAL WELFARE COMMISSION

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August 17, 2000

State Office Building

744 P Street - Auditorium

Sacramento, California

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## PROCEEDINGS

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(Time noted: 10:07 a.m.)

COMMISSIONER DOMBROWSKI: Why don't we get started? Can we take our seats, please?

All right. I'd like to call the meeting to order. Let the record show that we have Commissioners Dombrowski, Bosco, Rose, and Broad present. Commissioner Coleman had called me and told me she was stuck in traffic and she'll be a little late.

First item of business is the approval of the minutes. It's in the packet. If I could have a motion --

COMMISSIONER BROAD: So moved.

COMMISSIONER DOMBROWSKI: Second?

COMMISSIONER ROSE: Second.

COMMISSIONER DOMBROWSKI: All in favor, say "aye."

(Chorus of "ayes")

COMMISSIONER DOMBROWSKI: All right. Second on the agenda, consideration of the wage board report and recommendations regarding the on-site construction, drilling, logging, and mining industries.

Yeah. I think I'll first -- Mr. Rankin, I think you have a panel -- let's start there.

I see I have a couple of the other wage board members from the employers' side who want to speak. I'll have them come up after.

MR. WETCH: Mr. Chairman, Scott Wetch, with the State Building and Construction Trades Council and a member of the wage board of construction, mining, drilling, and logging.

First off, I'd like to thank the Commission staff who worked with the wage board through the two hearings that we had. And I want to commend them for their professionalism and what I thought was an extremely fair and even-handed process. Having this been my first experience on a wage board, I have nothing but positive things to say in regard to the manner in which the proceedings were conducted by your staff.

What I'd like to do, Mr. Chairman, I think the Commission has been given two different groups of recommendations that were made by the wage board, and I'd like to address them both separately.

The first packet that we have is the Group 1 recommendations. This is the group of recommendations that were adopted by at least a two-thirds vote of the wage board, most of which were adopted by upwards of 80 percent of the wage board.

I was quite pleased and proud that such a broad consensus was able to be reached on these items at the first wage board meeting. The process, however, you should be aware, was not one that didn't involve quite a bit of compromise and give-and-take on the part of both the employer representatives as well as the employee representatives.

And what I'd like to do is just draw your attention to a few examples where I think both sides recognized points and issues raised by the other and where there was a need for compromise.

The first was in the definition of construction. There was a strong feeling in most of the employee representatives that what we should do, similar to the managerial wage order, is go and specifically delineate each of the various crafts and construction occupational positions within the definition of construction. The employer representatives felt strongly that that would only cause confusion. And after quite a bit of debate and discussion, we acquiesced and just drew from the definition that was used in the interim wage order.

Another example of the sort of compromise that took place was in regard to the alternative workweek provisions in the Group 1 recommendations. The employers raised the issue regarding the one-third petition process, which allows for one third of the affected employees to sign a petition asking for a secondary election after an alternative workweek has been adopted. They raised the issue that perhaps what could occur is that you could just have a series of elections occurring every few weeks or every few months as you had a fluctuation in your -- in your employee staffing, and this could be just a bureaucratic nightmare for the employer.

We agreed that there were some problems with that, and we agreed to a provision that allowed for an election only every six months when a third of the employees sign a petition asking for a new election on an alternative workweek. That is a significant issue that we did not give away lightly, but in recognition of the employers' concerns, we felt that it was fair.

We had an issue that we raised before this Commission on a number of occasions in regard to the fluctuation in workforces on a construction job site and the concern that you might have a small group of employees vote for an alternative workweek and then have that job site staff up later, down -- as the project progressed, to a point

where a vast majority of the employees were just being subject to an alternative workweek that was adopted by just a handful of employees.

The employers, after a great bit of discussion, recognized that was the case and agreed to a provision whereby, if there's an increase in the workforce above 50 percent that had voted on the original alternative workweek, that would be -- trigger a new election.

The drilling employers raised the issue of the need for some flexibility and the need for a 12-hour day for their employees on the offshore drilling platforms. And while, at the first hearing, there wasn't a wide array of consensus on that issue, at the second wage board we felt they made a compelling argument and we were willing to, in fact, grant that or vote for that provision of a 12-hour workday for the employees on the offshore drilling platforms.

A third issue -- and there are many of these -- these are just to give you a flavor of what the give-and-take was like during the wage board -- we sought and felt very strongly that mandatory overtime on a job site should be capped, given the incredible amount of physical demands that are placed on a construction worker's body and the health and safety issues that are raised when you have somebody that's tired, that's sore, being forced to work an abundant amount of overtime.

So, we proposed that mandatory overtime be capped at 55 hours total work per week, 15 hours' worth of overtime per week, and that mandatory overtime be capped at 10 hours a day, or two hours of overtime in a workday.

The employers raised quite a bit of opposition to that. They thought that it would disrupt the standard practice of the industry. And while we still believe strongly that 15 hours of mandatory overtime in a week is more than adequate for an employer, in order to be able to achieve the sort of consensus that was our goal, we agreed to a provision of capping it at 72 hours in a week, or 12 hours in a day. That was no little compromise on our part, that we felt that it was warranted.

So, with that, I will leave it to the other panel members here to discuss the provisions of Group 1. But we believe that they're consistent with what the Commission has adopted in the other wage orders. We believe that it's -- they're fair and that we look forward to seeing them implemented into a permanent wage order.

I'd like to reference my next remarks to the Group 2 packet you have before you, which were recommendations that were made to the board without -- just coming short of a two-thirds majority. However, I would like to say that at the second wage board meeting, we had a high absentee rate, and I do feel confident that had we had all the members present, that we would have again been able to reach the two-thirds vote that was necessary, given that we had a number of employers voting with us on those items.

Reporting time pay, the provision under reporting time pay is consistent with what you'll find in other wage orders, similar to, for instance, manufacturing, with one exception that we added that we feel very strongly about. And that's subsection (A), 5(A), "Reporting Time," regarding employer-mandated travel.

We felt that this was extremely important in the construction industry because the situation that we have now oftentimes is where an employee is told to report to a particular job site, he reports to that job site and may be put to work for an amount of time, maybe work for several hours. And then they're told that they need to go to a secondary job site. Perhaps it's somebody operating some grading equipment, and after they get done with the grading on Job Site A, they're told, "Okay, now we need you to drive across town 45 minutes and report to the second job site." We believe strongly that that employee should be compensated and paid for the time that they're traveling between the two work sites.

The meal period provisions and the rest period provisions are pretty standard to what you find in all other wage orders. The issue that we raised in regard to the meal periods that isn't found in other wage orders is the issue of hand-washing facilities. And while many people might find this to be a sort of minimal sort of request, we had quite a bit of difficulty reaching consensus on this issue.

We originally asked that every job site be required to provide a hand-washing facility so that a worker working on the job site that might be covered in grease or dirt, maybe even working in a wastewater treatment facility, would at least have the opportunity to wash their hands prior to eating their lunch. So, this is a basic sort of decency issue and health and safety issue.

Employers raised the issue that the term "facility" might be overly broad and might be construed as having to provide actual bathrooms with actual sinks and basins. We recognized that that might not be practical at every job site, so we omitted the language to just require potable water, towels, and soap. And even in instances where you couldn't have a spigot or a bucket of water for somebody, or even a bottle of Evian, for somebody to wash their hands with that might be out on a job site, we agreed that -- to some language that would allow for just cleansing agents. They have the new, chemical-based cleansing agents that don't need water. Unfortunately, and really to our dismay, we weren't capable of getting the necessary two-thirds vote.

Absent that, the meal time provisions are just standard to other wage orders. And we would argue that certainly a worker working at a very hard day on a construction site deserves to have a 30-minute lunch break to be able to eat their lunch, rest their body, and prepare for the rest of the day. It's consistent with what the Commission has adopted for other industries.

In regard to the rest period provisions, this, again, is standard, similar to the other wage orders. All we're asking for is that a construction worker be given a 10-minute rest period for every four hours' worth of work.

As you all know, construction is one of the most physically demanding occupations in California, and there seems no good reason why somebody working in a less strenuous position, such as, perhaps, a clerical position, should receive a 10-minute rest period that somebody who's out working strenuous manual labor, operating a heavy piece of equipment in 100-degree weather, doesn't deserve to have a 10-minute rest period.

We were willing to work with the employers on this issue in regard to making it as flexible as possible. And we adopted some language that allows them to, if it wasn't practical to provide the 10-minute break within the middle of the four-hour period, that they would have the option to place it where it was practical. And we recognize that there still may be some ways to make the rest period language more flexible, and we're willing, through this hearing process that we're about to undertake, to continue to discuss with the employers and to continue to come forward at those hearings and work on some other ways that we can address flexibility issues to make sure that that is a provision that really works.

COMMISSIONER BROAD: Just a quick question. Scott, can I ask you a question about that?

MR. WETCH: Sure.

COMMISSIONER BROAD: I had some concern as I read that as well, and I also have some concern about that specific collective bargaining waiver language that's in there as well. And I understand that there's some discussion about that this is really an issue that's specific to really, literally, to certain processes within construction. I've heard mentioned, you know, paving and other things. However, at the same time, you know, paving is a hot and dirty occupation. I mean, it's -- you're outside, you're around heated materials, it's strenuous work. People probably need breaks there as well. So breaks are -- this is a class of workers that probably needs breaks more than just about anybody else.

So, it would seem to me that as we go through the hearing process, that you should think and work with the employers to narrow whatever flexibility we'd want to put in this to the narrowest group by perhaps these types of processes or types of work, and that you provide some alternative timing for those breaks. Obviously, you know, sometimes this machinery has to be kept running. I don't know that that means that a person can't get a break in the entire time, that all the people can never get a break. So, I would like you guys to look at that very carefully.

MR. WETCH: I -- Commissioner Broad, we agree with you, and we're on the same wavelength about where we're at with this particular provision. And we will continue to work with the employers and the other employee

representatives that were on the wage board to work that out.

Really, that concludes the comments. I'd just like to leave the Commission with the thought that the four main issues where a broad consensus was not reached are really standard provisions that apply to most all other occupations. And we would ask that the Commission continue to treat construction workers with the same fairness and the same compassion as the Commission has other occupations.

Thank you.

MR. RANKIN: Tom Rankin, California Labor Federation.

I just have a couple of other comments. One was regarding the issue of the coverage of the wage order. I think we've tried to make it clear that this is to be considered an occupational wage order, not an industrial wage order. And we did so, I think, in several ways, by talking in the first sentence about on-site occupations including, but not limited to, certain types of work; and then, in the definitions of construction, logging, and mining, and drilling, we also talked about job classifications involved; and finally, under Section 1(D), we put a provision that said that the order would supersede industry wage orders for workers employed in occupations covered by this order. So, I hope that that clarifies that. If there are other things that we need to do, we have the three hearings to deal with that.

The other comment is on the Group 2 recommendations. The final one, on Page 3, that's numbered 15 here, "Effect of Collective Bargaining Agreements," I'd just like to point out on this item that this was a 9-to-8 vote. It was all employers who voted for it. We had 17 members that day. Both sides were short, but we were short one more than they were. This contradicts the provision that we adopted by a two-thirds vote at the original meeting regarding collective bargaining agreements, which can be found on Page 8 of Group 1, Item -- well, it's (G) on Page 8 of the Group 1 materials.

Anyway, so this -- what the employers are trying to do here contradicts what we did with a two-thirds vote earlier. And moreover, if we were to just give a blanket exemption to collective bargaining agreements, that would run into constitutional and legal problems.

MR. COHEN: Good morning. My name is Paul Cohen, representing the Northern California Carpenters, member of the wage board.

I want to echo Scott's comments about the work of the staff in what were sometimes contentious hearings. And I'd like to add my appreciation for the employer representatives who were also members of the wage board for the hard work I think that was done on both sides. There were -- as Scott said, there was a lot of give-and-take, and at times people got very serious about their positions, myself included. But I think everybody came with good faith and worked hard to try to reach agreement where we could.

A couple -- just a couple things I wanted to say in addition to the comments that have already been made and just a couple of other new points I'd like to make as well.

One is that, while I haven't yet seen what exists in terms of the record of the discussion that took place, sort of following on Scott's point about a lot of give-and-take and a lot of discussion about the content of some of these, and Tom's point about the nature of this as an occupational wage order, the wage board spent a considerable amount of time discussing the definitions of the various occupations and how those ought to be addressed. And I believe that we, in fact, in response to a question by an employer, explicitly discussed the issue of, for example, whether a secretary employed in a construction trailer working for a construction superintendent would be covered by this or would be covered by another wage order the clerical staff were routinely covered by. I think it was this wage board's sense that this wage order would not apply to secretaries working in trailers on construction sites; it would apply to those occupations normally associated with construction work. And we tried as best we could to craft definitions that got to that.

In addition, I think I would agree with Scott's point that the areas where we were not able to reach the two-thirds vote, for the most part, are standard provisions of wage orders in the State of California. And the focus of the disagreement, I think, in many of them was not about whether or not, for example, construction workers ought to get a lunch break or whether or not -- although some might disagree -- whether or not construction workers deserve rest periods. It was about some specific language within those. And I think that's where we failed on -- on most of those -- to reach agreement.

I'd like to echo what Tom said about the last vote on the effect of collective bargaining agreements and the attempt to vote to exclude anyone covered by a collective bargaining agreement from the coverage of this wage order. I think, very clearly, we spent a lot of time crafting language, some of which was adopted by a two-thirds or better vote, exempting -- you know, addressing the issue of how collective bargaining interplays with this wage order. And then to come at the end and say, "But we didn't really need to any of that anyway because we're going to exempt the entire thing for workers covered under a collective bargaining agreement," I think, runs counter to the two-thirds vote we got on everything in Group 1.

There were a couple of points that I wanted to make as well. On the issue of rest periods, I would certainly agree that construction workers work as hard as anyone else covered by previously existing wage orders in the State of California and deserve rest periods. I'm also concerned and willing to work hard to figure out how to address some of the specific issues that were raised -- the paving issue was raised, tunneling machines was another one. I'd like to see us craft language that gets specifically to those kinds of things and addresses some flexibility for those.

There is one issue in this language that was adopted that is in Group 2 that was language that I proposed, that I would just suggest for your consideration. As Scott had pointed out, a lot of the -- a lot of language in here is standard provisions that have been adopted by your Commission, including the language on penalties. There is, however, an additional clause that was proposed in the penalty section with respect to provision of rest periods. And we would propose that you consider, for those employees covered by a collective bargaining agreement that have rest periods in it and also contains an alternate dispute resolution mechanism, such as binding arbitration of grievances, that we let that be the forum in which to hear our disputes about when breaks were not provided.

We think we've worked hard over the years to build relationships with our employers and to come up with a framework for resolving disputes and assessing penalties. We think that works well and would propose you consider, on that one -- not on the wage issues, but on the issue of provision of rest periods and lunch periods -- that you let our grievance procedures do the work when we have them in place.

And finally, I do -- I want to add my voice -- I know there will be -- at least, I expect there will be public hearings on this and an opportunity to provide testimony -- I do want to add my voice on the issue of hand-washing. We were charged with considering whether or not construction needed a wage order or construction was adequately covered by an existing wage order. One of the -- I believe, the first decision that we made, which was one of those 80 percent votes, was that no existing wage order adequately covered construction and its unique nature and we needed a wage order that would do that.

One of the areas, I think, is the area of hand-washing. In most occupations, you take it for granted that you have a bathroom with working plumbing. So the issue of providing facilities for hand-washing doesn't come up. In the on-site industries that our wage board was charged with -- construction, logging, mining, et cetera -- that is often not the case. And yet I think, you know, basic decency and hygiene would suggest that it's appropriate to say that there ought to be some kind of provision. We did, as Scott pointed out, recognize that the word "facility" could be misinterpreted to say the first thing you would have to do when you go on a construction site is to build a bathroom, and that's not our intent. I think there's an easier way to do that. And the language that we came up with, which did get a majority of those present at the second meeting but did not get the two thirds, represents a reasonable compromise that will allow construction workers to wash their hands before they eat their lunch without putting an undue burden on employers.

And I'd like to thank you very much for convening this wage board and for giving me an opportunity to participate in it.

COMMISSIONER DOMBROWSKI: Thank you.

Any questions?

COMMISSIONER BROAD: Yeah. Mr. Rankin, in Group 2, on the top of Page 2, Paragraph (E), the collective bargaining agreement on meal periods, it looks to me that that might conflict with pending legislation, SB 88, should it pass, I think. So you might want to think about how that should interrelate as we kind of move through these hearings. If SB 88 becomes law, it will become law before the end of the hearings on this in October, since it's an urgency bill, and then we'll know. But it's something, I think, that you should look at.

MR. RANKIN: Thank you.

COMMISSIONER DOMBROWSKI: Harold?

COMMISSIONER ROSE: One of you gentlemen, I believe there was some discussion on whether the logging industry should remain with the group of construction, et cetera.

MR. RANKIN: Yes, there was, as I recall. And we believe that it should, and, in fact, we have two-thirds votes on many -- on the coverage issue. So I don't believe it's an issue for debate.

COMMISSIONER ROSE: Okay.

MR. COHEN: Mr. Chair?

COMMISSIONER DOMBROWSKI: Yes.

MR. COHEN: If I might, there was one additional point I wanted to address.

COMMISSIONER DOMBROWSKI: Go ahead.

MR. COHEN: This pertains to Group 1 and the discussion of uniforms and equipment, specifically on Page 10 in Group 1, 8, Paragraph 8(B), the discussion of tools or equipment required by the employer, necessary tools and equipment shall be provided, except to an employee whose wages are at least two times minimum wage.

I just wanted to clarify, "provide and maintain" hand tools and equipment, and I don't want to -- I think the record ought to be clear we're talking about equipment, that that shouldn't -- it should not somehow be expanded to go beyond the context implied by hand tools. We didn't go into as much detail about what -- for example, we discussed collective bargaining language that talks about this in my trade, the carpenters. Carpenters are routinely expected to provide hand tools for a wide range of tasks specific to their work and also general in nature. They're also expected to provide equipment, specifically tool belts and other devices for carrying those tools around and transporting them from place to place where they work. They are not expected -- in our collective bargaining agreements, we explicitly say they're not to be required to provide automotive equipment to transport those tools at the employer's convenience, they're not to provide a variety of power tools, ladders, et cetera.

And I wanted to just sort get some discussion of that on the record. And my sense of the discussion when this was adopted was we were agreeing that that's this was, was the existing industry practice. And I just wanted to get that, a little further discussion of that, on the record.

COMMISSIONER DOMBROWSKI: Okay.

COMMISSIONER BROAD: Can I just ask one point, one question about that?

COMMISSIONER DOMBROWSKI: Yes.

COMMISSIONER BROAD: Because it's come up in other areas where we have this in the wage orders.

Is there some sense in your industry -- and, of course, we're talking about several different industries here -- but is there some sense in your industries of just what upper limit of costs can be imposed upon an employee, what the -- what types of tools you're really talking about? Or is it just a kind of common notion within the industry of what they are?

MR. COHEN: I can tell you that the -- in my industry, commonly the distinction is -- there's not a discussion of costs -- it's frankly -- a carpenter who does trim work, such as we see in this room, probably has an expensive collection of fine hand saws for finishing off of the joints, and a carpenter who routinely builds heavy concrete structures doesn't need one. So it's -- there's not a discussion of costs because it's going to depend on the nature of the work you're doing and how much you're going to need in the way of hand tools. The distinction really comes when you're talking about power tools, chainsaws, skill saws, miter -- power miter boxes, table saws, et cetera -- so that the language that we have -- and I think it's very common in the industry -- there's a distinction between hand tools and power tools, but it's not one based on a certain cost.

COMMISSIONER BROAD: And the equipment is typically equipment necessary to lug around the hand tools.

MR. COHEN: Yes.

COMMISSIONER BROAD: It's not -- okay. Well, I think that may be something that we want clarified, if not in the language itself, in the Statement of Basis, as we move along.

MR. WETCH: It really differs from craft to craft, and even into the folks that are on the mechanical side, the folks that maybe, you know, having to work on your heavy pieces of equipment. Then the dollar value of their tools is much different than the -- of a carpenter or a mason or something like that.

COMMISSIONER BROAD: It just seems to me that the concern I have is -- I understand that, for example, you know, a framer may purchase a hammer that's comfortable to that person's -- you know, that's specific to that person's size that they prefer or their -- what weight that they prefer, or whatever. My concern is that a new employee comes on the job and gets a list of tools to purchase from an employer that's \$20,000 -- I mean, these things are not cheap now -- and is expected to go out and spend this money as a condition of employment, and then might lose the job, move to the next job, where the employer would have a different set of requirements.

And I don't know -- I think there's some serious potential for abuse. And I -- and I've got the sense from some discussions I've had with people who've raised this issue that that may be happening out there, because tools have gotten quite costly. Do you have any comment on that?

MR. WETCH: I think what we'll do, Commissioner Broad, is we -- and I represent, you know, 92 different crafts -- that we go back and address this issue with each of the individual crafts and, through the hearing process, be prepared to come forward with letters and testimony to the -- to that issue.

COMMISSIONER BROAD: Thank you.

COMMISSIONER DOMBROWSKI: Let the record show that Commissioner Coleman has joined us.

I'll call up Kenneth Perry and Dave Lefler.

MR. PERRY: Good morning, commissioners. My name is Ken Perry. I was on the wage board, basically as a representative for the construction side of the house.

And I won't take up an awful lot of your time this morning. I realize you're going to be talking with quite a few people. My comments will be amplified later on in the other public hearings as well as a formal letter of dissent from the chairman's report, which, as a matter of note, as of a quarter to five yesterday I still had not received in the mail. And so, I am not sure exactly what the final report said.

As an individual member of the board, I have a number of concerns over the process itself. I believe that some of the -- that the process as it was entailed, that there were a number of both procedural and statutory violations

which occurred. In particular, at the onset of the first meeting, I don't believe the board was fully apprised of what the ground rules were, and included in that was the basis for a two-thirds vote; also, the fact that the materials that were provided at the hearing, which were supplied by the Commission to the board to be gone through, were never gone through. Hence, a lot of input from various segments of the industry, both pro and con, which were included in the packet were never gone through in the meetings and debated on an individual merit basis for each of the industries.

What resulted was a full-blown, fifteen-page proposal, Wage Order Number 16, as supplied by the labor representatives, which became the basis for all discussions that were held at the hearing.

I'm concerned that a number of the proposals, both which were passed by the two thirds as well as those on the second day which did not pass by two thirds -- and you'll note there's a big difference there -- were inconsistent with the legislation itself as well as with the intent of the legislation.

I'm also concerned that a number of the proposed standards which cover such items as meal periods, rest periods, minimum pay, reporting pay, travel time pay, all have economic consequences which will have an impact on the industry. There are also items which were not set forth in the legislation of AB 60, which was the basis for the Commission setting up the wage boards, rolled into AB 60, and that, prior to AB 60, none of these items were covered. Prior to AB 60, these four industries were subject to only one regulation. That was MW-88. As such, the industry had been operating under standards for thirty years, including collective bargaining agreements, many of whom in this state parallel federal, not the proposed state law. So the impact is tremendous.

I'm also concerned that a number of the proposals, if they go into the final form of the wage order, would be detrimental to the collective bargaining process itself. As you heard earlier, there was mention that at the end of the meeting, a proposal was made that employees subject to the wage order would be exempted if they were signed to a collective bargaining agreement. I was the one that put that proposal on the table. I'm fully aware that there were a number of items in there that could not be exempted, but I figured I was better off covering everything and having it taken out at a later date than missing something. The key object of items such as rest periods would not -- would not have been excused if you were subject to a collective bargaining agreement.

Your agreements over the last fifteen to twenty years have made contractors competitive in eliminating some costly restrictions and work rules in their agreements, and employers gave up money at the bargaining table. Hence there's a large difference between what a unionized employee makes and a non-unionized employee. If these items go in, I believe it's going to be detrimental to the collective bargaining process, for the simple reason that why negotiate side agreements when you are subject to everything under existing state law? I think it would be detrimental to organized labor and employers as a group.

In short, gentlemen, I will cover these points in more detail later on at a public hearing. And I will also cover them in more detail in my dissenting report to the Commission.

Thank you.

MR. LEFLER: Good morning. What I'd like to do is pass out real quickly a copy of my comments to the commissioners and to --

COMMISSIONER DOMBROWSKI: Be sure to identify yourself for the transcript. Please identify yourself for the transcript.

MR. LEFLER: Oh. I'm David Lefler, with Western Drilling.

Okay. Thank you.

Good morning again, commissioners and IWC staff members. I am Dave Lefler, with Western Drilling. I was a member of the on-site construction, drilling, logging, and mining industries wage board. I represent the oil and

gas drilling industry and work for Western Drilling in the great city of Taft, California. It's actually the gateway to the coast. Most people just drive through. This is what happens.

My industry and our employees are quite interested in maintaining flexibility for our work activities. Betty Walker, with Torch Operating Company, also participated as a member, and I'm making comments for Betty.

We were at both of the wage board meetings, held on June 6th and July -- or, I mean June 20th and July 20th. And these meetings were well coordinated by the chairman, Mr. Daniel Altemus, and also the Industrial Welfare Commission staff, led by Andrew Baron. I see Andrew's here today. Also, Nikki did a lot of work behind the scenes and at the meetings and did an outstanding job.

And thank you again for allowing me to serve on this wage board.

Several actions were taken by our wage board on drilling issues. As noted in the chairman's report, the board voted unanimously to provide opportunity for employees on offshore oil platforms for an alternative workweek of up to 12-hour days. We are pleased with this action and look forward to its inclusion in the final wage order.

But the board declined to offer that same opportunity for a 12-hour shift for employees of the onshore facilities that process the oil and gas from those platforms. We believe there was some confusion over the application of this specific proposal and that it would apply to a few employees whose facilities are directly related and work in conjunction with the offshore platforms. We believe we can demonstrate to the Commission that the wage board did not have substantial evidence to apply the 8-hour mandate to these facilities and will do so in future public hearings.

Finally, with the wage board vote, not including mine or Betty's, applying the 8-hour mandate to the four industries, the board inadvisedly applied this mandate to all onshore oil and gas production.

We have developed a strong, substantive case for permitting onshore workers to vote on alternative work schedules for 12 hours. We presented a policy paper to the board, which we will also provide to the Commission. We will also demonstrate that the board did not have substantial evidence for applying the 8-hour day to this case.

We look forward to presenting our substantive positions and legal arguments at one or more of the three public hearings that you will be conducting. And I know my industry is looking forward to discussing our issues with you and hope that you will consider scheduling one of your meetings in the San Joaquin Valley, preferably in Bakersfield, to accommodate the intense interest of our employees and our industry on this issue.

Thank you for allowing us to be a part of this important process.

COMMISSIONER DOMBROWSKI: Next up is Patricia Gates. Patricia Gates?

MS. GATES: I'm with the law offices of Van Bourg, Weinberg, Roger, and Rosenfeld.

And I really just signed up today to speak to any of the legal issues that might be raised. And at the public hearing, I'll present more testimony on the two issues that I've sort of spotted so far.

One is the potential conflict between Labor Code Section 2802 and the uniform and equipment section of the wage order. Labor Code 2802 provides that employers must reimburse or indemnify employees for costs that they incur as part of conducting themselves in the workplace. And I think that further elaboration, as the panelists have already indicated, is necessary in order to prevent there from being a conflict between the Labor Code and this particular regulation.

The other item that we've heard some discussion about is the collective bargaining exemption. And I think it's critical for the legal staff of the Industrial Welfare Commission to carefully study the *Livadas* case that we cited earlier. And the *Livadas* case is the U.S. Supreme Court's statement of how to square minimum wage and hour standards provided by state law and regulations with protections provided under the NLRA. And I think that

that's a critical discussion that needs to be had at the public hearing. And I intend to brief that as well when we go into the public hearing on that.

But those are two of the legal issues that I'm aware of and I think that this Commission will want to address and probably clarify in the Statement as to the Basis on the order that this wage order squares with the Supreme Court's statement on collective bargaining exemptions.

Thank you.

COMMISSIONER DOMBROWSKI: All right. I've just received a card -- I don't know if I can read this -- Larry Robles (sic). Larry Robles (sic)? Is that right? Landscape Contractors.

MR. ROHLFES: Good morning. My name is Larry Rohlfes, and I am with the California Landscape Contractors Association.

Back on May 15th, we sent a letter to Chairman Dombrowski and copied Executive Officer Baron on the letter. It raised two issues that -- I don't know if it's appropriate to go into them now. It -- just suffice it to say it raised an issue of rain -- rainfall and other interruptions that we feel -- interruptions to work -- that we feel are somewhat unique to the construction industry. That was one issue.

The other issue had to do with the alternative daily workweek schedules and how we felt they were really inflexible, perhaps unintentionally inflexible, when rainfall occurred -- when interruptions such as rainfall occurred.

The -- we were under the assumption that these -- this letter would be given to the on-site wage board, and it may have been. I do know -- I attended the first wage board meeting in June and did learn that -- apparently the members of the wage board received a packet of letters only shortly before the meeting, and therefore could not have read the material or distilled it prior to the meeting. I did not attend the second meeting. I was on vacation for the July meeting. But I did learn that apparently the issues that were raised in our letter were never discussed at the meeting.

And the -- I guess, you know, I'm looking at the charge to the on-site construction, mining, oil drilling, and logging industries, and it does say that before making any recommendation, the Commission requests that the wage board review all the materials provided.

I guess -- I guess what I'd like to do is formally resubmit our letter in hopes that the Commission could look at the letter and give -- some of the things in the letter, people of goodwill can disagree with, but we would just like to see them discussed and maybe some reasons given as to why they may be bad ideas. But we think they're good -- we think that -- there's a couple things that are really fairly differmental to employers, but also to employees in the construction industry.

So I'll just give this to you, Mr. Dombrowski.

COMMISSIONER DOMBROWSKI: Mr. Baron, do you think maybe -- do you have a question, Barry?

COMMISSIONER BROAD: I was going to make a motion.

COMMISSIONER DOMBROWSKI: Oh, if you can just wait -- let him -- Mr. Baron, just for the commissioners, why don't you go through what the process is?

MR. BARON: In terms of the statutory practice and the practice of the Commission, apart from -- I know the Commission's been, up until now, very caught up in the procedures relative to AB 60. And we're actually at a hearing where AB 60 is -- is really now a separate issue. And therefore, when the Commission is considering either altering, amending, or crafting a new wage order, it is obliged to have an initial investigation which leads to a public -- leads to -- consists of at least a public hearing, which happened in both of these instances. It then decides, under a basic threshold of -- this is stated within the Labor Code, that,

"If, after investigation, the Commission finds that in any occupation, trade, or industry, the wages paid to employees may be inadequate to supply the costs of proper living, or that the hours or conditions of labor may be prejudicial to health, morals, or welfare of employees, the Commission shall select a wage board" --

-- which was the finding of the Commission in the instances of both wage boards here.

The wage boards were selected, and first they voted to -- the Commission voted to establish a wage board, and then voted to select -- to appoint members to the wage board, the wage board consisting of half of employee representatives, half employer representatives, as well as a nonvoting chair. Again, in each case, the wage board met at least once. In the -- in this case, in the on-site industries, it ended up meeting twice.

In some instances, on some specific recommendations, the Commission -- the wage board was able to come up with a two-thirds vote recommendation, in some areas not. In the areas where the wage board came up with a two-thirds recommendation, in terms of where we are in the process right now, given that the next stage of the process would be to have public hearings in at least three cities, in order for there to be public hearings for the -- hearings for the public to come under, you obviously need a proposal.

At this point in the process, recommendations that received at least a two-thirds vote, frankly, at this point, the Commission really serves as a pass-through to send those recommendations to -- for comment at the public hearings. The Commission then will have an opportunity, after the public hearings, to look at all issues, be they two thirds or not. In the case of two thirds, there is a substantial evidence threshold we can discuss -- we can discuss at a later point, if the Commission is going to make a change relative to two thirds.

Otherwise, as you see -- and that basically makes up what is Group 1 in your packets -- there were other items where at least a majority of those present did vote to support a proposal. That is basically in your Group 2. In terms of the flexibility of the Commission, as it did not receive a two thirds, the Commission has the opportunity to either support that language or could support any other language, or -- or no language at all. I've provided to members of the Commission in those same areas, in Group 2, so that they can have it as a reference.

Group 3 involves -- in those same areas, such as meal periods and rest periods, which -- where the Commission is up to now, has already taken votes on those areas or where they're already present in the wage orders. Again, the Commission has the flexibility to go along with any of these versions of language, or none at all. I guess my only comment relative to none at all would be -- is that, you know, these areas are -- basically sit in all of the wage orders. So I think it would be, you know, incumbent upon the Commission in these areas to -- to have language and proposals of recommendations that do so.

Again, anything that comes from the Commission today, there is the opportunity, again, at these public hearings for there to be comment on them. And then the Commission will have a final opportunity afterwards, after those three public hearings, to make final decisions on what the -- on what the proposal -- on what the, let's say, final regulations should be.

I guess, from a -- from a -- just a last thing, in terms of time frame, basically these regulations, if and when adopted by the Commission, go into effect in either January or July. And given the process beforehand and the notice of that that needs to occur, that basically, in both of these cases, if the Commission desires to have regulations going into effect in January, it would have to take final action in October.

COMMISSIONER BROAD: I just have a question. The January and July deadline, does that apply to only minimum wage or is that --

MR. BARON: It applies in all those cases.

COMMISSIONER BROAD: Mr. Chairman, I'm prepared to make a motion at this time.

With regard to an on-site occupational wage order, I would move that the IWC propose regulations for public comment encompassing the recommendations approved by the on-site industries wage board that were adopted by at least a two-thirds vote, that -- they're set forth in Group 1 in the commissioners' packets, regarding the following provisions: "Applicability," "Definitions," "Hours and Days of Work," "Minimum Wages," "Records," "Deductions from Pay," "Uniforms and Equipment," "Meals and Lodging," "Separability," and "Posting of the Order"; as well as those approved by at least a majority of those majority of those present, as set forth in Group 2, regarding the following provisions only: "Reporting Time Pay," "Meal Periods," "Rest Periods," and "Penalties."

And I would note that that would exclude the last item in Group 2, which is fundamentally inconsistent with what was adopted by a two-thirds vote in Group 1 and would violate various statutory provisions as well.

And finally, I would propose adopting what we're proposing for comment, those sections presently in our orders, where the wage board didn't take any action, as set forth in Group 4 of your packets, regarding the following provisions: "Licensed Handicapped Workers," "Cash Shortage and Breakage," "Seats," "Temperature," "Elevators," "Exemptions," "Filing Reports," "Inspection," and "Penalties."

And let me just make one request as a ministerial thing. I believe that the term "handicapped" is an outdated and, in fact, offensive term to people with disabilities. So I would -- I would suggest that we just change that to "Licensed Disabled Workers," and we should probably change that as a ministerial matter in all the wage orders at this point.

Thank you.

COMMISSIONER DOMBROWSKI: All right. Do we have a second?

COMMISSIONER ROSE: Second.

COMMISSIONER DOMBROWSKI: Discussion?

(No response)

COMMISSIONER DOMBROWSKI: We'll vote.

MR. BARON: Dombrowski.

COMMISSIONER DOMBROWSKI: Aye.

MR. BARON: Bosco.

COMMISSIONER BOSCO: Aye.

MR. BARON: Broad.

COMMISSIONER BROAD: Aye.

MR. BARON: Coleman.

COMMISSIONER COLEMAN: Aye.

MR. BARON: Rose.

COMMISSIONER ROSE: Aye.

COMMISSIONER DOMBROWSKI: Okay. That proposal is put out for public comment, and we will provide notice.

What's the notification on hearings?

MR. BARON: 30-day notice.

COMMISSIONER DOMBROWSKI: 30-day notice.

Next item on the agenda is consideration of the wage board report and recommendations regarding possible amendment to the general minimum wage order, Title 8, California Code of Regulations, Section 11000.

Mr. Rankin, do you want to bring up a panel?

MR. RANKIN: Good morning. Tom Rankin, with the California Labor Federation.

We have several people to testify on the question of increasing the minimum wage.

Unlike the relative peace that prevailed on the construction industry wage board, this one was, as usual, contentious, and no agreement was reached on any -- actually, there was agreement on one area that dealt with the question of looking into -- I think it was looking into the exemptions. But at any rate, on the basic issue of increasing the minimum wage, everything split 50 to 50, which has become normal on wage boards ever since the procedure was changed. At one point, you might know that we had -- on wage boards, we had a neutral who could vote. And in those days, often there was a majority vote to increase the minimum wage. Nowadays, the neutral doesn't vote, so that doesn't happen any more.

We have proposed, and continue to propose, a minimum wage of \$8.00 an hour, which would be phased in over a three-year period. It would go to \$6.75 on January 1, 2001; to \$7.50 on January 1, 2002; to \$8.00 on January 1, 2003; and on January 1, 2004, it would be indexed to the consumer price index, and every January thereafter, it would increase by whatever that amount called for.

It was very clear that the minimum wage, which we understand is going to be proposed today, of a 50-cent increase January 1, 2001, and another 50-cent increase January 1, 2002, does not meet the criteria that you are to go by, according to the statute, in determining what the minimum wage should be. And that criteria is whether or not the minimum wage is enough to "provide the necessary costs of proper living." We'll have several witnesses who will talk about that issue.

It's clear that there's a desperate need among low-wage workers for an increase. You all know what's happening with housing in the State of California. Does anyone seriously think that a person can find a place to live on \$6.75 an hour? I don't think so.

I think a lot of what this is about, of course, is the issue of political cover. So maybe I can give you some statistics that will help you out in that area.

In 1996, the minimum wage was increased by initiative from \$4.25 an hour to \$5.75 an hour, over a -- it involved two increases, one in March '97, one in March '98. The initiative was passed, I believe, in November of '97 -- '96, rather. That's a 35 percent increase, which the people supported.

In 1987, the Deukmejian Industrial Welfare Commission increased the minimum wage from \$3.35 an hour to \$4.25 an hour, a 90-cent increase. That's a 27 percent increase in one year, at one time.

Going back a little further, in 1957 the minimum wage in this state was \$1.00 an hour. Of course, at that time, it only covered women and children. And then Governor Brown decided that the minimum wage should cover everyone, particularly farm workers, and he put a bill into the Legislature calling for a minimum wage increase to \$1.25 an hour. That's a 25 percent increase.

Unfortunately, the bill was killed by what he characterized as a group of industries which -- interest -- special interest groups, agriculture, hotel and restaurant, the same ones you're going to see here today. And he prevailed

later on in getting the IWC to cover farm workers and to cover -- and to increase the minimum wage. But it wasn't until later, of course, that it covered men as well as women.

But let me read to you his quote:

"I have said repeatedly that if a person is worth hiring, he is worth paying a decent living wage. The special interest group which denies that imperils its own future as well as that of California."

The minimum wage workers need an increase in order to live properly and decently in this state, and the state needs an increase so that -- of the minimum wage so that we do not continue down a path of becoming a totally two tier society with huge divisions between the rich and poor. And we ask you -- we understand you're going to deal with the motion for 50 and 50, but we think that you really should, in the next three public hearings, reconsider that and look at what it really takes to live in the year 2001 in the State of California.

Thank you.

I now have Jean Ross, from the California Budget Project, who will provide you with some statistical data. What we'd sort of like to do here is to give you statistical data, and then what's going to be much more important is to put a human face on this problem by involving witnesses who are minimum wage workers.

MS. ROSS: I'm Jean Ross. I'm the executive director of the California Budget Project.

And I'd like to speak fairly briefly to three issues, and I'd be happy to take any questions. And I believe that we previously presented the Commission with some background materials. I have brief one-page summary, which I'll give to your staff at the conclusion of my remarks.

I'd like to speak to who the minimum wage workforce is in California, the adequacy of the current minimum wage, and the impact of recent minimum wage increases in California on the economy and employment, particularly the sectors that employ large numbers of low-wage workers.

First, with respect to who works for the minimum wage -- and I think it's important to look at this, even though I think these numbers have been presented to you before. We hear a lot of myths and stereotypes that are continually perpetuated about who minimum wage workers are in this state. And it also starts -- and I think this is one of the things that amazes me over and over again -- we're in the wealthiest state in the country, a state that, if it were a nation, would rank among the top ten in all of the statistics we hear, over and over again, that California has one of the absolute largest low-wage workforces of any state in the nation.

Over four out of five minimum wage workers -- and we looked at those that would be covered by the proposals that you're going to consider today, those that work for \$5.75 to \$6.75 an hour -- 84 percent are adults. Sixty-two percent are full-time workers, so we're looking at a group of people who aren't working to put themselves through school necessarily, who are out there working full-time, in many cases, to support a family. Sixteen percent are in manufacturing. Over half are Latino. In aggregate numbers, we're talking about one out of eight workers in the California economy, 1.6 million individuals.

And if you look sort of within the State of California, there are some very sharp differences north and south. In Los Angeles County, a slightly higher percentage are adults. Twenty-eight percent of the minimum wage workers in Los Angeles County are manufacturing workers, and 70 percent are full-time workers. So, again, we're looking at a number of people, a large number of people, who are working full-time, in many cases, to support a family.

One of the issues that's often raised, one of the criticisms of the minimum wage, is, "Well, you're diffusing the benefits across people who aren't necessarily low income." In fact, if you look at the increases from 1996 to 1998, what you find is that about 62 percent went to workers that are in the lowest 40 percent of the income distribution. That's family income. So you may have two of these workers combining their earnings for a family

income. And that's roughly families that are earning about \$35,000 a year. In any part of California, it's a difficult sum of money to raise a family.

Another issue that was discussed extensively at the wage board hearing last month was whether the minimum wage was a starting wage or a, quote-unquote, "career" wage. And I think, again, if you look at the share of the minimum wage workforce in California, they're adults. This suggests that you have people that are spending a fair amount of time at the minimum wage. But there's also a recent study, which I provided to Mr. Baron, by economists for the Federal Bureau of Labor Statistics and the Federal Reserve Bank, which looked at young workers who were at least two years out of school and their earnings progression over their first ten years in the workforce. These economists found that about one out of twelve of the workers in their study group spent over half of their first ten years in a minimum wage job, within a dollar of the minimum wage.

And I think it's important to look at that, because they ignored the first two years. So these are people who have already been two years out of school. These are people who didn't return to school and thus were pretty much out there working in the workforce on a full-time basis. They concluded that a fairly significant fraction of the workforce did, in fact, have a minimum wage career.

The adequacy of the minimum wage: by nearly any standard imaginable, the current minimum wage in California provides an inadequate standard of living. If you look at the standard over history, which Mr. Rankin addressed somewhat, if you go back to 1968, which was, I think, the last time we had an economy comparable to what we have today, the minimum wage was the equivalent of \$8.37 an hour. The purchasing power has since declined by 31 percent.

Your Commission, your predecessors back in 1961, adopted the standard of a budget for a self-supporting working woman -- of course, that's also back when the minimum wage applied to women -- but it's still a good standard, I think, to look at what does it take to support a single person in the current economy. And we went back and we updated, using the same sort of allocation of expenses, rent, transportation, et cetera. And we found that, based on sort of like a statewide average, which is mainly in terms of housing costs, that it would take a minimum wage of \$8.03 an hour to buy that market basket of goods.

The proposal that you would consider today would leave California behind either the historic standard or a needs-based standard, even if it was adopted in full today. And you'd be further behind in 2002, when it would be fully implemented.

Finally, the impacts on employment. And again, I think this gets to some of the myths and stereotypes that are often perpetuated. There's a lot of sort of the conventional wisdom, which is that if you increase the minimum wage, you'd have a negative impact on employment. There's a new set of economic research, primarily by U.C. Berkeley Professor David Card and Princeton economist Allen Krueger, that found that this is not necessarily the case.

We commissioned a study earlier this year that used a methodology similar to what they've used that looked at the impact on employment of the minimum wage increases from 1996 to 1998 in California. We looked at the sectors that employed large numbers of low-wage workers. We always looked at demographics which are disproportionately represented in the low-wage workforce, teenagers, Latino workers, other workers of color, individuals without high school degrees. What we found is that the demographic -- with the teens, the Latinos, individuals without high school degrees -- actually experienced stronger employment growth in the years after the minimum wage increases than they had before. But moreover, their employment increased at rates greater than that for the workforce as a whole, which shows that, I think, there was no negative impact on the employment process for those groups. Similarly, we found that there was no negative impact on employment within the industries -- retail, hotel, amusement -- which typically employ large numbers of low-wage workers.

We could build a model which would show a very slight negative impact on the restaurant industry. But when you took into account employment and unemployment within the county -- so we're controlling for employment trends at the local level -- there was no statistically significant impact.

And I think that really lays to rest the arguments that have been made that the minimum wage would have a negative impact on employment.

I'd be happy to answer any questions.

MR. RANKIN: The next witness is Professor Michael Reich, from the University of California, who has studied the minimum wage question.

PROFESSOR REICH: Yes. Thank you.

I have a handout that I wanted to pass out, and also copies of a study I've done, which I'll give you later also. And here's a study I've done with Peter Hall, a graduate student at U.C. Berkeley. There are copies there to hand out to the audience.

I've been at U.C. Berkeley for about three -- for nearly three decades, it seems, so I also remember when the minimum wage was set in 1968. At that time, I was at Harvard. I was working on a study of low-wage labor markets in Boston, with John Dunlop, the U.S. Secretary of Labor in the Ford administration. And I've been studying low-wage labor markets ever since.

In the early '90's, I was the research director for the National Center for the Workplace, which was a federally funded program initiated in the Bush administration and funded -- executed in the Clinton years.

Now, what I want to do is focus mainly on the impact that the increases, the various minimum wage increases, had on the California economy. And I summarized what we've done in the study in one page, and then this has got tables and figures as well. This is a study I've been doing for some time also in many respects on work -- again, I'd have to say, my colleague, Dave Card, the economist from Princeton, and I consulted with him on this study.

But what's different about what we're doing goes to what I think Jean Ross just presented us with, we are kind of -- ourselves, we looked at the underlying data from the Current Population Survey, which is a national survey of 55,000 households done every month. And there are enough of them in California, because we are such a big state, that we get a big sample size and can follow people or follow trends over a fairly long time period. And we used the biggest possible sample that we could obtain -- it was about 50 percent bigger than other studies have used -- and were able to look at a lot of the impacts in some detail.

And in the paper, I talk about the -- also the growth in the numbers of low-wage workers and the growth of wage inequality in the state, which is clearly known to be one of the highest in the United States -- it's growing faster than anywhere else in -- anywhere in the states.

And I've also included the baselines here. The baselines that I used are \$6.00, \$8.00, and \$10.00, different definitions of what would constitute low wages. \$6.00 is what was close to the approximate value in terms of when it was passed; \$8.00 is what it was, the '68 level, in real terms; \$10.00 because that's come out of a lot of the budget studies as to what is needed just for a single worker with one dependent.

Another benchmark is that if you took the growth in labor productivity from 1968 to the present, and if that was shared proportionately among all the workers, and the minimum wage, if you pegged productivity growth from '68 to today, would be well over \$11.00 an hour. Even if it was half of that, because maybe you could say a lot of low-wage workers' productivity grows fast -- possible -- then that still brings you somewhere close to \$10.00 an hour.

And so, these were affordable figures in 1968. And I think we can look and see what the restaurants -- restaurants have changed here, like people have brought back. Briefly, to kind of headline what I found, is that although wages were declining at the low end and wage inequality was larger, the minimum wage of '96-'98 did turn things around a little bit at the bottom end. And the table that you can look at later, with the brief text, go into this in some detail. So, in the interests of time, I'm not going to dwell on that very much.

I did want to -- I did want to touch on a couple points of who the low-wage workers are and some of changes. I'm happy to say, we have some commonality here, even though there are different benchmarks and methodology.

First of all, who low-wage workers are, it's not too surprising. Yes, they are somewhat younger than the average worker. They also have less education. They're more likely to be Latino and more likely to be women. And they're more likely to come from low-income households.

Let's take up one -- two of these, rather, the issue of age and also the question about minimum wage as a start-out wage, which is what I did not find in many people in Boston in the late 1960's. While it does -- it is the case that wages tend to rise with experience, we have run multiple variable progressions, just for California, showing the trend of experience, based on the trend of experience. Nonetheless, a lot of people don't get it, get that increase. Of workers who earned less than \$6.00 an hour in 1999, 65 percent of them are over age 22, but half of them are 30 and older. Of workers who were between \$6.00 and \$8.00 an hour, three fourths are over 22, and over half are 30 and older. And I have figures and data and tables that go through older work groups as well -- so that's a little bit beyond the data in this new minimum wage career paper that Jean cited. So these aren't workers who are just beginning to gain work experience; they are people who are stuck on a slow -- on a dead-end track, in effect.

The question of whether the minimum wage targets low-income households also comes up quite a bit. There are quite a few economists now who are saying, "Well, no, it isn't the case; a lot of teenagers come from middle-class households in the suburbs and are working for leisure," you know, just to buy CD's or whatever it is. And, of course, there are such workers. But when we tried to do this underlying correlation between what the wage of the worker is and the kind of income they came -- household income, the income of the household they live in, we find that, in fact, only about 10 percent of the low-wage workers could conceivably fit such a categorization, that most of the lowest-wage workers certainly are in low-income households. And therefore, the minimum wage does, in fact, target the low-income households. It doesn't -- it is not the case that the minimum wage workers are evenly distributed among other kinds of households; they are very concentrated in low-income households.

Then we looked at employment impact, the impact on retail and restaurants, assuming people knew about that, how many workers benefited, and some issues about whether wage increases would actually affect wages throughout the whole wage distribution so everyone was left kind of relative to where they before, and also whether some people were displaced because wage increases -- mandated increases meant that those who were intended to be benefited were, in fact, let go when someone else came in who had higher skills or higher education or something like that.

And I've also looked at the effects on inflation. And just kind of touching in on the highlights here -- and hopefully, you'll have a chance to read it, and I can address questions today or at some other point.

First of all, on the employment effect, if you look at the employment-to-population and wage share within any age group, the year before the minimum wage went into effect, in 1995, and the year after, 1999, you find an increase. So -- that's in all age groups, so it's -- this is consistent with what's just been reported.

Now, it could be that economic growth raised that, it would have gone up anyway -- it was after the minimum wage. We think that's one of the methodological questions economists like to address, and they isolate one effect when there's a lot of things changing simultaneously. And we have a pretty careful table in the appendix that goes into that in some detail, which is in the paper and on the handout.

So we also see that the -- any kind of relationship between employment growth in the state and unemployment rates before and after the minimum wage, the relationship didn't change. So you don't see a discrepancy or a shift just because of the minimum wage increase. So that suggests that the minimum wage didn't affect the rate of employment growth in the state as a whole.

We also did this for the lowest wage industries, like retail and restaurants. And the surprising thing actually is that retail and restaurant employment maintained this trend in the late 1990's, and it showed manufacturing and construction employment growths. And so absolute growth rate declined -- this is during the '97-98 Asian

financial crisis when there was a lot of concern about whether we could export to some of those countries. And, in fact, the lower wage sectors were more buoyant than the higher wage sectors, which again was the opposite of what you would expect, that the minimum wage would have the impact on the lower wage -- on those low-wage industries.

Then I kind of, at the very end, ask -- address the questions you're asking. So, how could that be? You know, it does seem counter-intuitive.

In terms of the number of workers benefited, we think it's about one and a third million who got wage increases directly from the '96 to '98 initiative that was on the ballot. And this was somewhat, of course, an attitude by the fact that some people who were above the minimum wage also got some increases, because there's some attempt to maintain relativities. Thus, a supervisor is not going to want to get paid less or the same as their assistant or their underlings, so you do see some increase above the minimum wage for those who got increases. But it tapers off fairly rapidly, and we find that it now tapers off at the same rate that Card and Krueger found in 1988, after the 1988 increase. About half of the increase disappears when you're about half above, in percentage terms, what the increase itself was, so that if minimum wage went up \$1.50, at 75 cents above the minimum wage, you find only about half the workers getting an increase at all. And if you go 100 percent above that, \$1.50 above that, so that would bring us to, if I can count right, to \$5.75, plus another \$1.50 above that, is \$7.25. Right. Above that, there was no increase at all that we could find.

So it's not the case that all wages are going to go up in proportion. In fact, there can be compression. And that's -- so the wage structure we have today is historically much, much more unequal than it was in the late 1960's. And it would take an increase in the minimum wage to bring us back to where we were.

A word about displacement and substitution effects. The way we look at that is to look at the wages -- rather, the schooling level by wage. And what we find is that it just -- there, of course, is a gradient: the higher the wage, the higher the average level of schooling in that wage class or the job, on the average. But it's a pretty flat gradient; it's not a very steep one at this level. And even though all the way up to \$8.00 or \$10.00 an hour, you are still talking still about really high-school dropouts, the average -- at \$8.00 an hour, the average education level is still 11.6 years of schooling. So, at the current minimum wage, I think it's about 10 and a half. There's some increase, but it's not a huge increase. To some extent, employers can take this into account by doing more training. There are some fixed costs of hiring and so on, and firing or to lay off existing workforce. And public policy, of course, also could have an effect on training plus the substitution.

I wasn't too concerned about this after looking at those figures.

The effects on inflation and prices, price inflation decreases in California and the United States over the course of the '90's. In the late '90's, what you find is that the gap between California and U.S. actually -- price inflation was higher in the U.S. -- I'm sorry -- in California, or rather, the relativity went against California after the minimum wage increased. So, when I think of the way the minimum wage has an increased effect on prices here, that's in the context of a decline in inflation, however. But we think that the -- there are lots of other suspects for why cost of living has gone up more in California than in the rest of the country -- relative to the rest of the country -- in recent years, housing, of course, being the chief suspect.

We also looked at inflation in the restaurant industry and compared it for -- eating and drinking establishments, really, compared to buying food and beverages in a supermarket or the -- or some of the input costs to the restaurant industry, food and so on. And the two sets of figures for -- that is, whether you buy food or whether you eat food away from home, they track very, very closely. So, if it were the case that labor costs in restaurants have gone up so much as to raise costs so much as to require restaurants to raise prices more than everybody else, we should have seen an increase in the price of meals eaten out as opposed to food inputs, basically from supermarkets, at home. That's not the case. That suggests that the restaurants actually had means of increasing worker productivity. And I'd suggest, if you go to any restaurant in Los Angeles County, you will see computers and all kinds of other means of increasing productivity that weren't there. A little -- little bit, 2 percent, 3 percent per year, is not a lot for a restaurant to achieve in productivity growth per year, and it permits -- will accumulate over the years in the growth of wages.

So, finally, the question is: can the economy of California absorb another round of wage increases? And I think the context here is -- historical context is useful. We've just seen a 35 percent increase phased in over eighteen or nineteen months, which I think was absorbed in a quite benign way in the state, and also quite durably, at least so far, in terms of the positive impacts. The 1988 increase, that was 27 percent in one year, also did not seem to have any restrictive effect on employment effects, and it had some -- as I said, some reduction in wage inequality. However, inflation was greater in those years, and real value, the real value of the minimum wage, eroded much more rapidly, and some of wage relativities came back. So, in fact, the particular increase that we just went through, the 35 percent increase in '96-98, had more benign and more durable effects than did the 1988 increase.

An increase to \$8.00 an hour, as has been suggested, is a 39 percent increase if it happened all at once. And that would affect, according to our tables, 25 percent of the workforce in California. That seems like a lot. But again, I think if you think of the historical perspective, if you phase it in and you think especially where we were in, say, 1980, since 1968, these are, I think, a lot more readily absorbable than you might think from most of these numbers.

Thank you.

COMMISSIONER DOMBROWSKI: Any questions?

COMMISSIONER BROAD: Yeah. Professor Reich, what -- if you look back historically in -- back to 1968 and 1980 and these other -- 1996 -- these benchmark years, is the -- is the percentage of workers working at or near the minimum wage about the same as a percent of the entire workforce? Smaller? Larger?

PROFESSOR REICH: Correct. That's a very good question. I don't have very figures today that go back to 1968, but just for California, the percentage of workers in 1980 who were at, say, up to \$6.00 an hour, in 1999 dollars, was 11 percent of the workforce. And in 1994, it's 13 percent of the workforce. That minimum wage increase led to a decline in that percentage, 1.5 percent. If you look at the numbers who were up to \$8.00, or the proportion of the workforce, that was 27 percent in 1980. In 1999 -- and this is, again, for 1999 dollars -- in 1999, the percent earning up to \$8.00 was 25 percent of the workforce. So more workers, as a percent of the California workforce, are earning under what was the 1968 minimum wage, as a percent, than what was the case in 1980.

COMMISSIONER BROAD: So that would support the general sense that we have, you know, sort of a tale of two cities --

PROFESSOR REICH: That's right.

COMMISSIONER BROAD: -- in this -- in this state, and perhaps in other places as well.

PROFESSOR REICH: Well, we have a tale of two -- we have two Californias, or a dual labor market, which was the term I came up with after looking at Boston. But it's also clear from a lot of research that that's subject to public policy. It's not inevitable. And that's one of the lessons of this minimum wage story right here.

Prior -- in the period -- looking at the 1950's to the mid-1970's, early 1970's, we did find fluctuations in wage inequality that tended to increase during recessions but that decreased during expansions. Wage differentials get narrower as the labor markets get tighter, but there's no overall trend. So whatever two cities we had were kind of relatively the same, over a long trend in those decades. But more recently, we've had this divergence. We have -- wage inequality grew during recessions, just grew faster during recessions. And that's the period since 1980.

COMMISSIONER BROAD: Let me ask this question, then, which is probably diverse from your -- this study and this research. But do you have a sense, then, about, over time, the ability of people to move from that lower strata into the higher strata and whether the barriers --

PROFESSOR REICH: Right, right.

COMMISSIONER BROAD: -- barriers have gone down or increased, notwithstanding all the rhetoric?

PROFESSOR REICH: Well, we have to -- you know, we have to -- there's a lot of different groups in the workforce --

COMMISSIONER BROAD: Right.

PROFESSOR REICH: -- so we want to be clear as to an opportunity to move up from where they used to be. But there have been a -- several studies saying, "Well, look, wage inequality has gone up. Could it also be the case that mobility is also gone up, so more people tend to move up less?" And that's -- that's been shown not to be the case. Mobility hasn't changed at all, from one, say, a decile of the wage force, or a quintile, you know, when you go up to another. It's just what it used to be, but the gaps are bigger.

MS. ROSS: There's some very interesting research that came out of that bastion of liberal thought known as the Federal Reserve Bank, which looked at California, and again, how California compares to the nation and, of course, to mobility. And this is one of the things that, as a native Californian, is disconcerting to me. What they found is nationally, over the past decade, there's been -- the middle class has shrunk, so people have moved from the middle to the top. In California, people have moved from the middle to the bottom, and that's why we have inequality that's increasing more rapidly than the nation as a whole. And that reflects a lot of the industrial mix in California, and the fact that we hear a lot about high technology, but if you look really at where the numbers of job growth have been in California, it is primarily still in the low-wage sectors and low-wage occupations.

MR. RANKIN: The next witnesses are -- Bill Powers, from the California Congress of Seniors.

MR. POWERS: Good morning. Thank you.

I'm here today to support the recommendation of the AFL-CIO to raise the minimum wage, even though we recognize that that proposal may not bring people out of poverty.

I'm here today on behalf of the Congress of California Seniors to support a significant increase in the minimum wage, which will take workers out of poverty. These are the hard-working people who deserve better than they're currently getting. Many care for us when we are sick; these are the in-home supportive services workers, the hospital workers, those who work in nursing homes. And those who toil in the fields and those who provide the needed services to us, they deserve better than poverty wages. More often than not, those wages -- those wages are without any benefits, including healthcare.

These working people, essentially, are subsidizing the rest of our society, and that's not fair. We and we should do better.

We urge you to approve a raise in the minimum wage which will raise all working people out of poverty. This is -- this is fairness. This is about fairness and justice, and we strongly urge that recommendation.

Thank you very much.

(Applause)

MR. RANKIN: David Pollard, with the California Catholic Conference.

MR. POLLARD: I have been asked to speak also on behalf of the California Council of Churches and the Lutheran Public Policy Office.

The bishops of the United States several years ago issued a pastoral letter in which they urged that new efforts be made to advance an economy that could -- would parallel the political system set in place with the founding of our country. The refrain from that letter is still true. I hope you reflect on it in your deliberations today and in the months to come.

The person does not exist for the economy; the economy exists for the person. The title of the pastoral, "Economic Justice for All," bespeaks the vision they held before us and reflects the tradition of Catholic social thought. Affluence should not be built upon the backs of the poor and of unskilled and unorganized workers.

A similar vision animated the legislation that established this very Commission over half a century ago. The Commission was charged to ensure that all employees in the state be paid wages adequate, quote, "to supply the costs of proper living," close quote. Clearly, that purpose seems to have grown weak as the gap between the affluent and the poor has widened with each successive decade.

Our economy is strong. Many are working. Welfare benefits have been reduced, and now there is justifiable effort toward welfare reform. However, there can be no just enactment of welfare reform unless there is a commensurate increase in the minimum wage.

Unskilled workers live with the reality that neither welfare benefits nor the present minimum wage, quote, "supply the costs of proper living," close quotes. Endless speculation about the cost and effects of raising the minimum wage on inflation and unemployment has surrounded all past attempts to raise the minimum wage level. Similar cries will greet any increase made now. History has shown that the dire predictions do not materialize. But apart from this, the speculation must cease in the face of historic reality of poverty faced by those working for the present minimum wage.

We encourage all members of the Commission to vote a substantial increase to the wage and move us slightly closer to economic justice for all those working for minimum wage, most particularly for the women and children, who are the principal victims of the present unjustifiable standard. These people should be treated as persons, not simply as factors of production.

(Applause)

MR. RANKIN: Nick Delte, from Californians for Justice.

(Cheering and applause)

MR. DELTE: Hi. My name is Nick Delte, and I'm from Californians for Justice.

And I think we should raise the minimum wage because with the help of -- the raising will also help single parents, such as my mom. She was one of the 80 percent of minimum wage workers who are adults, and she was one of them. And I had to get a job just to help out, to get groceries and clothes. It was hard, but, you know, we survived. And it's just hard to think of other families that struggle doing the same thing we had to struggle with.

And I think that you guys should raise it up more than \$6.75. That's not much of a raise, but please take that into consideration.

Thank you.

(Applause)

MR. RANKIN: Charlie Thomas, with ACORN.

(Applause)

MR. THOMAS: Members of the Commission and my fellow workers, my name is Charlie Thomas. I'm a member of California ACORN and a Sacramento resident. I'm also a father of a ten-year-old boy who attends public schools.

I became a member -- an organizer for ACORN shortly after -- also, I was instrumental in -- I was working for the Sacramento City School District as a substitute custodian. And what happened is, when I signed up as a substitute, I was under the impression that my work or whatever would be evaluated and I would soon get a

permanent position when a permanent position became available. But come to find out what happened is, what the Sacramento City Schools had in mind was, they had a small number of employees that they had that were going to be permanent and a certain amount that they were just going to work and exploit. I can't say that I was exactly a low, low wage worker or anything, because we -- the wages were -- I started about 9 or close to \$10 an hour, and we got an increase, but only after we were represented by a union. We had to vote it in to do that. We had to actually go out and get a petition signed, had to go in front of the National Labor Relations Board, and eventually we were recognized as being a part of SEIU 790. I was elected to be on the bargaining team. And as of now, we're still bargaining.

But as a result of us bargaining and getting the people together to want to be represented by the union, because as of right now, the substitute custodians have no health benefits at all. They're doing the work -- the same work as the permanent, but they have no benefits at all.

And myself, I'm a single parent. And as of right now, I mean, I -- maybe I might break the stereotype a little bit, but as you watch the mass media, the first thing that comes to mind is all fathers are deadbeats, and they're just basically taking off and not taking care of responsibilities. But sometimes we find the other partner, some of the females, are not taking care of their responsibilities. In my case, I have my son and I'm taking care of him. His mother's paying no child support because she believes she shouldn't pay child support. And they're telling me, because she's out of the State of California, that she doesn't have to pay. But if I left California and went to Canada, they would -- they would track me down for child support. So, I don't want to break any stereotypes -- maybe only that one. I'm just being a realist. You know, I'm not here to rattle off about statistics or anything like that. I'm a human being, you guys are human beings. We have a heartbeat. So, this is real. This is serious.

And the aspect of saying \$8.00 an hour, I -- you know, I think \$8.00 an hour is very reasonable.

We look out here and we go to the gas pumps in California and see our gas prices are \$2.00 a gallon and rising. And just an aspect of -- we have all these jobs that we created, but they all seem to be temporary jobs or no benefits, non-unionized. And how do you expect parents really to take care of your kids? This is a troubled time, you know. And really, with these low wages, what you're going to create is a bunch of latchkey kids running around with no supervision, waiting to get in trouble. And I just think that \$8.00 is the least -- and that's a start. I mean, we also have to deal with the issue of why we have so many people working without basic human rights and benefits in California.

And when I look around our community, I want to -- I'm looking for where all the economic boom that I see in the media. Too many people are working two or three jobs. We're making too many people work without health insurance or a pension. Too many people are getting downsized into part-time or casual temporary positions, when everyone wants to be working full-time. The economic boom hasn't come to our community yet. But it can. And passing a strong proposition, one goes beyond \$6.75 over two years, we can get there. Two amounts of an increase won't regain the ground that has been lost for working people in the last thirty years. Californians don't need modesty or compromise today; they need a raise.

Thank you.

(Applause)

COMMISSIONER ROSE: Mr. Thomas, would you please explain what ACORN, what the acronym stands for?

MR. THOMAS: Okay. I'm glad you asked that. ACORN stands for Associations of Communities Organized for Reform Now. They're a grassroots organization. They were founded in Arkansas, Little Rock, Arkansas, in the 1970's. It came out of the civil rights movement. And they have been at the forefront as far as the minimum wage increases, as far as grassroots organizing in communities, dealing with abandoned buildings, things of that nature, trying to get community centers and things in the communities, and just empowering the people, and just going to politicians saying, "We're voters and we're human beings and we need -- you know, we need rights."

COMMISSIONER ROSE: Thank you.

(Applause)

MR. RANKIN: Next, Mike Herald, Housing California.

MR. HERALD: Thanks.

Thank you for having me here. My name is Mike Herald. I'm the executive director of Housing California. We're a statewide coalition of affordable housing advocates. Our mission in life is to build housing for low-income folks that they can afford.

You may wonder, "Why would a housing group be here today to talk about a minimum wage increase?" Well, the simple fact of the matter is that people who don't have enough income can't afford housing. And I came today because I wanted to let you know what it costs in the State of California now in order to afford housing.

As you know, it was mentioned earlier by Mr. Rankin that housing costs have gone up dramatically in the State of California, far beyond what wages, the typical wages in the state, are. And last year there was a study released by an organization that we work with called the National Low-Income Housing Coalition. They put out an annual study called "Out of Reach: The Gap Between Housing Costs and the Income of Poor People in the United States." And this study showed that at the national level, to afford a typical two-bedroom unit in the United States, you needed to make \$11.08 an hour. But in California, to afford that same two-bedroom unit, you needed to make \$14.90 an hour.

So I would suggest that the minimum wage increase being suggested by the AFL today is substantially too low, that, in fact, we need to go higher, that \$8.00 an hour is really not high enough in most markets in California to afford housing.

And furthermore, at the current minimum wage, a worker would need to work ninety -- a minimum wage worker would need to work 97 hours a week, on average, just to afford housing in California. Obviously, that's substantially more than a person can work in a week and is an impossible threshold for them to meet.

I also want to note that in addition to the high general housing costs in California, most of the major metropolitan areas in California had substantially higher costs for housing than the statewide average. For example, Contra Costa County requires a housing wage, as we describe it, of \$16.56 an hour. A minimum wage worker at the current rate needs to work 115 hours in Contra Costa to afford housing. Orange County, a worker needs to make \$16.75 an hour to afford housing; San Mateo County, \$22.44; San Francisco, the same rate; San Jose, \$21.90 an hour.

I also want to note for the Commission that these figures are based on 1990 HUD fair market rents. In other words, the rent totals that were being used in this were already a year out of date because HUD's data is a little slow in getting to us. Next month we will release a new study -- the National Coalition will release a new study -- with updated figures. And given the substantial double-digit increases in rents we've seen across the state this year, you can expect these housing wages to go up substantially, certainly by 10 percent or more in many of the -- in many of the locales.

So we not only support the proposal for an \$8.00 an hour minimum wage, but we think that it needs to be increased in the future in order to keep up with the reality of housing costs in the State of California.

Thank you.

(Cheering and applause)

COMMISSIONER BROAD: What, as a practical matter, do people do who are -- I mean, that are earning the minimum wage, in terms of housing?

MR. HERALD: Well, California has one of the highest overcrowding rates of housing in the -- in the country. In the range of about 15 to 20 percent of our units are overcrowded, and that's probably a little bit of an under-

count. But the reality is that people end up doubling and tripling and quadrupling up in order to pay these kinds of exorbitant rents.

Now, the other thing is that, frankly, increasingly, we're seeing people being forced out of urban poor areas and forced out into the suburbs, having to make long commutes, which cost people a lot of money, in order to afford the cost of housing. Obviously, people being driven out of their communities is no solution.

(Applause)

MR. RANKIN: Lourdes Montillo, a home care worker.

MS. MONTILLO: Good afternoon. My name is Lourdes Montillo.

For the past 28 years, I've been dealing in home supportive services, which is the high-quality care service that I provide. In the 28 years, I've acquired skills that would fit me in a hospital working as a nurse RN.

I raised two sons on minimum wage. And back then when I started, my annual income was \$4,000. This past income tax year, my annual income, I barely made \$18,000.

If you look back when I started working, we were back at two dollars plus an hour. Right now we're at \$5.75. Breaking it down for each year, I have earned less than 10 cents a year raise. That's how I broke it down, working minimum wage. This is what everyone is doing.

We're right now, currently in California, about 200,000 in-home supportive services living on this income. Most of us are my age. I just reached 50. Some are a little younger, in their thirties, raising families. And it was very difficult living, trying to decide which bill I'm going to pay this month and which one I was going to pay extra financing on, late charges. Rent -- how was I going to do the rent?

I went several years without a car, which meant I had to bus. And like the gentleman before me said, I had to live out in a rural area. The closest the bus would leave me off is a mile and a half from where I was living. So every time I went grocery shopping, I had to cart all my groceries in my arms a mile and a half to get home, which is only about six bags. So that was every week.

Groceries, again, it was a very tough dilemma, trying to find the best deals, where do I -- how am I going to feed my children? There was times when we had to go to the Food Closet, which was embarrassing. You know, here I am, working, earning a living, paying my taxes, and yet I still have to go in and ask food at the Food Closet.

Medical, very difficult. Every time I went to an emergency, that's the only time I saw the doctor. I still do that every time I need to see a doctor. It costs me \$26 to get a taxi to get to an emergency room, another \$119 for the emergency room, about 26, maybe in that category, of dollars for medication, and then coming back home in the taxi, another \$26. If I walk into an urgent care clinic right now, I need to have cash on me. Otherwise I just have to wait for the 100 dollars. And that's what it's like.

And I hope -- maybe I'll challenge one of you to live one week in my shoes at \$5.75 an hour.

(Applause)

MS. MONTILLO: And now I would like to introduce Rosalina Garcia. She's here from Janitors for Justice.

MS. GARCIA: (Through Interpreter) I am Rosalina Garcia. I'm working with the Janitors for Justice, and I'm working at \$5.75 an hour.

I am a single mother raising two children, and unfortunately, right now, with the income I'm receiving, it's very hard to raise my family.

In the prior hearings that I attended, there was talk about income going out -- the interpreters that are here, the marketing businesses, were pretty well -- you know, we're going to have to leave and get out, go to another state or out of California in order to survive.

MS. MONTILLO: (Interpreting) And she says, "We're still here. They're still here."

MS. GARCIA: (Through Interpreter) As stated previously, if the economy -- if the wages are going to go up, the economy would go up.

MS. MONTILLO: (Interpreting) In her case, the -- she's still at minimum wage.

MS. GARCIA: (Through Interpreter) The only ones that are penalized in this issue are the children. They're the ones that are left without.

In the previous hearing, there was a Republican gentleman here who said, "Progress. Educate yourselves to progress."

MS. MONTILLO: (Interpreting) She says, "How can we if we're holding down two jobs to raise our children? There's no time to go to -- receive education."

(Applause)

MS. GARCIA: (Through Interpreter) So there's no time to receive education. How do we progress? How do we get out of this poverty?

Do you think that I maybe would like to have one of your positions?

(Laughter)

COMMISSIONER DOMBROWSKI: Be careful what you wish for.

(Laughter)

MS. MONTILLO: (Interpreting) Or do you think it's nice to have her job at \$5.75, that this is a good career?

She says that -- she's not here to disrespect anyone or be insensitive.

MS. GARCIA: (Through Interpreter) There were people at other hearings who said, "Why don't you better yourself, your position?"

MS. MONTILLO: (Interpreting) She says, "It's impossible to do that. We would like to, but with the way things are now, how is it possible?"

MS. GARCIA: (Through Interpreter) There -- we just can't make it on \$5.75.

(Applause)

COMMISSIONER DOMBROWSKI: Thank you.

Now I want to call up Elizabeth Guillen. I think Chris Schneider can come up next.

MS. GUILLEN: Good morning -- or, good afternoon, commissioners. I appreciate the opportunity to testify.

My name is Elizabeth Guillen. I'm with the Mexican-American Legal Defense and Educational Fund. We're a civil rights organization that represents Latinos nationally.

While Latino workers account for almost a third of all California workers, the highest labor force representation of any ethnic group in the state, yet over half, 55 percent of workers, with wages below the minimum wage are Latino. Latinos are highly represented in low-wage occupations. Four out of five farm workers are Latinos. Two out of three assembly workers are Latino, and one out of two household domestic workers are Latino. Workers in these low-wage jobs often do not have full-time employment. And these are the same sectors of work that the professor testified earlier are increasing.

The wages that these workers earn barely enable them to keep themselves, to transport themselves to the work, to house themselves, but rarely the luxury of all three, much less afford health insurance or childcare.

A recent report about the Los Angeles working poor concludes that Latinos constitute a greater proportion of poor workers than their proportion in the workforce generally. For example, in manufacturing, Latinos constitute 42 percent of the total workforce, but 75 percent of the working poor. In transportation, Latinos are 26 percent of the total workforce, but 55 percent of the working poor.

The workers that have come before you today have been most candid in describing their real-life, everyday situations and what it is like to work on \$5.75 an hour.

We support the recommendation to increase the wage to \$8.00, but acknowledge that even that is not enough to provide basic support, a basic lifestyle, in the California economy. We think that raising the minimum wage to \$8.00 an hour is the morally correct thing to do, and we urge you to do that.

Thank you.

(Applause)

MR. SCHNEIDER: Good afternoon, commissioners. Thank you. My name is Chris Schneider. I'm with Central California Legal Services. And I want to thank the workers that came and put a face on what it means to work at minimum wage.

I'm speaking on behalf of workers that don't even receive the minimum wage, who receive an effective wage of \$1.00 an hour, who are required by their employers, because there's no wage order affecting them, to be at the work site 24 hours a day, seven days a week, 365 days a year. And they get an effective wage of about \$1.00 per hour.

I want to read for you -- since I can't have a worker here because they're all at work -- something that -- the lead paragraph from an article in today's *Los Angeles Times*:

"Lost Hills, California. Here in the middle of nowhere, amid a near-suffocating ray of triple-digit heat, a lone man in a straw hat and riding clothes watches more than 800 sheep graze on a patch of desert brushwood. A guest worker from Peru, the shepherd has been on the job for nearly three years. And he says he hasn't had a day off since he arrived.

"His home is a run-down trailer that buzzes with flies, has no air conditioner or running water. His toilet consists of a shovel that his employer gave him to bury his excrement."

This is the type of conditions that I have observed for the past ten years with hundreds of sheepherders throughout California, because not only are they excluded from the minimum wage, but because they're excluded from the wage orders, they have nothing that protects them for wages and for hours of work each day, the number of days they can work in a week, breaks, time off. They're not covered by the Fair Labor Standards Act either.

So what we have are 18th-century conditions in 2000. They get a wage that is nowhere -- an effective wage that is not even near what the minimum wage was in the 1960's.

We're talking about basic human rights. We will bring you witnesses at the future hearings, but I have presented to you, all the members, a copy of this report, "Suffering in the Pastures of Plenty," which our organization released in March of this year. I'd urge you to look at this.

I know that oftentimes this -- the board gets divided on issues, but this is one issue that I think all members can vote for and say that in California, we are not going to tolerate slave-like conditions.

Thank you very much.

(Applause)

COMMISSIONER DOMBROWSKI: Jon Ross, Julianne Broyles, and Cynthia Cory.

MS. BROYLES: Good afternoon, members -- chairman, commissioners on the Industrial Welfare Commission. Julianne Broyles, from the California Chamber of Commerce. And I do appreciate the ability to come and talk with you today regarding the minimum wage and proposals that have been proffered by different organizations regarding what that amount should be.

First of all, I would like to state for the record the California Chamber is not necessarily opposed to an increase in the minimum wage. However, what we are asking the Industrial Welfare Commission to consider is the fact that you have action at the federal level currently contemplated in two different proposals to increase the minimum wage. And it would make sense, in our opinion, to examine that fact -- they've got about 60 days left in the session for Congress at this time -- and let us know what the basis or what the increase is going to be at that level, prior to moving forward with any action on the state minimum wage.

Currently the California minimum wage is 60 cents higher than the national level. And with that as already pretty much ahead of the mark of the vast majority of other states, particularly those that we compete with on an industrial basis, is something that we do think you should consider as you go forward.

Certainly, as you've been looking at the issue this morning, you've had issues brought up such as who the minimum wage covers, what kind of an impact the minimum wage actually has on workers and businesses in California, and who earns it.

It was interesting listening to the presentation earlier this morning and the handouts that were handed -- that were provided to the audience from Professor Reich and Mr. Hall regarding the minimum wage increase and the impact on the California workforce. What I found astonishing within that report was that there was actually no direct comparison of minimum wage workers and employment when you look at the tables within that proposal, or within that report.

California currently sits at \$5.75 per hour, and with this, you have to think about what an increase might do with not just certain areas of the state, but the state as a whole. You have to examine what that wage is, whether you might have certain sectors of the economy or certain places within the state where you have higher wages. You also have other areas of the state where you don't have a base wage that is as high as the -- close to the minimum wage. You might have something higher, for example, in the San Francisco Bay Area. But when you have other areas that -- where a minimum wage workers sits at or near the \$5.75 per hour, any increase is going to disproportionately affect those sectors of the state.

Now, when the minimum wage goes up, or when any part of the production of a good or service goes up, that cost usually has to go somewhere. And people who actually purchase those goods and services, the ones who are the people who are expected to pay for that increase, and employers will adjust their business plans when they have an increased cost, and then whether it's minimum wage or the cost of the materials to produce that good or service. And when you do that, you have a cycle ensue. When that occurs, the price to the consumer goes up, and then you have the pressure and the cycle of coming back to increase that wage or that price even further to adjust for that.

When you look at the evidence that has been proffered by the California Chamber and other organizations as to the impact of the minimum wage, you do have to also look at the nineteen -- excuse me -- the year 2000 report that was recently put out -- and I'll give you the direct title -- "Increasing the Minimum Wage: California's Winners and Losers," by Mark O'Brien-Strain and Thomas MaCurdy. It shows that for every one percent increase in the minimum wage, you did actually see a decrease of nearly that same amount in employment in the state. And that's directly looking at the California minimum wage increase from 1998, the increase and then subsequent increases, in that study.

When you have those types of impacts, you must consider whether that is a good thing for the state as a whole. If you have decreased employment showing up, for those workers who specifically earn the minimum wage -- not all workers in California, but those who earn the minimum wage -- then again, even looking at the report that was given to you this morning, you do show the decrease in minimum wage workers from 1980 to 1999, if you look at the report on the first -- on the back of the first page. You do see a decrease in the amount of people earning the minimum wage.

Certainly we have a lot of issues that we must look at. It'll be interesting to see what information or what the Industrial Welfare Commission actually looks at when you -- if you put out a proposal to increase the minimum wage, and what that number might be. But you have to consider that other things also are impacted by a minimum wage increase. For example, workers' compensation insurance, that is based first and foremost on what an employer has as the size of their payroll. Then they look, subsequently, at possibly that employer's history. But when we've had the Workers' Compensation Insurance Research Bureau look at this issue, we show that for every 25 cents that the minimum wage goes up, you see an equal increase of about \$30 million for increased premiums in workers' compensation. So, if you have, say, an increase to \$6.50 an hour, you're looking at an \$81 million increased based on what the Workers' Comp Insurance Rating Bureau -- and that's on top of the increases that employers have already experienced in the last six months, where they've seen increased premium prices for their workers' compensation go up 18 to 20 percent, without any other type of impact.

You also have to look at the same increases that have occurred with health insurance. We've seen, again, equal increases, anywhere from 15 to 20 percent, over last year's prices.

So, when you add a third wage pressure, or a third pressure coming from a proposed increase in the minimum wage and, again, what that might do on the base wages for those employers who use low-wage or minimum-wage workers, you can see that you will have a definite impact.

And we have an obligation in the state -- yes, we have a good economy in a lot of sectors in the state, but you have the overall prospects of everyone to look at. And if those sectors go away or they're diminished or required to move out of state or offshore due to unrealistic wage prices, everyone loses, those businesses who are doing well now and those who would be losing in the future, right back to the subcontractors or providers of services to those businesses as well.

COMMISSIONER DOMBROWSKI: Let me just interject. We are going to lose a quorum at about one o'clock, and I want to get this proposal at some stage up for a decision. Otherwise, this whole thing gets put off track.

So I -- just -- this is -- this is a meeting. We're going to have three public hearings on the minimum wage. And I would just encourage everyone to participate in those public hearings, after we have a proposal out there.

So, if the speakers could be brief, I'll try to get as many people in before one o'clock --

MS. BROYLES: Mr. Chairman, it seems rather unfair, since there has been a substantial allotment of time given this morning --

COMMISSIONER DOMBROWSKI: I understand. And you can -- if you want, Julie, we can sit here.

MS. BROYLES: No. I just -- would try to make sure that equal access is given on the --

COMMISSIONER DOMBROWSKI: We will, over the next three meetings.

MR. ROSS: Good afternoon. Jon Ross, on behalf of the California Restaurant Association. I'm going to speak to just a couple of points that were raised this morning.

First, we all -- I think all agree that the test you're charged with, a finding of whether the current minimum wage is adequate, and the question before you is, "What is adequate?" And this morning you heard a variety of different expressions of adequacy.

We think the best measure of adequacy is what the minimum wage has been historically and how that compares with today's minimum wage. This morning I think the comparison drawn was to 1968, which was an all-time high for the minimum wage. If you look at, conversely, the minimum wage over the last forty-five years and bring that into today's dollars, an average minimum wage over that period was \$5.07.

Similarly, if you look at the minimum wage that the Commission last established in 1988 and bring that forward into today's dollars, that would equal a minimum wage of about \$5.99 in today's dollars.

And finally, if you look at what the people did in 1996 and you adjust -- you adjust the last increase, which occurred in 1998, \$5.75, bring that into today's dollars, you get to around \$6.10.

So, I think the \$5.75 we have today is within the realm of adequacy, at least as expressed historically, and I think in the ballpark.

To Mr. Rankin's specific points earlier today, in 1988, yes, there was a 27 percent increase in the minimum wage. At that time, the minimum wage was 26 percent below the historic average level of the minimum wage. So raising it 27 percent was an appropriate adjustment at that time. In 1998 -- or in '96 when the initiative passed, the minimum wage was at historic lows when compared with the historic level of the minimum wage. And today, if you look at today's minimum wage and you compare it to the historic average, we're within 4 percent. I don't think that argues for anything like the 30 to 35 percent discussed this morning.

Finally, on a couple of points that were raised about the restaurant industry specifically, a lot was made about the continued growth rate of restaurants in the wake of the 35 percent increases in the minimum wage that occurred in the mid-'90's. Our review of EDD data on retail and restaurant jobs shows that, yes, while the growth rate may have continued, it continued nowhere near the growth rate that the economy experienced generally. And we attribute that in part to a substantial in labor costs that this sector incurred at that time.

Professor Reich also noted that the price of goods in the restaurant rose at about the same level over the last four or five years as prices in supermarkets generally. And we would answer, "Of course," because when you're setting prices in a restaurant, you try and set them as high as you can without losing customers to the supermarket, the -- someone who's willing just to go out and purchase a hamburger in a restaurant is dependent in large part on how much it costs relative to what it would cost to buy the meat and cook it themselves. And if you look historically, I'm sure you'll see that restaurant prices always stay within a range of supermarket prices. That's the check on what menu prices can do.

Finally, one of the reasons I think that -- I think Ms. Ross -- no relation, but a lot of respect -- had noted that her model could produce a -- would produce and show that there had been a negative effect on restaurants over the last period as one sector. To us, that makes sense. And one of the reasons that restaurants are uniquely affected, even in driving markets like today, is the majority of folks, certainly in service restaurants, that earn the minimum wage today are tipped servers. So, when you increase the minimum wage -- when you increase the minimum wage and if you do it today, the benefit of that increase will go directly to the highest compensated people in the restaurant, the servers who also earn tips. And that's a dislocation that affects restaurants uniquely from others that we struggle when we confront minimum wage increases.

Thank you.

MS. CORY: Chairman and members, I'm Cynthia Cory, with the California Farm Bureau. I hope you can hear me better than we've been able to hear people back there, with this PA system.

Historically, the California Farm Bureau has supported a national minimum wage set at a national level. And that's because we are a competitive industry. And when we in California have higher wages than other states, that puts us at a competitive disadvantage that's unfair to most businesses.

We ask that you do not move above -- ahead of what the feds are doing and set the level. We understand that they are considering this. Both houses have passed a package in conference committee. We ask that you wait until that action is taken.

Unlike those witnesses telling you that, you know, if you pass a minimum wage law, it's going to drive us out of the state, as you know, it's a little hard to pick up a farm and physically move. But I will say in all honesty that the agricultural industry is now faced with one of the hardest economic times we've ever been faced with. You've read the papers. You saw that Tri-Valley, the largest food processor in the state, just went bankrupt. You name it, all of the peaches, lemons --- they're all -- we have plenty of them, and we have record low prices.

I've sat in meetings recently with farmers that have been farming for generations -- for generations in California, and they're going out of business. This is hard times. So this is a hard -- this is -- we all go through the cycles. This just happens to be a bad cycle right now.

Our profit margins are no more than two percent, so when we're faced with what we're faced with right now, we're not making a profit at all right now. So we just ask very simply that you do not move ahead pending what they do at the congressional level.

Secondly, I'd like to make a brief comment about the shepherd exemption. This is a predominantly -- in California, shepherders are federally -- it's a federal program under the H-2A. There is boarding being provided. We ask that you look at this and understand that this is a unique industry and look at it very carefully before you do away with the exemption. We ask that you do not delete that exemption and leave it as it is.

Thank you.

COMMISSIONER DOMBROWSKI: Okay. George Soares, Deirdre Flynn, Kristin Power.

MR. SOARES: Mr. Chairman and members, George Soares, legal counsel for the Western Range Association. The Association handles labor issues for sheep producers and sheep herders. We're going to testify briefly today, especially since you said to be brief, on just a couple of points right now.

I need to set the record straight before I get into the points that I wanted to make.

Everyone's entitled to their own opinion, and so I'll give you mine. When witnesses come to this microphone and call the conditions in shepherding "slave-like," we think it's outrageous. When they talk about \$1.00 an hour without discussing all the facts associated with shepherding and the uniqueness of the industry, we think that's an absolute distortion of what the industry is all about. And so if this Commission goes forward and wants to address the issue of the exemption, I just want to be on record that this Association and others are going to be prepared to deal with the facts of the matter, as opposed to the outrageous words and the distortions that I've heard here today.

Now, as to the particulars, I just wanted to briefly say that we have -- and you hear the word get used a lot, but I can't imagine anything more unique than shepherding and the dynamics of that industry. You will hear, either today or in the future, about the economics of that industry. You will also hear that there is a federal program that not only deals with California, it deals with many states on this issue.

Many states have exemptions on shepherders because it is a federal standard, a prevailing wage standard, that determines what shepherders are paid. There is a rather complex system that comes into play. And I think

sometimes people forget that there's more to this than just some exemption in Order 14. And people wonder why. There's a long history on this.

Prevailing wage is the standard that is used. I'm proud to say that California today, of those states that are affected by this federal standard, pays the highest wages, the highest wages in the country today. And so I think those are important considerations for this Commission as you look at this issue.

Frankly, Mr. Chairman and members, we don't think you should be looking at this exemption today. We think that you should be investigating the facts of the matter first, as opposed to thrusting this industry into a hearing process, when there's a real question in my mind as to whether anyone has truly established some minimum threshold of evidence to suggest that the system we have in California is broken.

So, thank you, Mr. Chairman, and we look forward to working with the Commission.

COMMISSIONER BROAD: Mr. Soares, have you considered the legal impact of the passage of Proposition 210, which required that the minimum wage be increased for all industries and whether we even have -- the existing exemptions we have are even lawful?

MR. SOARES: We have, Mr. Broad. We believe that there's an issue that is not addressed, and it's in correspondence to the Commission, and that is the impact of federal law in this arena. We know the citizens of California can pass any initiative they want and say what they want; whether it's controlling or not is another matter.

COMMISSIONER BROAD: So, you believe that our actions may be pre-empted by federal law?

MR. SOARES: Very well may be.

COMMISSIONER BROAD: So, then, if we act to eliminate this exemption and it is preempted, you can test that in court.

MR. SOARES: If it's the wish of this Commission to drive us into court -- and then I suppose that's one outcome of this -- it's my wish that this Commission realize the reality of this situation and understand what the case is and retain this exemption.

COMMISSIONER BROAD: Is it your -- I mean, perhaps we should take the Commission on a road show and go visit some sheepherders -- I mean, I don't know what -- and talk to them privately and away from their employers and their advocates, and just find out what their conditions are, if that's appropriate. However, it seems to me that -- we're not picking on the lamb industry. Particularly, I think we have every intention to look at a number of these exemptions that have existed historically, some for very long periods of time, but which have not reviewed ever or in a very long period of time. So, with that regard, I don't think that you should feel particularly put upon.

MR. SOARES: Thank you. That's reassuring. I won't take it personal.

(Laughter)

MS. POWER: Kristin Power, Agricultural Council of California.

Briefly, we support the maintenance of the exemption for shepherds because of the unique nature of the industry. We believe the existing process for prevailing wage best fits that industry than the use of minimum wage. California's agricultural economy has not kept pace with other sectors of the economy. Increasing the minimum wage could hobble the Central Valley at a time when they are still reeling from the effects of weather, the *La Niña/El Niño* situation, the freezes, and also business failures that have occurred. As you see on the news, the devastating infestation of an exotic pest, the glassy-wing sharpshooter, has also destroyed millions of dollars of grapes, with the potential to affect thousands of acres across California. The combined impacts of these puts the industry in a very perilous position, and we request you wait for Congressional action on this issue.

MS. FLYNN: Thank you. I'm Deirdre Flynn, from the California Wool Growers Association, serving as the executive director. I'm new to the position -- this is a new process for me -- and I appreciate the opportunity to speak with you today, and I'd like to give a few minutes of the background of the California sheep industry.

Our Association is the oldest agricultural association in the state, entering our 140th year representing sheep producers throughout. We are an industry that houses approximately 810,000 sheep in California. We are the third largest shepherders in the state. However, right now we're in a race to see which state can shrink the slowest. We're an industry -- excuse me -- that has been slowly declining throughout the United States. California is following that trend, perhaps faster than anyone, thanks to our cost of living and cost of doing business.

California is very unique in the sheep production that we do possess, because we represent every aspect of sheep production, from the seed cell producers to the lamb crop producers, the commercial producers, feed lot producers, the slaughter or harvesting aspect in our industry, as well as California is the largest consuming state of lamb. So we represent every aspect of the industry. We are a good example of the way the industry operates throughout the United States.

We are an industry that is dependent on many factors. We are dependent on a labor force, production costs and production numbers, imports, and market share. And without a labor force that we can work with, that understands our industry, we are going to be crippled, possibly to extinction. And we certainly don't want to see that in California.

Thank you.

COMMISSIONER BROAD: I just would like to ask, how many shepherders are there in California?

MS. FLYNN: In California? Currently covered under the H-2A program, there are 250, which is an all-time record low. We generally operate in much higher numbers.

COMMISSIONER BROAD: Is there -- beyond the people in this federal program, are there other groups of shepherders?

MS. FLYNN: Yes, sir.

COMMISSIONER BROAD: And who would they be? I mean, are they -- that -- and how many of them are there, I guess, that are employees?

MR. SOARES: The H-2A are the foreign workers. There's -- they are domestic workers. But in California right now, the number is, I'm told, Mr. Broad, is that we're about 250 out-of-country workers, South America primarily. And just a handful, probably 15 or 25, shepherders in this state that are domestic. Very small numbers, compared to --

COMMISSIONER DOMBROWSKI: We're talking 300 people?

MR. SOARES: We're talking 300 people, roughly, in California today. We're talking about even less producers than that, of course.

COMMISSIONER DOMBROWSKI: Right.

MR. SOARES: And you've heard the numbers of animals.

COMMISSIONER BROAD: Are you planning to have other -- to be back at these other hearings to discuss this more?

MR. SOARES: Again --

COMMISSIONER BROAD: I won't ask a lot of questions if you're going to be back.

MR. SOARES: We'll be back at meetings if we're going our forward. We had hoped you'd do otherwise. But if you're saying that, we'll be back.

COMMISSIONER BROAD: Well, if we decide to  
propose --

MR. SOARES: Yes.

COMMISSIONER BROAD: -- eliminating this exemption, will you be back?

MR. SOARES: We will be back.

COMMISSIONER BROAD: Okay.

COMMISSIONER DOMBROWSKI: Thank you.

Sara Nichols, Betty Perry, and Patricia Gates.

MS. NICHOLS: I'm Sara Nichols. I'm here on behalf of Neighbor to Neighbor, an organization that advocates on behalf of working families, and the Consumer Federation of California.

(Applause)

MS. NICHOLS: And I -- I don't have too much to add, other than we strongly support raising the minimum wage to \$8.00 an hour and indexing it.

And fortunately, it's not up to us to make the tough choices; it's up to us to make the choices tough. So, we're not here to tell you what compromise we would support. We support \$8.00 an hour and indexing.

And I think -- I thought that Jon Ross, who represented the restaurant workers, could -- not the workers, but the restaurant industry -- put it well when he said that the question before you is whether the minimum wage is adequate. And I suggest that who you should listen to on that is the people who testified today and in the future who actually work on that wage and live on that wage, and they're telling that it's not.

(Applause)

MS. PERRY: I'm -- thank you. I'm Betty Perry, the Public Policy Director of the Older Women's League of California. These issues involving midlife and older women, the group I speak for, revolve around increased wages.

One issue that I would like to mention that I didn't hear anyone discuss as we talked about the in-home workers, is the scarcity of workers. To get people to take care of people in their home at \$5.75 an hour is becoming increasingly difficult. And there have been some moves in other parts of the state to have public authorities increase this wage. But in rural areas of our state, there's very little effort to get the wages increased. And I think that a state increase in minimum wage would affect a great number of people positively.

The greater issue that I'm concerned about is that low-paid older women are not only deprived during their work lives, but they receive less Social Security and become the poorest of the senior population. And if you can address this problem, you'll not only help immediately, but you will have helped deserving people for a long time.

A couple of comments on the recent -- the last who testified -- was when -- the position of the Chamber of Commerce is very interesting, but having lived in California since the last wage increase, I've noticed that our

economy is booming. And to say that \$5.75 is in the realm of adequacy, I find just appalling.

Thank you.

(Applause)

MS. GATES: Patricia Gates, the Law Offices of Van Bourg, Weinberg, Roger, and Rosenfeld. And our office has represented literally hundreds of thousands of workers, many of whom are protected by a union, but we have consistently testified and come before this Commission to testify in support of an increase in the minimum wage. And we're here today to support the proposal made by the California Labor Federation.

To not index a minimum wage to a consumer price index is unconscionable, because people cannot afford to keep up with this economy. And I think there's -- you don't even have to look at the detailed studies -- we submitted a detailed study with our January testimony in favor of an increase in minimum wage that was put together by the Center for Budget and Policy. And what that Center said was that steps taken by commissions like this can make a difference. Steps taken to increase minimum wage and to index that minimum wage make a difference in the widening gap between rich and poor.

And I think this Commission can be very proud of itself for the steps it took earlier in this meeting today to cover thousands upon thousands of workers in the construction, logging, oil, and mining industries. Covering them and giving them wage and hour protection is such a positive step and is really the mission of this Commission. And to continue from that vein and see that the lowest paid workers in this state are also protected by a minimum wage that at least brings them into a place of dignity and a place where they can participate in the booming economy is also incumbent on this Commission today.

Thank you.

(Applause)

COMMISSIONER DOMBROWSKI: Jennifer -- I'll apologize -- Kagiwada --

MS. KAGIWADA: Kagiwada.

COMMISSIONER DOMBROWSKI: -- Kagiwada, sorry.

Tho Do, and James Duval.

MS. KAGIWADA: Good afternoon. I'm Jennifer Kagiwada, from the Center for the Childcare Workforce. And we support the minimum wage increase.

I'll make this very brief today. Basically, childcare workers keep California workers working, and the lowest paid childcare workers right now are leaving at an astounding rate, making it impossible to care for more children, especially for the working families who are coming out of Cal WORKS and coming off the welfare rolls.

And we also support this because parents who are low-wage earners can't afford childcare. And so, it's this double-edged sword: we believe that parents can't afford to pay and teachers can't afford to stay in the field. But we need to really look at a better way to do business. And this is one step in that direction.

Thank you.

(Applause)

MS. DO: My name is Tho Do. I'm the secretary-treasurer of the Hotel and Restaurant Employees Union in San Francisco. We represent about 10,000 members who work in hotels, restaurants, cafeterias, and private clubs in San Francisco. Our union has very, very good friends in the hotel industry in San Francisco. As a result, we have a very good contract with wages where a room cleaner is making \$12.00 an hour. But even though it's \$12.00 an

hour, they still have to struggle with two jobs, and also making -- moving -- living outside of San Francisco, traveling an average of two hours a day back and forth from work and from home to be able to raise their family in the Bay Area.

But I want to tell you about the story of a restaurant worker where we don't have high union density in that area, where workers are making a minimum wage. It requires a family, to be able to live, the wife has to work two jobs, so she gets off at three o'clock, goes to another job at night; her husband's working as a cook; they have one kid, and they live in Richmond, which is about an hour drive from San Francisco. That is a typical story of a restaurant worker who has to make ends meet by making two or three jobs to be able to support their family.

We are urging you to increase the minimum wage to \$8.00 an hour, because the least you can do for these workers is to be able to increase the minimum wage to be able to raise their family in the Bay Area.

Thank you.

(Applause)

MR. DUVAL: Hello. My name is Jim Duval. I'm an officer in Local 1877, and I work at racetracks in northern California.

The one thing that I'd like to address right now is the backstretch workers. A lot of this has been in the papers lately. Before this, nobody knew what a backstretch worker was. I'll let you know what they are: the people on the front side, where the people bet; where the animals are is called the backstretch. These workers work back there, and they are paid a minimum wage. It is actually a trained profession, and these people are just making minimum wage. They deserve a right to make a decent wage. \$8.00 an hour actually is not a decent wage. They deserve respect and rights, the same as you and myself.

I very much urge the board to consider the \$8.00 an hour proposal.

Thank you.

(Applause)

COMMISSIONER DOMBROWSKI: The last three speakers: Jenya Cassidy, Mike Webb, and Mark Schacht.

Go ahead.

MR. SCHACHT: Thank you, Mr. Chairman. Mark Schacht, representing California Rural Legal Assistance Foundation.

I just wanted to amplify a little bit on some of the comments made by Mr. Soares of the H-2A shepherd program.

For those of you who may not know, the H-2A program is a national non-immigrant, temporary foreign worker program operated by the federal government, with the assistance of state Employment Development Department. The wages required to be paid under the H-2A program is the higher of the applicable state, federal, prevailing, or what's called the adverse effect wage rate, which is a wage rate calculated on an annual basis based on USDA surveys.

The current adverse effect wage rate for the State of California is \$7.04 an hour. Shepherders, however, are not covered by the adverse effect wage rate provisions of existing law. They've been carved out, the same way they've been carved out under state laws. The wage rate that's required to be paid to shepherders in California, under the H-2A program, is \$900 a month.

Now, you may not accept Mr. Schneider's version of how many hours people work in the shepherd industry and how many of those are compensable. But if you just assume that these workers are working 12 hours a day,

seven days a week, that yields a wage rate of \$903.12 a month. If the adverse effect wage rate were to apply under these orders, that would yield a monthly wage rate of \$2,200.

So, we urge the Commission to find some way to fashion a motion so that the exemption for sheepherders can be examined in the public hearings and additional evidence and witnesses be brought before you to make a determination about what the appropriate rate is, if it isn't just a flat-out repeal of the exemption, which is what we support.

(Applause)

MS. CASSIDY: My name is Jenya Cassidy. My name is Jenya Cassidy, and I work with the Working Family Coalition, and I'm a single parent. We work with union members, working parents, single parents, and childcare providers who are all trying to work together to focus on this crisis in childcare.

And from the perspective of children, trying to survive on the minimum wage as it is right now is practically impossible. A lot of the people involved in our Coalition do something which is illegal, but it's not unusual, and that is they have eight- and ten-year-olds staying home all day by themselves because they cannot afford the childcare. And this is a situation that, you know, in the Coalition I'm working in, I see all the time.

I make over minimum wage, and childcare is almost half of my income, so -- my monthly income. So this is, you know, what we're working with.

And we want to just -- I want to second what Jennifer said. We want to support the AFL-CIO and their proposal to raise the minimum wage to \$8.00 as a first step.

(Applause)

MR. WEBB: Good afternoon. My name is Mike Webb, and I'm with Western Growers Association. We represent over 3,300 growers, packers, and shippers of fresh produce.

We have strong concerns regarding any increase in the minimum wage -- that's the California increase in the minimum wage. We believe that the minimum wage should be uniform throughout the United States and any increase should be handled on the national level and not a state level.

Any increase in the California minimum wage places California agriculture at a competitive disadvantage to other growers who operate outside of California.

Also to be considered is that agriculture typically operates on a very small profit margin. Growers, packers, and shippers are price takers, meaning that they cannot set the prices that they receive for their crops. This has the effect that any increase in the California minimum wage cannot be passed on to the buyer or the consumer. Instead, the growers with the small profit margins have to have their profit margins shrink even further, which could be devastating on the California economy and California agriculture.

So, we believe that any increase should be considered on the national level.

COMMISSIONER DOMBROWSKI: Thank you.

(Applause)

COMMISSIONER DOMBROWSKI: Commissioner Bosco?

COMMISSIONER BOSCO: Yes, Mr. Chairman. I'm going to make a motion that will, I think, get us started on this matter. And I want to emphasize that that really is all it's going to do, because we're all looking forward to three more hearings on this subject, and this is probably the most important thing, at least in my opinion, that this Commission will do.

Just parenthetically, I have had the privilege of participating in minimum wage discussions at just about every level, both as a member of the Legislature years ago

-- I even remember George Soares then. I don't know if George was speaking on behalf of the shepherds then, but I know he's represented many different groups. And then, in the Congress, where we had not people saying, "Wait for the Congress to do something," but we had many business people saying, "Don't raise the minimum wage because it will put our country's interest different than the rest of the world." So, that's the argument that they get into there and now here, on the IWC.

One thing about minimum wage discussions, you always have a sense of *déjà vu* because most of the arguments -- and I speak for twenty-five years' worth of them -- fit into the same generic patterns. That doesn't mean it isn't a hugely important issue, however.

But I do something that something that Mr. Rankin said really holds true. And that is that this Commission's charge is really fairly different than the Legislature's or the Congress'. In some senses, it really doesn't -- in my opinion, it isn't as broad as anyone thinking of the whole issue of minimum wage. Our charge really is to determine what is adequate to supply a proper living for workers in California.

(Applause)

COMMISSIONER BOSCO: Now, what proper living is, I don't know. My wife and I drove up here with one of our children because they wanted to go shopping for school clothes when I was here at the meeting. And, of course, first thing this morning, my wife asked me for money to do the school clothes shopping. And I can tell you it was far in excess of the statistics I saw in some of the reports that we had on what people are able to live on. And it wasn't that we were going to buy him anything too fancy either, but it was much more than the reports that we have in front of us.

And then I look, too, as a child growing up in this state. We had a home in Sunnyvale. I'll never forget, my parents were arguing whether they should buy the \$28,000 home or the \$27,000 home, and the difference was a third or a fourth bedroom. And we were a large family. They bought the less expensive one. I was down there just recently -- and Leslee, you can speak to this better than I -- but just recently, and now they're -- that home is up for sale and there is no price on that home because you have to put in an offer -- put in the offer before you can even go in to look at the home, if you want to buy it. And you have to have perfect credit and everything else.

So, you know, that -- to say nothing of someone on minimum wage. I mean, I -- it looks to me like home ownership is a thing of the past for most Californians, and that's very upsetting.

But anyway, having made that sermon, I'm going to offer a motion that may seem underwhelming to many of the people here. As I say, I think it's our first step. It gives us something to go on. And then, hopefully, in October we will be able to look at all of this after having had the evidence. And I, for one, am certainly not at all settled on any of the issues that I'm going to raise in my motion.

It has three parts: one, the minimum wage itself; two, questions having to do with meals and lodging; and then, third, what should be contained in the exemptions and what not.

The -- and I've passed out -- members of the Commission have copies of this, so I'm not going to read all of it, except maybe for some of the more interesting parts.

Mr. Chairman, I move that the IWC propose regulations to increase the minimum wage in California by 50 cents for each of the next two years, such that on and after January 1st, 2001, the minimum wage shall be no less than \$6.25 per hour; and on and after January 1st, 2002, the minimum wage shall be no less than \$6.75 per hour; and that the proposed regulations also proportionately increase the meals and lodging credits as follows -- and I'm not going to read any of this because I think you have it in front of you, fairly detailed -- that the proposed regulations increase the remuneration test in Section 1(A) of Wage Order 14 from \$900 per month to a monthly

salary equivalent to no less than two times the state minimum wage for full-time employment, as set forth in Labor Code Section 515(A); and that the proposed regulations eliminate the following non-statutory full and partial exemptions from minimum wage: for shepherders, state and local government employees, full-time carnival ride operators, professional actors, personal attendants in private homes, student nurses, and miners paid not less than 85 percent of the minimum wage, rounded to the nearest nickel; and retain the following non-statutory full and partial exemptions: for administrative, executive, and professional employees; the parent, spouse, or children of the employer; and learners paid not less than 85 percent of the minimum wage, rounded to the nearest nickel, during their first 160 hours of employment in occupations in which they have no previous similar or related experience, provided, however, that no such learner shall be paid less than \$5.75 per hour.

COMMISSIONER DOMBROWSKI: Do I hear a second?

COMMISSIONER BROAD: Second.

COMMISSIONER DOMBROWSKI: Any questions? Any comments?

COMMISSIONER BROAD: Yeah, I have one comment to make.

I personally don't believe that this is a high enough increase in the minimum wage, and I think --

(Applause)

COMMISSIONER BROAD: -- or you would obviously be hearing it, but like any entity with five persons on it, we have to find three votes for what's appropriate. And I think this is an appropriate beginning of that -- of that discussion in reaching an appropriate conclusion. Clearly, this administration -- I mean this Commission has, in the past six months, voted on things, sometimes unanimously, but many times we've had various split votes on -- this is quite a democratic operation.

With respect to the minimum wage exemptions, I believe, in this day and age, it's incumbent on those who would propose to maintain these exemptions to provide very strong evidence that there is some reason to keep them. A minimum wage exemption means you can pay someone a nickel an hour. And that's a fairly heavy burden for an employer to make that argument, and I encourage them to come forward and make those arguments with all the vigor they can muster.

I would also request that our executive officer reach out to some of the industries affected here who might not be aware of what we're considering, particularly government employers who are -- have traditionally been exempted in all respects from our wage orders, except if you're a farm worker working for a government entity, as we found out last month. And so they are -- probably don't pay attention to what happens at the Industrial Welfare Commission, and therefore it's probably appropriate for you to talk to those organizations representing them.

So I urge my fellow commissioners to support this motion. But we should keep an open mind as we move along in this process.

COMMISSIONER DOMBROWSKI: Any other comments?

(No response)

COMMISSIONER DOMBROWSKI: Okay. Call the roll.

MR. BARON: Dombrowski.

COMMISSIONER DOMBROWSKI: Aye.

MR. BARON: Bosco.

COMMISSIONER BOSCO: Aye.

MR. BARON: Broad.

COMMISSIONER BROAD: Aye.

MR. BARON: Coleman.

COMMISSIONER COLEMAN: Aye.

MR. BARON: Rose.

COMMISSIONER ROSE: Aye.

COMMISSIONER DOMBROWSKI: It passes.

Any further business to come before the Commission?

(No response)

COMMISSIONER DOMBROWSKI: If not, I'll entertain a motion to adjourn.

COMMISSIONER BOSCO: I move we adjourn.

COMMISSIONER BROAD: Second.

COMMISSIONER DOMBROWSKI: All in favor, say "aye."

(Chorus of "ayes")

(Thereupon, at 1:05 p.m., the public meeting  
was adjourned.)

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CERTIFICATE OF REPORTER/TRANSCRIBER

--o0o--

I, Cynthia M. Judy, a duly designated reporter and transcriber, do hereby declare and certify under penalty of perjury under the laws of the State of California that I transcribed the two tapes recorded at the Public Meeting of the Industrial Welfare Commission, held on August 17, 2000, in Sacramento, California, and that the

foregoing pages constitute a true, accurate, and complete transcription of the aforementioned tapes, to the best of my ability.

Dated: September 7, 2000 \_\_\_\_\_

CYNTHIA M. JUDY

Reporter/Transcriber