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[McCleary Record on Appeal, Part 9] 07-2-02323-2-172 Part 9

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SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

MATHEW & STEPHANIE McCLEARY,)
on their own behalf and on)
behalf of KELSEY & CARTER)
McCLEARY, their two)
children in Washington's) No. 07-2-02323-2 SEA
public schools; et al.,)
Petitioners,)
vs.)
STATE OF WASHINGTON,)
Respondent.)

DEPOSITION UPON ORAL EXAMINATION

OF

HOWARD DE LEEUW, PhD, Volume 2

1:00 p.m.

August 19, 2009

800 5th Ave

Seattle, Washington

Margaret Walkky, CCR, RPR, RMR, CRR
Court Reporter, License No. 2540

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1 Whereupon,

2 (HOWARD DE LEEUW, PhD,

3 (having been first duly sworn, was called as a witness)

4 (herein and was examined and testified as follows:)

5

6

EXAMINATION

7 BY MR. CLARK:

8 Q. Good afternoon, Mr. De Leeuw. My name is

9 Bill Clark. We've met before, but I'm introducing

10 myself for the record. I'm an assistant attorney

11 general on the case and I represent the state, and I

12 want to ask some questions as a follow-up to the

13 deposition that you gave back in July, on July 17th, in

14 these very offices with Mr. Ahearne asking the

15 questions on behalf of the petitioners.

16 Are you appearing today voluntarily?

17 A. Yes.

18 Q. All right. I understand you have plans to

19 leave the country either at the end of this month or

20 the start of September; is that correct?

21 A. Yes, it is.

22 Q. Can you tell us briefly what you're doing?

23 A. On September 2nd, I'll be moving to Doha,

24 Qatar, Q-A-T-A-R. My wife and I were looking for an

25 international opportunity, so we were hired by a local

1 school there.

2 Q. All right. So Qatar is a country in the
3 Middle East?

4 A. That's correct.

5 Q. So you're moving away from the country on
6 September 2nd?

7 A. That is correct.

8 Q. Is your departure from the country in any
9 way something that was procured by your employer, OSPI?

10 A. No, it was not.

11 Q. You're pursuing another job opportunity?

12 A. Part of my own initiative. Yes, I would
13 think they're somewhat disappointed, but maybe not
14 everyone, that I'm leaving.

15 Q. And just for the record, I did not order
16 you to leave the state, did I?

17 A. No, you did not.

18 Q. Okay. In your first deposition on July
19 17th, you discussed your belief that ELL funding,
20 English language learner funding from the state is a
21 supplemental funding, and what I'd like to explore with
22 you first this afternoon is, can you outline for us,
23 indicate for us all the available funding sources,
24 federal and state, that are available for use with
25 English language learner students?

(1) (A.) (Sure. This is really part of my job at)
(2) the state level, and when I was in the district, is to)
(3) help districts understand the different funding sources)
(4) for English language learners and of course I always)
(5) point out that the fundamental source of funding is)
(6) basic education funding, because ELLs generate the same)
(7) amount of basic education funding as any other)
(8) student.)

(9) (Then we have the state TBIP, transitional)
(10) bilingual instruction program funding, which is a)
(11) per-pupil allocation, and it's based on each identified)
(12) eligible English language learner and that amount last)
(13) year was \$904 per student.)

(14) (Then an ELL student that qualifies for any)
(15) other services within the district can also be)
(16) supported through that funding, learning assistance)
(17) program funding, Title I part A, the federal funding,
(18) which is geared toward helping students of poverty)
(19) reach high academic standards, also has a lot in it)
(20) related to English learners.)

(21) (And 70 percent of ELLs are actual free and)
(22) reduced price lunch students, so they can access)
(23) Title I, part A fund.)

(24) (There's Title I, part C fund, which is)
(25) migrant fund. Many of our migrant students happen to)

1 be ELL students. That's an additional funding source.)

2 The main federal funding that districts
3 access that is designated solely for
4 limited-English-proficient students, which is the
5 federal designation for ELLs, is Title III. So
6 Title III funding, which is primarily used for
7 professional development for basic ed staff to met the
8 needs of ELL students.)

9 Q. So I want to go down this list and make
10 sure it's comprehensive and complete. You said the
11 first funding source for ELL students is basic ed
12 funding?

13 A. Right.)

14 Q. Is that also known as the basic education
15 allocation?

16 A. Yes.)

17 Q. And is that allocation provided for in
18 every public K-12 student in the State of Washington?

19 A. That is my understanding, yes.)

20 Q. The second source was state transitional
21 bilingual funding. That is state-only funding; is that
22 correct?

23 A. That's correct.)

24 Q. And the number you put on it was \$904 per
25 student?)

1 A. Correct.

2 Q. Okay. Do you know what the average BEA
3 for Washington students has been in the last couple of
4 years?

5 A. I don't.

6 Q. Okay. Could you approximate it?

7 A. At the risk of sounding ignorant, my
8 assumption is it's somewhere between \$4,000 and \$7,000,
9 but I'm not entirely sure.

10 Q. The LAP funding, that's the learning
11 assistance program?

12 A. Correct.

13 Q. How is it that an ELL student might be
14 able to access that categorical fund?

15 A. Schools that receive LAP funding have to
16 give students the -- designate a grade level, or a
17 group of, a grade span, and they give students some
18 type of assessment or they base it on our state
19 assessments and they rank-order the students, and those
20 that have the lowest score in that assessment become
21 the priority for LAP services.

22 So they take their amount of LAP funding
23 and they divide that by the number of -- they divide
24 that by the number of students they can serve. So if
25 they consequently serve 20 students with LAP funding,

(1) then they take the top 20 on the list. In many
(2) instances, it could be an ELL student is on that list
(3) so they qualify for LAP funding.)

(4) Q. Title I, part A funding you mentioned.)
(5) That's a federal source?

(6) A. That's correct.)

(7) Q. Why would ELL students qualify for that
(8) source of funding?

(9) A. Well, again, that's funding that goes to a
(10) district. It's not based on an individual student.
(11) It's not that an individual student earns a certain
(12) amount of that funding per se, but schools that receive
(13) Title I funding get additional support staff or may
(14) have additional programs, extended day programs,
(15) homework assistance program, whatever. Many schools
(16) have instructional coaches, instructional reading
(17) coach, instructional math coach. So an ELL student
(18) would benefit from being in that setting, because many
(19) of our Title I schools are also schools that have ELL
(20) students.)

(21) Q. All right. The last one you mentioned was
(22) Title III, and I wrote down LEP. You called it
(23) something. What is Title III funding?

(24) A. Well, Title III is limited English
(25) proficient, is the federal term for ELL, and Title III)

(1) is designated specifically for
(2) limited-English-proficient students. In our state, we
(3) are not, we do not use Title III funding for direct
(4) services during the school day, because that would be
(5) considered supplanting of a state requirement. The
(6) state has already acknowledged that it will provide for
(7) direct instruction of ELL students during the day
(8) through its TBIP programs and through various WACs.)

(9) So the Title III fund in our state is used
(10) for professional development primarily. There's some
(11) other, you can use it for other types of activities,
(12) but it's a requirement that Title III moneys be used
(13) for professional development, again, mainly for all
(14) staff, general ed staff working with the ELL students.)

(15) Q. When you say "general ed staff," are you
(16) referring to basic education instructional staff?)

(17) A. Correct.)

(18) Q. So if I understand what you just said
(19) about Title III funding, school districts can use that
(20) to assist their ELL populations, but for professional
(21) development activities?

(22) A. Correct.

(23) Q. In your first deposition, one of the
(24) exhibits that we spent a fair amount of time on was
(25) Exhibit-2026, which I believe is petitioner's proposed)

1 trial Exhibit-557.)

2 MR. CLARK: I just placed a copy in front
3 of the witness rather than ask the reporter to bring
4 over the original one. If you want to take a look at
5 it and satisfy yourself this is the same as yours, by
6 all means.)

7 MR. ROBB: No, that's fine.)

8 Q. Do you recall this document, Mr. De Leeuw?

9 A. I do.)

10 Q. Okay. This is a series of slides, and
11 were you involved in the preparation of these slides?)

12 A. Yes, I was.)

13 Q. Is that true for all of them?)

14 A. For each slide?)

15 Q. Yes.)

16 A. Well, I would have to look. I know all
17 the Spokane-specific slides I created, although I was
18 at OSPI at the time so I didn't author all of the
19 slide, but I was involved in the committee that created
20 these slides.)

21 Q. All right. So were you involved, for
22 example, in slide 11, Funding for English Language
23 Learners, and the bullets of information that are
24 contained on slide 11?)

25 A. Yes.)

1 Q. The pie chart that is slide 12, did you
2 prepare that?

3 A. I did.

4 Q. What was the reason that you prepared
5 slide 12 of Exhibit-2026, which is also petitioner's
6 proposed Exhibit-557?

7 A. Well, initially that slide was prepared
8 when I was still in Spokane to help the district staff
9 understand that the education of English language
10 learners is primarily a basic education requirement.
11 And even in our district, the state funding, that
12 supplemental funding is a small piece of the pie, but
13 that the expectation is that all staff in the district,
14 I mean, teachers at times would say we need someone to
15 work with the ELL students and I would say well, you're
16 working with the ELL student. This is your student.

17 And it was to help kind of shift that
18 paradigm, that an ELL student should go somewhere
19 separate for service and instead say no, the services
20 the ELL receives ultimately happen in the basic ed
21 classroom, and that's what the teacher is funded for.
22 And we're here to provide some support and there is
23 some supplemental funding, but that is not intended to
24 create an entire separate program just for ELL students
25 outside the basic ed classroom.)

1 Q. (And I believe you testified in the earlier
2 deposition about your employment with the Spokane
3 School District?)

4 A. (Yes, I worked for Spokane School District
5 for 10 years, and when I left, I was the ELL
6 coordinator for the district.)

7 Q. (As the ELL coordinator in the Spokane
8 School District and someone who worked for them in this
9 area for a number of years, is it your opinion then
10 that the primary place for servicing the Spokane
11 educational needs of ELL students is the basic
12 education classroom?)

13 A. (Absolutely.)

14 Q. (Now, let's look at slide 12 of Deposition
15 Exhibit-2026, proposed trial exhibit petitioner's 557.
16 The pie chart indicates that of the total ELL program
17 budget of \$2.47 million, state ELL funding is
18 approximately one third of that amount?)

19 A. (Correct.)

20 Q. (The balance of the pie says local funds,
21 \$1.630 million, roughly two thirds of the total
22 budget. My question for you is this: In the state ELL
23 funding of 845,660, is any of that funding the basic ed
24 allocation that the state provides for every ELL
25 student?)

(1) (A.) (No, that piece of the pie refers)
(2) (specifically to the per-pupil expenditure allocation)
(3) (for each eligible ELL student beyond what they would)
(4) (generate as a basic ed student.)

(5) (Q.) (Is that the state transitional bilingual)
(6) (money?)

(7) (A.) (Correct, that would be the TBIP funding.)

(8) (Q.) (Now, local funds of \$1.630 million in the)
(9) (pie chart on slide 12, are those in fact local funds)
(10) (that are generated with local levy money?)

(11) (A.) (You know, I think it's a combination of)
(12) (funds. I mean, I put local funds to show that this is)
(13) (what the district is kicking in, but it really should)
(14) (say other district funds, because it's a combination.)
(15) (I really don't know if came out of the district's)
(16) (general fund, which was made up of other funding)
(17) (sources. And I guess for my mind as the ELL)
(18) (coordinator, I never really needed to know that)
(19) (information. I just knew that what the state was)
(20) (providing was this chunk of the pie and the district)
(21) (said fine, we're going to make sure that we have in)
(22) (place what we want for our ELL students and they)
(23) (created this other piece of the pie.)

(24) (Q.) (You're not certain, even though this slide)
(25) (12 represents the \$1.6 million is coming from local)

(1) funds, you're not certain that it is indeed locally
(2) provided money that's supplying that piece of the pie?

(3) (A.) (No, no, I would consider it other district
(4) funds. Whether they're basic education funds, local
(5) levy dollars, Title I, I'm not really sure where the
(6) district came up with the two thirds.)

(7) (Q.) (So the local funds designation here of
(8) 1.6 million on slide 12 could include the basic
(9) education allocation money the state provides?)

(10) (A.) (Sure.)

(11) (Q.) (It could include federal funding that's
(12) provided by the federal government?)

(13) (A.) (Sure.)

(14) (Q.) (It could provide levy equalization funds
(15) that the state provides?)

(16) (A.) (I would assume so.)

(17) (Q.) (Was it your intent in creating this slide
(18) to indicate that the state's ELL funding for Spokane
(19) should have been the entire \$2.475 million that this
(20) pie represents?)

(21) (A.) (No.)

(22) (Q.) (Was it your intent in creating this pie
(23) chart to indicate that the state in this particular
(24) year was underfunding the Spokane School District's ELL
(25) population by \$1.630 million?)

(1) A. No.

(2) Q. Whether or not it was your intent in this
(3) pie chart, do you believe that for the year that this
(4) pie represents, that the State of Washington
(5) underfunded Spokane's ELL program by as much as
(6) \$1.63 million?

(7) A. Well, I think that's tricky. This was
(8) created for a very different intent and I think the
(9) intent in which this was initially used when I was in
(10) the district was to help all the teachers understand
(11) the ELL students are all part of our responsibility,
(12) and that our district made that choice and said we want
(13) to make clear that our ELL students are not just served
(14) by the supplemental piece from the state, but that the
(15) district has a commitment to their success. That's
(16) really the intent of this.

(17) I never created this with the intent of
(18) showing that there was not enough funding for ELL
(19) students, and in my position, it's tricky because I
(20) don't want separate ELL programs and I don't want
(21) districts to believe there's somehow a magic number
(22) that creates a separate stand-alone ELL program,
(23) because that's not what's best for ELL. It's all the
(24) integration with native teachers, having access to the
(25) core curriculum, highly qualified teachers.)

1 (In reality, we want the whole pie provided)
2 out of supplemental funds, but I think that would have
3 a detrimental effect on the district's buy-in to the
4 responsibility of all staff to meet the needs of ELL
5 students.)

6 Q. (Why do you believe it would have a)
7 detrimental effect?)

8 A. (Well, I think the belief is oh, ELL)
9 students have their own program and it's separate and I
10 as the classroom teacher, because I have great respect
11 for the classroom teacher, I as a classroom teacher
12 simply don't have the skills or training for ELL
13 students.)

14 (I would say no, no, no, you as the)
15 classroom teacher will have the greatest impact on the
16 success of ELL students. A paraprofessional 20 minutes
17 a day, several days a week with an ELL really is not
18 making the impact on the student. The impact on the
19 student coming from the basic ed teacher.)

20 Q. (To round out on the pie chart, was it your)
21 intent in creating the pie chart on slide 12 of
22 Exhibit-2026 to indicate whether or not the state was
23 adequately providing ELL funding for Spokane?)

24 A. (No, that was not the intent of the pie)
25 chart.)

(1) (Q.) If we were to use the pie chart in slide
(2) 12 and factor in as a component, a slice of the pie,
(3) the basic ed allocation supplied for Spokane's ELL
(4) students, what difference would it make in the
(5) representation of the pie?

(6) (A.) Well, I think, again, not knowing the
(7) exact figures of what each child generates out of basic
(8) ed fund, but I think the pie, overwhelmingly large
(9) piece of the pie would be the basic ed part and then
(10) you would have a very small piece that's the
(11) supplemental piece and perhaps a medium sized piece
(12) that the district kicks in beyond that. But obviously,
(13) I mean, the intent of this was to articulate at that
(14) time the district made a choice to say we're committed
(15) to the needs of our ELL students, and we're simply not
(16) looking at the supplemental funding and saying we're
(17) going to divide that by the number of students and
(18) that's going to be our program.

(19) If the intent were to show what funding
(20) sources were available, then I would probably use a
(21) different graphic and we have, you know, used different
(22) times, different offices have used kind of a pyramid to
(23) say, you know, the foundation of the child's education
(24) is out of basic ed and then there's always those other
(25) supplemental programs. So the supplemental piece, the

1 ELL piece at the top would be a small part of the
2 pyramid. The foundation would be here.

3 Q. When you say the ELL piece would be the
4 small part of the pyramid, what are you describing as
5 the --

6 A. The TBIP funding that the state provides.

7 Q. The state ELL funding as depicted in this
8 pie --

9 A. Right.

10 Q. -- is the funding you're talking about?

11 All right. Slide 12 doesn't necessarily
12 indicate what year this is addressing, but do you
13 remember how many ELL students Spokane had while you
14 were still there?

15 A. About a thousand and I think this is
16 roughly based on a thousand students.

17 Q. All right. So the state ELL funding of
18 845,660 is the number of students times whatever the
19 ELL bump of 800, 900, whatever it was for that year?

20 A. Correct, that's correct.

21 Q. If we took the thousand students and
22 multiplied the average basic ed allocation for each of
23 those students out, would it be more than the
24 \$1.630 million in local funds depicted in this pie?

25 A. I would assume so. If you're saying if

1 (you took the thousand ELL students and what did it)
2 (generate just in basic ed funding?)

3 (Q. (Yes.)

4 (A. (It would be obviously much more. If my)
5 (assumption it's at least \$4,000 per student, then I)
6 (think that would put us at \$4 million or more.)

7 (Q. (So whether it's 4,000 or 3,000 or a number)
8 (greater than \$4,000, if you were to depict in your pie)
9 (a slice for the basic ed funding that comes with every)
10 (ELL student, it would pretty much take up the whole)
11 (pie?)

12 (A. (It would take up a significant portion of)
13 (the pie, yes.)

14 (Q. (The whole pie is only 2.475 million,
15 (right?)

16 (A. (Right.)

17 (Q. (With a thousand students if they generated)
18 (in BEA 2475 apiece, that would take up the whole pie on)
19 (slide 12, wouldn't it?)

20 (A. (Uh-huh, uh-huh, uh-huh.)

21 (Q. (You should verbalize yes.)

22 (A. (Yes. I'm sorry, yes, it would.)

23 (Q. (The slide 12 pie doesn't indicate)
24 (specifically whether there were any federal funds for)
25 (ELL students that go into this pie?)

1 A. That's correct.

2 Q. And there were federal funds available to
3 those, to some or all of those thousand ELL students in
4 Spokane at the time, correct?

5 A. Sure, and that would be in addition to
6 what's represented in the pie, because I didn't put
7 Title III dollars, for example, in here.

8 Q. Okay. So it wouldn't take up a piece of
9 the pie there. It would be additional funding to what
10 the pie is supposed to represent?

11 A. Right.

12 Q. So Spokane's program budget for ELL
13 students was greater than 2.475 million that year if
14 you were to add in the federal funding?

15 A. Yes.

16 Q. I keep saying last question on slide 12
17 and then I think of another. Let me go with another
18 question on slide 12.

19 Is the purpose of the representation of
20 the pie in slide 12 in any way intended to suggest that
21 the state is underfunding ELL programs state-wide by as
22 much as 67 percent?

23 A. That certainly was not the purpose of this
24 graph.

25 Q. I want to move to Deposition Exhibit-2026,

1 superintendent for budget.

2 Q. In slight 15 of this exhibit, it refers to
3 a state-wide work group of experts and Mr. Ahearne
4 asked you some questions about that. I believe you
5 testified that the work group of experts is a reference
6 to the struggling students work group that assisted
7 OSPI in preparation of a proposal to the Basic
8 Education Task Force?

9 A. That's correct.

10 Q. Were you part of that struggling students
11 work group?

12 A. Yes, I was.

13 Q. Based on your participation in that work
14 group, what was the work group formed to do?

15 A. It was a group of stakeholders in the
16 sense of district administrators, I don't recall if
17 there were teachers specifically, but district
18 administrators and federal projects directors, and
19 really it was to revisit the formula for allocating
20 money through LAP and TBIP.

21 Q. When you say "the formula," what formula
22 are you talking about?

23 A. What is used to reach that 904 amount. I
24 don't know what that formula is and I don't know if
25 that's captured in legislation. I'm simply told by the

(1) fiscal office, oh, next year the per-pupil expenditure)
(2) for ELLs will be X amount of dollars.)

(3) Q. (When you say revisit the formula for ELL)
(4) funding, for example, in this work group exercise,
(5) you're talking about state-only funding, correct?)

(6) A. (That is correct.)

(7) Q. (And you're referring to the transitional)
(8) bilingual funding?)

(9) A. (That is correct.)

(10) Q. (That is the categorical ELL funding that's)
(11) provided for each ELL student above the basic ed)
(12) allocation that's provided as well?)

(13) A. (Yes, yes.)

(14) Q. (You mentioned that was a group of)
(15) stakeholders. It included school district)
(16) administrators?)

(17) A. (Yes.)

(18) Q. (When you said federal project directors,
(19) were those directors from school districts?)

(20) A. (Yes.)

(21) Q. (Were there OSPI people involved in the)
(22) work groups?)

(23) A. (There were.)

(24) Q. (And what was their role?)

(25) A. (I think again being one of those people)

(1) myself, I think it was simply to provide additional
(2) input on what do we believe are the needs of ELL
(3) students in the district.)

(4) Q. (The school district participants in the
(5) work groups, on the work group for struggling students,
(6) were they in effect the intended consumers of the
(7) services or programs that were being discussed by the
(8) work group?)

(9) A. I'm not sure what you mean by "intended
(10) consumers." I mean, would they be impacted by the
(11) allocation created by the new formula?)

(12) Q. Yes.

(13) A. Yes.

(14) Q. Okay. It would be money that their
(15) programs and districts would be receiving for their ELL
(16) students?)

(17) A. Correct, correct.

18 Q. Actually, the consumers I suppose would be
19 the students?

20 A. The students.

21 Q. But those who obtained the funds so the
22 students consumed them are district personnel such as
23 administrators, federal project directors?

24 A. Correct, correct.

(25) Q. (What did the work group for struggling

(1) (students do in order to respond to what OSPI wanted to)
(2) (build of the OSPI proposal to the task force?)

(3) (A.) (You know, I think it was about a year)
(4) ago. My memory is a bit fuzzy. I think I know we met
(5) several times. We discussed kind of different pieces
(6) that would be nice to have in place in the district. I
(7) know we had a representative of Kent School District
(8) there that has 100-plus languages and, you know, I
(9) believe it was a high school principal for Kent that
(10) talked about what she perceives the needs would be. I
(11) think in some respects, it would be a brainstorm,
(12) wouldn't it be great if we could have this, this and
(13) this.)

(14) (I mean, we knew that our work was)
(15) informing OSPI's recommendation to the Basic Education
(16) Funding Task Force and I think we also knew that we
(17) were there to generate ideas and to think big.)

(18) (Q.) (Were the stakeholders in the work group)
(19) told to only propose things that they absolutely needed
(20) to get better outcomes for ELL students?)

(21) (A.) (No.)

(22) (Q.) (Were they given any parameters or limits)
(23) on what they could suggest as what they would like for
(24) their ELL programs?)

(25) (A.) (No.)

1 Q. Were the stakeholders imparted any
2 instructions as to who would be paying for whatever
3 list of preferred services or programs they wanted?

4 A. Not in a direct sense. I mean, I think
5 the assumption was we're going to make these proposals,
6 assuming that the state would be providing the funding.

7 Q. Were they told in any way, shape or form,
8 were the stakeholders told that whatever they came up
9 with on their list of desired programs or services
10 would have to be paid for locally?

11 A. No.

12 Q. Were they told that whatever they came up
13 with on their list would be part of a proposal that
14 OSPI was making to the Basic Education Task Force?

15 A. Again, I think we knew that our work was
16 to inform what OSPI would ultimately propose. I don't
17 think anyone felt that every proposal raised in that
18 brainstorming would make it to the Basic Education
19 Funding Task Force.)

20 Q. Again, recognizing that it was some time
21 ago, as you reflect on the activities of the struggling
22 students work group, are there any services or programs
23 or interventions, any of those come to your mind as
24 things that were proposed by the group and the group
25 said no, we don't need that?

1 (A.) (No, because I don't think that was the)
2 spirit of the group. I think the spirit of the group
3 was let's think of as many potential resources that we
4 could identify that would be better for students.)

5 (Q.) (In your participation in the struggling)
6 students work group, were you presuming that the list
7 of recommended program services or interventions was
8 going to be at state expense?)

9 (A.) (Yes.)

10 (Q.) (Do you believe that presumption was shared)
11 by the stakeholders in the work group?)

12 (A.) (Do I believe that presumption? Again, I
13 don't think anyone in the work group assumed that the
14 money would be coming from their own coffers. I think
15 the assumption was this is what we're going to ask the
16 state to provide.)

17 (Q.) (Did anyone, to the best of your)
18 recollection from the stakeholders you've described,
19 the administrators, administrators and program
20 directors, did any of them express the opinion that the
21 state would not be paying for any of the recommended
22 interventions, programs or services?)

23 (A.) (I think that there was certainly the)
24 belief that we could perhaps make some proposals with
25 the belief that many of them would not be paid for.)

1 But it wasn't a sense that well, we can propose this
2 and the state might not pay for it, but we're going to
3 pay for it anyway.)

4 I think again the spirit of the work group
5 was what are all the things we think would be great to
6 have to meet the needs of ELL students, and I think in
7 many respects, it represented a wish list from
8 districts who assumed that the state would be paying
9 for it. And if it wasn't going to be provided by the
10 state, they would continue to do business as they've
11 been doing it.)

12 Q. You used the phrase "wish list," and what
13 I'd like to understand is this. Do you distinguish
14 between a wish list as you've described it and a list
15 of things that are absolutely necessary to improve
16 student outcomes?

17 A. Sure.)

18 Q. What's the distinction you draw between
19 those two?

20 A. Well, I think if all else were stripped
21 away, what would I absolutely insist on having remain
22 in place in order to meet the needs of ELL students.
23 So, for example, and I do deal with districts that have
24 small numbers of students that are spread across
25 different buildings in different classrooms and

1 sometimes the impression, and it's somewhat of an old
2 school impression, no pun intended, there must be a
3 separate program for students who don't fit the basic
4 ed mold, whatever that is.)

5 My work with districts is to help
6 understand, if there's no supplemental funding from the
7 ELL program, you still have a responsibility within the
8 context of basic education to meet the needs of ELL
9 students. It's not necessarily a matter of cost. In
10 many cases, it's a matter of training for the teacher.
11 So a teacher who understands basic language
12 development, who understands that much of the work
13 that's happening in the classroom can be of benefit
14 with slight modification and adaptation for the English
15 language learner, then his or her mindset changes, if
16 only we have more money for the ELL, students would
17 meet the state standards, to I would want, this is my
18 goal for Washington, I would want the classroom to
19 accommodate the needs of ELL, and most teacher
20 experience, really a lot of what I provide is actually
21 good instruction for ELLs.)

22 Q. In the work group activities, the
23 struggling student work group activity, what, if any,
24 consideration was given to the anticipated or expected
25 costs of the recommendations being made?

1 (A.) Well, the actual cost was not necessarily
2 discussed within the work group. I mean, that was more
3 Jennifer's office calculating what would the costs be.
4 I don't think, I certainly don't recall us having
5 discussions saying so that's going to be too expensive,
6 don't recommend that.)

7 (Q.) Was there any consideration of
8 efficiencies given in the recommendations that were
9 made in the struggling students work group for
10 programs, services or interventions?)

11 (A.) I'm not sure if I understand what you mean
12 by "efficiencies.")

13 (Q.) A cost benefit assessment.)

14 (A.) I don't think that was part of the
15 discussion of the work group. The whole issue of cost
16 benefit, that was not part of the work group's work. I
17 don't know if Jennifer's office looked at any of that.)

18 (Q.) It indicates on slide 15 in Exhibit-2026
19 that the work group reviewed scientifically-based
20 research and actual successful practices. Were you
21 involved in the research review of the
22 scientifically-based research that's referred to here?)

23 (A.) I'm trying to recall. I believe there
24 might have been several articles shared with the
25 group. I wouldn't say it was an exhaustive analysis,

(1) but I think that some of the scientifically-based
(2) research looked at good instructional strategies for
(3) ELL students, which again focused more on what should
(4) be happening in the basic education classroom versus in
(5) a supplemental ELL program, but that was a small part
(6) of the group. We did have several articles, and to be
(7) honest with you, I don't even remember what those
(8) were. They were not large, in-depth studies per se.)

9 Q. Do you recall any discussion in the work
10 groups about which of the desired interventions,
11 programs or services had a demonstrated relationship to
12 improved outcomes for ELL students?

13 A. Do I remember in the work group if there
14 were specific practices identified that had a direct
15 impact?

16 Q. Let me see if I can ask the question
17 again, okay?

18 In the struggling students work group,
19 discussions, was there any discussion about a
20 demonstrated relationship between what was being
21 recommended and improved outcomes for ELL students?

22 A. Not that I can recall. There was not a
23 lot of discussion about if we do X, we will see Y
24 happening with students. I think more of it was an
25 intuitive sense of this would be great because we know

(1) (that this would be helpful for the families, that type)
(2) (of thing.)

(3) (Q.) (So it was more of an approach of what)
(4) (would you like to have?)

(5) (A.) (I --)

(6) (MR. ROBB:) (Objection to the form.)

(7) (A.) (Can I answer the question?)

(8) (Q.) (Go ahead.)

(9) (MR. ROBB:) (You can answer.)

(10) (A.) (I think all of us felt, myself included,
(11) even though I was from OSPI, felt that this was our
(12) chance to say and maybe it wasn't articulate in this
(13) way, but to say what would be all -- if money were no
(14) object, really, what would be all the things you would
(15) love to see in the district for ELL students.)

(16) (Q.) (You referred to it earlier as a wish list?)

(17) (A.) (Yes.)

(18) (Q.) (On slide 16 of Exhibit-2026, proposed
(19) petitioner trial Exhibit-557, we have a slide entitled,
(20) "What we learned, common components of success."
(21) Mr. Ahearne took you through a number of these and I
(22) think you even testified about some in general without
(23) regard to this specific slide and I don't want to go
(24) through all of that again.)

(25) (But my question is: As you review this)

1 list of common components of success, in your
2 professional opinion with your experience in the
3 Spokane ELL program and then as an employee in that
4 area of OSPI, which are the components listed here,
5 smaller class sizes and all the component parts of
6 additional resources, do you believe are absolutely
7 necessary to give ELL students the opportunity to meet
8 state standards?

9 (A.) Well, I mean, for me, that's not a hard
10 question to answer because that's really what I have to
11 articulate on a daily basis to districts, and the one
12 that really cuts across all districts regardless of the
13 size of the ELL population, because some of these are
14 really dependent on the local context, but the one that
15 is not dependent on local context is the second to the
16 last bullet, all teachers need professional
17 development, because all ELL students will be in a
18 basic ed context for part or all of their day.

19 (Q.) So you have identified the component of
20 additional resources, all teachers need professional
21 development, as a component in your professional
22 opinion is needed to give ELL students the opportunity
23 to meet state standards?

24 (A.) Yes.

25 (Q.) Are there any other of components, from

1 smaller class sizes or additional resources, on slide
2 16 that you believe that you believe is necessary to
3 give ELL students the opportunity to meet state
4 standards?

5 (A.) (I mean, some of these are certainly,
6 they're certainly of benefit. I think assessment of
7 language and academic needs ties into that, all
8 teachers need professional development. That's good
9 instructional practice that happens already.)

10 (But I think the other ones, and again, I
11 have to look at my 197 districts and the majority, 140
12 having very small ELL populations, the intake reception
13 center is really not a viable option or necessary
14 option if they have a very small population.)

15 (Same thing with funding -- and this is
16 intended for funding purposes, funding a parent or
17 community liaison, that's not necessary. That would be
18 nice to have, and in many cases you can collaborate
19 with local agencies to have someone do that on a
20 voluntary basis.)

21 (Again, all teachers need professional
22 development for me stands out on the page. Assessment
23 of language and academic needs is a subcomponent of
24 that.)

25 (All the other pieces, many districts do)

(1) without those and their ELL students do fine if their
(2) teachers know how to address their English development
(3) and academic content needs.)

(4) (Q.) (In your earlier deposition, you testified)
(5) about your opinion about the value of smaller class
(6) sizes and that is a common component of success that's
(7) listed on here. In your professional opinion, are
(8) smaller class sizes necessary to give ELL students the
(9) opportunity to meet state standards?)

(10) (A.) (I wouldn't say they're necessary. I mean,
(11) I think the research even shows that just reducing)
(12) class size is not what it takes.) I think within the
(13) context of this work group, we talked about smaller
(14) class sizes when you have a high school that may have a
(15) very small ELL population, maybe 10 students.
(16) Typically, high schools will look at having X amount of
(17) students per one FTE and then the ELL program, that
(18) supplemental funding allows you to perhaps have 10
(19) students with one teacher rather than 28 with one
(20) teacher, because then you have students matched by
(21) language ability to do some more intensive
(22) instruction. But again, there's many of our districts
(23) aren't in that situation where they create a smaller
(24) class size.

(25) (Q.) (In your prior deposition, I believe you)

1 testified that when it comes to class size, the
2 research was all over the board. Do you recall
3 testimony along those lines?

4 (A.) I don't recall that specifically, but I
5 think most indicators would agree that it's an
6 oversimplification to say all we need to do is reduce
7 class size, and I think the research is quite clear
8 that there are other factors that need to be taken into
9 consideration. I mean, a highly skilled teacher with a
10 smaller class size is better than having a teacher that
11 still is lacking in some strategies but has a smaller
12 group of kids.

13 (Q.) Okay. Returning again to Exhibit-2026 and
14 going to slide 17 which is entitled, "ELL funding
15 formula proposal," did you have any involvement in the
16 preparation of slide 17 in this exhibit?

17 (A.) Not the actual preparation of the slide,
18 but I think that this is somewhat of a summary of our
19 work in the work group.

20 (Q.) Again, there are six parts of the proposed
21 allocation listed here. Given your belief with regard
22 to the components contained on slide 16, do you have
23 any opinions to offer with regard to slide 17 as to
24 whether or not the six parts of the proposed allocation
25 are necessary to give ELL students the opportunity to

(1) (achieve state standards?)

(2) (A.) There's a slight disconnect between the
(3) (two slides.) (I think in some respects, slide 17)
(4) (captures the input from districts as to how in many
(5) (cases they use their funding.) (I mean, again, the core
(6) (staffing enhancement, smaller class sizes for ELL, I
(7) (think the districts represented there, myself included,
(8) (would say in many instances districts use the
(9) (supplemental funding to say well, we're okay staffing a
(10) (classroom with 10 students versus 28 students.) (The
(11) (floor funding for districts with few ELLs, I think that
(12) (there was certainly a consensus within the group to say
(13) (wouldn't it be great that I didn't have to wait until I
(14) (had 10 or 15 or 20 or 30 ELLs to generate enough for .5
(15) (FTE, you know, if it's not 904 a student.) (Some
(16) (district will say by the time I fill out the grant and
(17) (provide the data for one student, you know, I have
(18) (already used up the \$904 just in labor to do that.)

19 The high ELL multiple language
20 enhancement, I think that was more of a nod to
21 districts that have that, the multiple language piece,
22 and therefore we want to get as many translations as
23 possible in as many languages as possible. Once you
24 reach more than 20 languages, it becomes impracticable
25 to have everything translated.

1 Middle high school enhancement I think
2 there too it was more a reflection of a student in a
3 kindergarten classroom who may be generating funding,
4 may need no direct service from an ELL-funded person,
5 where a middle school or high school, you may actually
6 fund a period a day. So it's, I think it's more
7 complicated than saying that there's a direct
8 connection between the list on 16 and the proposal on
9 17 other than again the professional development piece
10 which I think resonates between the two, that if push
11 comes to shove, what do we want?

12 We want highly skilled teachers working
13 with English language learners, because for various
14 reasons, not to mention Title III or civil rights law,
15 we don't want to create a system where ELL students are
16 segregated. If they're not going to be segregated,
17 where are they going to be getting their service? If
18 they're not going to be getting their services in the
19 segregated environment. There was -- it will be
20 happening in a basic ed context even though there may
21 be supplemental service.)

22 So if we recognize that most ELLs in our
23 state will be in a basic ed context, what do we know
24 needs to be in place for them to be successful? Well,
25 we need all of our teachers, including school staff,

(1) the administrative assistant, office manager
(2) understanding the needs of English language learners.)

(3) Q. When it lists professional development on
(4) slide 17, that's professional development for the basic
(5) education classroom teacher?)

(6) A. Absolutely, absolutely.)

(7) Q. I believe you testified that one item of
(8) federal funding, the Title III funding could be used
(9) for that very purpose?)

(10) A. It must be. So there's two musts in
(11) Title III funding. One is for instructional services,
(12) which we've already established in our state would be a
(13) supplant of the state obligation, and the other must is
(14) it must be used for professional development for all
(15) teachers.)

(16) Q. Okay, and on the former, the supplant,
(17) that means you can't use it, in the State of
(18) Washington, you can't use the federal money for that
(19) purpose, correct?)

(20) A. Right. You can't replace what the state
(21) is already funding, which is direct services for ELLs,
(22) with federal funding.)

(23) Q. That's because we have the transitional
(24) bilingual state funding stream?)

(25) A. Correct.)

(1) (Q.) (But you can, C-A-N, use the Title III)
(2) (federal funding for professional development?)

(3) (A.) (Yes, because the state does not)
(4) (necessarily have a provision that says all teachers)
(5) (will be trained in effective strategies for working)
(6) (with English language learners, whereas the feds assume)
(7) (in Title III that to create success for)
(8) (limited-English-proficient students, all teachers need)
(9) (training in effective strategies for working with)
(10) (English language learners.)

(11) (Q.) (Based on your experience in the Spokane)
(12) (ELL and your experience in that program with OSPI, do)
(13) (you believe that school districts should conduct their)
(14) (ELL programs solely with the state's ELL supplemental)
(15) (funding?)

(16) (A.) (No.)

17 Q. Why do you believe as you do?

18 A. Well, there's really two pieces of that.
19 I don't know if the intent was ever to create a
20 separate stand-alone program for ELLs and I know from
21 best practice that our ELL students thrive when they
22 are included in the basic education program. So I
23 think that the -- it's short-sighted in a way for a
24 district to say well, here's our supplemental funding.
25 How many FTE does that buy? That's our ELL program.

1 I think it's a matter of choosing okay,
2 what can we provide as a district already to meet the
3 needs of English language learners and where can the
4 supplemental piece fill in those pieces that we're
5 unable to provide as a district.

6 (Exhibit-836 marked.)

7 Q. Mr. De Leeuw, I'd like you to take the
8 opportunity to review Exhibit-836. You can read it to
9 yourself. Then I have a few questions about it.)

10 A. I remember this.)

11 Q. Were you the author of Exhibit-836?)

12 A. Yes, I was.)

13 Q. It has a date of June 18, 2009?)

14 A. Uh-huh, yes.)

15 Q. It's to federal program directors?)

16 A. Correct.)

17 Q. Who are the federal program directors,
18 generally speaking, addressed to?)

19 A. This is basically our bilingual, what we
20 would call our bilingual contacts in all the
21 districts.)

22 Q. So the person responsible for the
23 Title III and the TBIP grants in the district?

24 A. In the school district, correct.

25 Q. This is not addressed to employees of)

1 OSPI?

2 (A.) No, no.

3 (And the term federal program director,
4 sometimes you'll see federal projects directors. We at
5 OSPI often refer to these individuals as FPDs. So
6 they're typically the person that sits in central
7 services who the superintendent or someone goes to to
8 say what is our Title III grant? What is our TBIP
9 grant? How are we staffing our ELL program?)

10 (Q.) First of all, let me ask this. Did you in
11 fact send this out to the federal program directors?)

12 (A.) Yes, I did.

13 (Q.) For all the affected school districts?

14 (A.) Yes.

15 (Q.) What was the point of sending this
16 particular memo at this particular time to these
17 particular folks?

18 (A.) Well, I and my staff were concerned that
19 districts had had large amounts of money specifically
20 designated for professional development around the
21 needs of English language learners that was simply
22 going unspent, and one of my staff specifically has
23 connections with the Title III contact in DC and was
24 concerned that this would look very bad for the state
25 in future allocations if the feds realized we're giving

(1) Washington 11 million, 12 million, and 4 million is
(2) going unspent. And the intent, we have to push from
(3) our office that districts do fulfill this
(4) responsibility to provide professional development and
(5) the intent of the monies is that it be used in the year
(6) that it's provided.)

(7) (The reason it was sent out in June of 2009)
(8) is districts were beginning to create their Title III
(9) contributions for '09-'10 and I wanted districts to
(10) understand that in 2010-'11, what they have unspent in
(11) '09-'10 will be capped at 15 percent as carryover. So
(12) it gave districts really a year advance warning to say
(13) we're going to follow the lead of other federal
(14) programs like Title I and cap the carryover at 15
(15) percent. Because as I mentioned in here, we had some
(16) districts with carryover of 100 percent.)

(17) (So I get a little frustrated when)
(18) districts share frustration in meeting the needs of
(19) ELLs and at the same time here they have a pot of money
(20) that is designated to provide training for all staff
(21) and it's not even being tapped into.)

(22) (Q.) (It's basically federal funding that's made)
(23) available to school districts that they're not using?)

(24) (A.) (That's correct. And unlike state funding,
(25) we can carry over the money from year to year.)

1 Q. Now, in the second full paragraph, the
2 second sentence begins, "Title III dollars are intended
3 to fund professional development," et cetera. And the
4 description of the uses that can be made by the school
5 districts of Title III funds in their ELL programs, is
6 that summarized in the second and third sentences of
7 that paragraph?

8 A. That's a general summary, yes.

9 Q. What is the point of telling them what the
10 Title III dollars are intended for and can be used for?

11 A. Districts that are given a certain amount
12 of carryover then suddenly are scrambling to spend the
13 money, because they're like, oh my gosh, we had 500,000
14 of carryover and what can we do? And we didn't plan
15 well, and here it is in the middle of the year. And I
16 had to make very clear it's to fund professional
17 development. It is not to go out and purchase a new
18 computer lab that you say well, ELL students will be
19 able to access it like everyone else.)

20 So this was just a subtle reminder to say
21 well, it's for professional development. So you do
22 have summer on the horizon. You can train cadres of
23 teachers in professional development, but don't go out
24 and buy the next textbook that you think will be of
25 benefit for ELLs and buy, you know, 10,000 copies and

1 (spend your \$500,000.)

2 (Q.) (These two sentences indicate that)
3 (Title III dollars can be used for professional)
4 (development for all districts staff, correct?)

5 (A.) (That is correct.)

6 (Q.) (It conveys the message that Title III)
7 (dollars can be used for extended day learning)
8 (opportunities for ELLs?)

9 (A.) (That is correct.)

10 (Q.) (What are extended day learning)
11 (opportunities for ELLs?)

12 (A.) (Some schools will provide an after-school)
13 (assistance program, a homework assistance in the)
14 (library for one hour after school a couple of days a)
15 (week and that can be -- if it's targeted toward ELL)
16 (students, can be funded out of Title III. And the same)
17 (thing with extended year. They can provide a separate)
18 (or an extended summer school, separate summer school)
19 (can be funded out of Title III.)

20 (Q.) (In the first paragraph, the last sentence)
21 (states that, "Of the nearly 120 districts that received)
22 (Title III funding in 2007-'08, 100 had carryover, with)
23 (over half having carryover amounts greatly exceeding 15)
24 (percent, in some cases 100 percent carryover." Was)
25 (that a true statement?)

1 (A.) (Yes.)

2 (Q.) (Is Exhibit-836 a document that you)
3 (generated in the course of performing your)
4 (responsibilities as an OSPI employee?)

5 (A.) (Yes.)

6 (Q.) (Do you believe a copy of this document is)
7 (maintained in the regular files at OSPI?)

8 (A.) (Yes, certainly electronically.)

9 MR. CLARK: Why don't we take a short
10 break. I still have some more question, but there was
11 some reference to some documents and I don't think I
12 have them. So why don't we take a break.

13 MR. ROBB: Sounds good.

14 (Brief recess.)

15 (Exhibits-837 and 838 marked.)

16 MR. CLARK: Back on the record.

17 (Q.) (Let's start with Exhibit-837,)

18 (Mr. De Leeuw. We've been talking today and there was
19 (some discussion in the deposition last month about
20 (Title III federal funding in districts. Indeed, the)
21 (last exhibit, a memorandum discussed Title III as
22 (well. Could you identify Exhibit-837, please.)

23 (A.) (This is the Title III iGrants application)
24 (for Edmonds School District for 2008-'09.)

25 Q. All right. What is the cover page of .

1 Exhibits-837?

2 A. This page is the contacts page for the
3 application.

4 Q. Contacts, C-O-N-T-A-C-T-S?

5 A. That is correct.

6 Q. Is this, this cover page, something that's
7 generated by OSPI?

8 A. Yes.

9 Q. It's not part of the application, is it?

10 A. Well, I'm sorry, let me correct myself.

11 Q. Is it?

12 A. We create the page, but it's completed by
13 the district, so I don't put in the director's name and
14 the phone numbers and that. So obviously it's a page
15 we created, and then once the district opens up this
16 application to begin the application process, they put
17 in the contact information so we at OSPI know who
18 completed the application and who do we respond to when
19 we have, when revisions need to be made, et cetera.

20 (Q.) (Is Exhibit-837 a copy of an application)
21 (that was in fact made by the Edmonds School District?)

22 (A.) (Yes, it is.)

23 (Q.) (And for the year, fiscal year '08-'09?)

24 (A.) (Yes.)

25 (Q.) (And was the application approved?)

1 A. Yes.

2 Q. How do you know that?

3 A. At the time top under milestone it says,
4 "Final approval issued."

5 Q. And you're referring to page 1 of
6 Exhibit-837?

7 A. Yes.

8 Q. I take it from an earlier answer about
9 Exhibit-837, that OSPI in effect sets up the template,
10 a format, and the district then fills it in with the
11 information that's appropriate for the district?

12 A. Yes.

13 Q. Let's go to the second page of
14 Exhibit-837. Again, this indicates that it's the
15 application of the Edmonds School District?

16 A. Yes.

17 Q. On second page of the document -- strike
18 that.

19 On the third page of Exhibit-837, it
20 indicates about one third down the page an allocation
21 amount of \$293,736. Is that amount of Title III
22 funding that Edmonds was applying for in this year?

23 A. Yes.

24 Q. Was it approved?

25 A. Yes.

1 Q. The below the allocation amount there's a
2 box that has the number total count 1,752. Do you see
3 where I'm referring to?

4 A. Yes.

5 Q. What does that refer to?

6 A. That refers to the total transitional
7 bilingual instruction program student count were ELLs
8 that the district identified as well as eligible ELLs
9 in private schools, so the total would be 1,752.

10 Q. All right. So the public school ELL count
11 for the Edmonds School District is 1,749 students?

12 A. Correct.

13 Q. Starting on the bottom part of the second
14 page of Exhibit-837 where it says, "Assurances and
15 certification," and continuing over onto the next page
16 of the exhibit, what is the point of the assurances and
17 certification portion of this application from the
18 Edmonds School District?

19 A. These assurances are essentially directly
20 out of federal Title III guidelines that require that
21 the funding be used for those purposes or that the
22 district's program for English language learners
23 complies with these different assurances.

24 Q. The assurances and certification is
25 information that is checked off or supplied by the

1 (district itself?)

2 A. Correct. We word the assurances based on
3 federal guidelines and then the district checks the
4 boxes off acknowledging they agree to follow those
5 guidelines.)

6 Q. Okay. For example, under assurances, two
7 of the ones that are checked, if we go to the third
8 page of the exhibit, one that's checked says that the
9 programs will enable children to speak, read, write and
10 comprehend the English language and meet challenging
11 state academic content and student academic achievement
12 standards. Issaquah has checked the box to make that
13 assurance, correct?)

14 A. I believe this is Edmonds.)

15 Q. I'm sorry, Edmonds has checked the box on
16 this form, Exhibit-837, and made that assurance?)

17 A. Yes.)

18 Q. Below that Edmonds also appears to have
19 checked the assurance that goes as follows, that
20 the district is not in violation of any state law,
21 including state constitutional law, regarding the
22 education of LEP children, and does it appear that the
23 Edmonds School District checked off that assurance on
24 that document?)

25 A. Yes.)

1 Q. Okay, and I believe you stated that these
2 assurances from the district are required by federal
3 law?

4 A. Correct.

5 Q. And that's part of what entitles them to
6 receive and use the Title III federal funding?

7 A. Yes.

8 Q. Going to Exhibit-838, could you identify
9 that document as well?

10 A. This is the Title III iGrants application
11 for Edmonds School District for the 2007-'08 school
12 year.

13 Q. Was in fact this application for Title III
14 LEP funding approved?

15 A. Yes, it was.

16 Q. And we can tell that by the indication on
17 the first page of the document?

18 A. Yes. Where it says, "Milestone: Final
19 approval issued."

20 Q. On the second page of the document it
21 indicates that the Edmonds had public school
22 transitional bilingual students totalling 1,697 for
23 that year?

24 A. That is correct.

25 Q. And the amount applied for those students

1 was \$262,397?

2 A. That is correct.

3 Q. Do you believe that that was the amount
4 that was approved for the Edmonds School District that
5 year?

6 A. Yes, it was.

7 Q. Okay. Again, without going through them,
8 I think it's the fifth or sixth page in for the record,
9 the upper right-hand corner indicates it's
10 RTREX1392.00410, just so we're all on the same
11 multi-numbered page. There are assurances and
12 certifications as well on this page, are there not?

13 A. Yes, there are.

14 Q. The ones that are checked are assurances
15 or certifications that were made by the Edmonds School
16 District in order to qualify and receive the Title III
17 LEP funding for that year?

18 A. That is correct.

19 (Exhibit-839 marked.)

20 Q. Exhibit-839 is a Title III LEP funding
21 package for the Issaquah School District for the fiscal
22 year '08-'09, correct?

23 A. Yes.

24 Q. All right, and if we turn to the third
25 page of Exhibit-839, the allocation amount that

1 Issaquah was applying for that year was \$83,716,
2 correct?

3 A. Yes.

4 Q. And that's to serve a public school
5 transitional bilingual student count of 500 students?

6 A. Yes.

7 Q. And on the second and third pages,
8 assurances and certification are made signified by a
9 check in the box by the Issaquah School District in
10 order to get the Title III funding for that year,
11 correct?

12 A. Correct.

13 Q. And was this application for Title III
14 funding by the Issaquah School District approved?

15 A. Yes.

16 Q. In part, that funding was provided based
17 upon the assurances and certification made by the
18 district in this application?

19 A. Yes.

20 (Exhibit-840 marked.)

21 Q. Exhibit-840 is the '07-'08 fiscal year
22 Title III federal funding application by the Issaquah
23 School District?

24 A. Correct.

25 Q. And in fact was this application made for

1 (Title III LEP funding by Issaquah in that year?)

2 A. Yes.

3 Q. Was the application for the Issaquah
4 School District approved?

5 A. Yes, it was.

6 Q. On the second page of Exhibit-840, the
7 funding amount indicated for Issaquah School District
8 is \$65,672 with a total public school transitional
9 bilingual student count for 400 for that year?

10 A. Yes.

11 Q. If we go to the page in Exhibit-840 that
12 says at the top right-hand corner page 5 of 6, do you
13 see where I am?

14 A. Okay, yes.

15 Q. Do you see there are assurances and
16 certifications made by the Issaquah School District on
17 that page continuing over to the next one on this
18 document?

19 A. Yes.

20 Q. Those are assurances and certifications
21 made by the Issaquah School District for this
22 particular year in order to secure this federal
23 funding?

24 A. Yes.

25 (Exhibit-841 marked.)

(1) Q. Could you identify Exhibit-841,
(2) Mr. De Leeuw?

(3) A. This is the Title III iGrants application
(4) for fiscal 2008-'09 for the Renton School District.

(5) Q. Okay. This application in fact was made
(6) by the Renton School District for the year in question?

(7) A. Yes.

(8) Q. And again, the cover page has the contact
(9) information for the persons in the district that are to
(10) be contacted in reference to the application that is
(11) part of Exhibit-841?

(12) A. Correct.

(13) Q. Is there any indication in Exhibit-841 as
(14) to whether or not the application was approved?

(15) A. Yes, at the top it has, "Milestone: Final
(16) approval issued."

(17) Q. That's on the cover page of Exhibit-841?

(18) A. Yes.

(19) Q. If we turn to the third page of this
(20) exhibit, in the middle of the page or so, it indicates
(21) an allocation amount of \$312,051?

(22) A. That's correct.

(23) Q. Is that the amount that the Renton School
(24) District applied for that year?

(25) A. Yes, it is.

1 Q. And their application was approved?

2 A. Yes, it was.

3 Q. And if I look further down on this page of
4 Exhibit-841, it indicates that in the public schools in
5 Renton there were transitional bilingual students
6 totalling 1,765 that year?

7 A. That is correct.

8 Q. And one individual apparently is in the
9 private school count?

10 A. Yes.

11 Q. And this application by Renton for the
12 fiscal year '08-'09, as the other applications we've
13 been discussing, copies of those are maintained at OSPI
14 either electronically or in hardcopy, correct?

15 A. Yes, yes.

16 Q. And these Title III applications, they are
17 part of the records that OSPI maintains as part of
18 doing what OSPI does, correct?

19 A. Correct.

20 Q. And on page 2 of Exhibit-841 at the bottom
21 is a series of assurances and certifications indicating
22 with checked boxes the assurances and certifications
23 that the Renton School District was making that year in
24 order to secure this federal funding, correct?

25 A. Correct.

1 (Exhibit-842 marked.)

2 Q. Could you identify Exhibit-842 for the
3 record, please?

4 A. This is the Title III iGrants application
5 for fiscal year 2007-'08 for Renton School District.

6 Q. Did the Renton School District in fact
7 made this application for the fiscal year '07-'08?

8 A. Yes.

9 Q. Was it approved?

10 A. Yes.

11 Q. On page 2 of Exhibit-842 it indicates that
12 the amount applied for by Renton that year for
13 Title III LEP funding was \$266,923?

14 A. That's correct.

15 Q. And below the allocation amount it
16 indicates a public school student count of transitional
17 bilingual students of 1,765 students for that year,
18 correct?

19 A. Correct.

20 Q. And was the amount applied for approved?

21 A. Yes, it was.

22 Q. Turning to the page that in the upper
23 right-hand corner says page 6 of 7 in Exhibit-842,
24 halfway down this page are assurances and
25 certification. Do you see that?

1 (A.) Yes.

2 (Q.) Are these assurances and certifications
3 provided by the Renton School District in this year to
4 secure this federal funding?

5 (A.) Yes, it is.

6 (Q.) And each of the checked boxes constitutes
7 an assurance or certification that the Renton School
8 District made that year in order to obtain this federal
9 funding?

10 (A.) That's correct.

11 (Q.) A copy of this document, Exhibit-842, is
12 maintained as part of the records of the business
13 conducted by OSPI?

14 (A.) Yes.

15 MR. CLARK: Thank you, Mr. De Leeuw, for
16 coming back and testifying today. Good luck on your
17 next venture in Qatar, and check the newspapers, maybe
18 you'll see something about us in the Herald Tribune.
19 Thank you.

20 MR. ROBB: Thank you. Let's take a break
21 and reconfigure here if we could.

22 MR. CLARK: Sure.

23 (Brief recess.)

24 MR. ROBB: Let's go back on the record.

25

1 hired as an ELL teacher and I was responsible for 13
2 elementary schools and I had a staff and I did that for
3 a year. Then I was asked to be an ELL facilitator to
4 work district-wide as a staff developer and kind of
5 troubleshooter, and I did that for three years. And
6 then I took a short leave to teach at Gonzaga
7 University, ELL methods and classes. Then I came back
8 as an instructional coach, literacy coach for three
9 years at the alternative high school. And then I did
10 instructional coach for math and my principal
11 assistantship for one year at North Central High
12 School, and then I was hired as the ELL coordinator in
13 August of 2006 and I did --

14 Q. How long were you the ELL coordinator?

15 A. I was ELL coordinator until November of
16 2007 when a vacancy opened up at OSPI and I went to
17 OSPI.

18 Q. (Okay.) (Turning if you will to slide 12)
19 (that we discussed earlier, what sorts of resources did
20 (you when you were in Spokane School District purchase
21 (with this pot of money?)

22 A. (Are you referring to the \$2.475 million?)

23 Q. (I am indeed.)

24 A. (I would say it was 95 percent for staff
25 (salaries, certificated and classified staff.)

(1) Q. If I understand your testimony earlier,
(2) this pot does not include the state basic education
(3) allocation?

(4) A. The state ELL portion of the pie is a part
(5) of the basic education allocation. Local funds part or
(6) other district funds, this could be a conglomeration of
(7) some basic ed dollars, but does not include the basic
(8) ed piece that comes with every student, that's correct.

(9) Q. But taking your estimation of
(10) approximately \$4,000 a student as the basic education
(11) allocation for these purposes, that would eclipse the
(12) amount of money that's here in that pie chart, right?

(13) A. It would certainly be much larger right.

(14) Q. Is it safe to assume that money is not,
(15) the basic education is not reflected in this slide?

(16) A. That each student generates, that's
(17) correct.

(18) Q. I believe you testified there were a
(19) thousand ELL students in Spokane at the time this slide
(20) was made?

(21) A. Yes.

(22) Q. So this salary component that you paid for
(23) with this \$2.475 million, would that have been to hire
(24) additional staff specifically for ELL students?

(25) A. Yes.

(1) Q. What, were those teachers, classified
(2) staff?

(3) A. I would say, I believe we had about 20
(4) teachers or 20, 22 FTEs. So about 20, 21 teachers,
(5) certificated staff, and then maybe 35 paraprofessional,
(6) bilingual specialists that we provided as well.

(7) Q. Those salaries were funded exclusively out
(8) of this \$2.475 million?

(9) A. Yes.

(10) Q. Were those teachers and other
(11) professionals working only with the ELL students?

(12) A. Yes.

(13) Q. Can you give me a sense of how that
(14) worked?

(15) A. Well, if we started at the elementary
(16) level, you would have a paraprofessional. In Spokane
(17) we distinguish between an instructional assistant or a
(18) bilingual specialist, because bilingual specialist did
(19) the same work as an instructional assistant but had
(20) language skills of one of the 48 languages that we had
(21) represented in our ELL population. So their normal
(22) workday would be assigned to an elementary school with
(23) a population of ELL students and they would go into
(24) different classrooms providing additional support
(25) during the school day. So they might sit next to a

(1) student and help, see if they need any help with the
(2) lesson, might work with different groups of students
(3) and that's -- they were in those classrooms
(4) specifically for identified ELL students, okay?

(5) We had elementary teachers, ELL elementary
(6) teachers, they were not grade level teachers, but they
(7) did similar work. They would go to different
(8) classrooms. Primarily they supported teachers. As
(9) teachers had questions about curriculum and had
(10) questions about a struggling ELL student, that
(11) elementary teacher, ELL teacher was available to
(12) provide that additional collaboration, input,
(13) troubleshooting, and then some one-on-one time or small
(14) group time with the ELL students as well, typically the
(15) newcomer students that come in.)

(16) At the middle school and high school
(17) level, we would have ELL classes. So you might have
(18) one or two periods a day at a middle school that was
(19) staffed by an ELL teacher, maybe an ELL
(20) paraprofessional, and then ELL students would actually
(21) go into that classroom for one or two periods a day for
(22) some specialized instruction. And high school is very
(23) similar to middle school where the teacher was there
(24) for a period or two with a certain level of ELL
(25) students.)

(1) Q. So what else did you purchase with this
(2) \$2.475 million?

(3) A. Some would have covered part of the
(4) administrative costs. So the ELL coordinator, part of
(5) the salary was paid for out of that. Part of the
(6) support staff at the district level had their salaries
(7) paid for out of that. Some minimal professional
(8) development. If we were to have a meeting of the ELL
(9) teachers during the day, we might have some of their
(10) sub costs were paid for out of that, and then minimal
(11) materials and translations.

(12) Q. Do you believe that the teachers and
(13) training and other services purchased with this
(14) \$2.475 million contributed to the academic success of
(15) the ELL students in the Spokane public schools?

(16) A. Sure.

(17) Q. How so?

(18) A. I think to a large extent classroom
(19) teachers felt more supported to know they had some
(20) support staff coming into the classroom. I mean, it's
(21) a challenge to help the classroom teacher really grasp,
(22) many of them being monolingual English speakers, the
(23) value their instruction has for English language
(24) learners. Yet when they feel there's a support person
(25) coming into the classroom to provide some assistance,

(1) (you can do the math.) (So I have a paraprofessional)
(2) (coming for 30 minutes a day three or four days a week.)
(3) (I still have the ELL student for five and a half hours)
(4) (a day.)

(5) (But many teachers felt there was some)
(6) (additional support provided that led to the success of)
(7) (the ELL students, even though I would help them kind of)
(8) (do the math and say yes, but it's really your)
(9) (instruction for five and a half hours a day that makes)
(10) (the difference.) (So certainly at the middle school and)
(11) (high school, again, the staff understand that while)
(12) (there is this support where the students can go to the)
(13) (ELL classroom for one or two periods a day, and I think)
(14) (teachers felt that that additional support made a)
(15) (difference.)

(16) (Q.) (And you agree?)

(17) (A.) (To a large extent, but I had to help)
(18) (teachers connect the dots.) (Because some teachers felt)
(19) (like well, we'll go ahead and give all the ELL students)
(20) (in the math class the same work as the everyone else.)
(21) (At the end of the day, they would have the ELL period)
(22) (with the ELL teacher.) (But I had to say if we have five)
(23) (ELL in the school and they all have five periods and)
(24) (each teacher in those five periods says the ELL teacher)
(25) (can do it at the end of (the day, that's 25 classes a

(1) day the ELL teacher is trying to accommodate for.)
(2) (It's a fine line in helping teachers feel
(3) supported and also understanding, you know what,
(4) they're going to learn far more math in your math class
(5) than the one period of ELL at the end of day.) (But it's
(6) part of the give and take where teachers feel there is
(7) a resource person in the school that I can go to.)
(8) There's a resource person that I know the child has
(9) that connection with.) (So certainly there's value in
(10) having the ELL staff in the school.)

(11) Q. And as the ELL coordinator, your job was
(12) to kind of connect those dots, was it not?

(13) A. Absolutely.)

14 Q. If you turn quickly to slide 13 and then
15 also slide 14 where we're depicting the success that
16 ELL students are having on passing the WASL for reading
17 and math, do you have any sense how these graphs have
18 changed over time, for instance, in 2006 or 2005?

19 A. I don't. I didn't go back further than
20 that because I wanted the most recent WASL scores that
21 I had access to. I have done it for 2008 and they look
22 very similar.

(23) Q. (Let's turn back to slide 12.) (If I
(24) understood you earlier, we've already determined that
(25) the basic education allocation is not captured in this)

(1) (slide, correct?)

(2) (A.) (Yes, correct.)

(3) (Q.) (I believe you earlier said the federal)

(4) (program dollars are not captured in this slide; is that)

(5) (correct?)

(6) (A.) (Correct, Title III dollars are not)

(7) (captured in this slide.)

(8) (Q.) (Are any other federal dollars captured in)

(9) (this slide?)

(10) (A.) (Well, again, as I said earlier, the local)

(11) (funds part, where the district got this additional)

(12) (funding, I could not tell you.) (I simply went in and)

(13) (proposed my budget for what I wanted to my staff and I)

(14) (said this is the state allocation, and the district)

(15) (said fine, we will provide the additional funding.)

(16) (Q.) (If you're not sure of the local funds)

(17) (\$1.63 million, you're not sure really what the source)

(18) (of that funding is?)

(19) (A.) (That's correct.)

(20) (Q.) (Okay.)

(21) (A.) (In my limited understanding of finances,)

(22) (the district has a general fund that has moneys from a)

(23) (variety of sources that are -- that have less strings)

(24) (attached to them than categorical funding and that is)

(25) (what I assume the district would go into to supplement)

(1) (this budget.)

(2) Q. (I believe you testified earlier you did
(3) not prepare this pie chart in order to show that the
(4) state was underfunding education?)

(5) A. (Correct.)

(6) Q. (Can you tell me again what you did prepare
(7) this slide for?)

(8) A. (Well, I prepared this first to inform my
(9) own ELL staff, to let them know that they were funding
(10) out of a variety of sources, not just state
(11) supplemental money.)

(12) Q. (That was your staff when you were at
(13) Spokane?)

(14) A. (In Spokane public schools, because I used
(15) to be, as I mentioned earlier, came on as an ELL staff
(16) person in 1997 and it was only when I became
(17) coordinator that I understood oh, I see part of my
(18) funding is not just out of the state supplemental
(19) funding, but it's part of a district commitment.) (And
(20) that's how I looked at it, district commitment to the
(21) success of ELL students.) (So I shared this with my ELL
(22) staff first.) (I shared it with administrators to also
(23) help them understand that the district has already made
(24) a commitment to support the success of ELL students,
(25) which I think is significant.)

1 Q. The state ELL funding here, \$845,000,
2 that's the TBIP funding?

3 A. Correct.

4 Q. And that again is?

5 A. Transitional bilingual instruction
6 program.

7 Q. Thank you. Is that 845,000, roughly,
8 number then, is that driven by the basic education
9 allocation?

10 A. No.

11 Q. Okay.

(12) A. Each ELL student who is identified as
(13) eligible, and there's a whole process, they have to
(14) have a language other than English and take a placement
(15) test, each individual student that meets the criteria
(16) then generates in this year 845.66.)

(17) Q. Do you have any understanding as to how
(18) that formula works?

(19) A. I do not.

(20) Q. At the time the slide was presented, that
(21) amount was \$904 per student, correct?

(22) A. That is correct.

(23) Q. Do you have an understanding of how that
(24) number has changed over time?

(25) A. That number in my experience has typically

(1) increased from year to year by 10 or 15 dollars.)

(2) Q. What is it doing in the upcoming biennium?

(3) A. This year, and I don't have the exact

(4) amount, but I believe it goes down to 886, give or take

(5) a few dollars.)

(6) Q. So it's decreasing?

(7) A. Yes.

8 Q. Now, you testified earlier that the
9 primary place for ELL students to learn is in a basic
10 education classroom; is that correct?

11 A. Yes.

12 Q. So do I understand your testimony
13 correctly that the primary allocation for basic
14 education students is the basic education allocation?

15 A. I'm sorry --

16 Q. I'm sorry, I think I misspoke.

17 For English language learner students, the
18 primary allocation for English language learners is
19 that basic education allocation?

20 A. Yes.

21 Q. And as we sit here today, you're not sure
22 what that allocation is; is that correct?

23 A. That's correct.

24 Q. As we sit here today, I take it you don't
25 have an opinion whether that basic education allocation

1 is sufficient or not; is that correct?

2 A. That would be correct.

(3) (Q.) (Since we're not sure sitting here today)
(4) what precisely is included in this local funds number
(5) in the pie chart on slide 12, how would you suggest I
(6) go about trying to figure out the answer to that
(7) question?

(8) (A.) (The answer to what?)

(9) (Q.) (What funds are included in the local funds
(10) portion of this pie chart.)

(11) (A.) (That -- if I were still in Spokane public
(12) schools and you asked me this question, I would)
(13) probably go to my fiscal person and say could you tell
(14) me what is the combination that is used to create the
(15) additional amount of money that is part of the ELL
(16) budget?

(17) (Q.) (So in order to really understand this
(18) slide, I would need to go to the fiscal person at the
(19) Spokane public schools?)

(20) (A.) (If your intent was to know what local
(21) funds are used to make up that additional amount of
(22) money, then I think you could do that.) (Again, the --
(23) for me, the purpose of the pie chart is very different.)

24 Q. Did you have any understanding as to how
25 the total ELL program budget for Spokane public schools

1 that you were making to the Basic Education Finance
2 Task Force?

3 A. Certainly, I agree with everything
4 mentioned in the PowerPoint.

5 Q. Turning to slide 16, I believe you
6 mentioned specifically the importance of teachers and
7 professional development for teachers?

8 A. Correct.

(9) (Q.) (What kind of professional development)
(10) (opportunities did you offer for teachers in the Spokane)
(11) (public schools?)

(12) (A.) (One of the corner pieces was GLAD)
(13) (training, which stands for guided language acquisition;
(14) (design, which is a collection of instructional)
(15) (strategies that's very engaging for students, focuses)
(16) (on academic language development, uses music and chants)
(17) (and visuals, and basically a student with little to no)
(18) (English would leave a lesson with some English language)
(19) (skills as well as some academic content in English.)

20 Q. In Spokane, did you have an intake
21 reception center?

22 A. Yes, we did.

23 Q. In Spokane, did you have a parent
24 community liaison?

25 A. No, we did not.

1 Q. Did you rely on the community or some
2 other group to fill that service?

3 A. We had our bilingual specialists who
4 primarily worked as tutors during the day, that if a
5 student had an issue, we could rely on a bilingual
6 specialist to communicate to the family in the first
7 language.

8 Q. (Is it important for teachers or someone)
9 from the school to be able to communicate with the
10 family in their own language?

11 A. Absolutely.

12 Q. Why is that?

13 A. Well, as a parent, I would want to
14 understand what the issue is. Thankfully with
15 technology, we can use services such as Language Line,
16 which costs less than a dollar a minute and they have
17 access to 170 languages. So the cost because of
18 technology has gone down and the accessibility to
19 multiple languages has increased.

20 Q. Could you explain to me a little bit more
21 what the Language Line program is?

22 A. You call into a toll free number. You
23 identify the code of district and the code of the
24 school, which is just a numeric code that I assigned to
25 the schools so I could track the billing, and then you

(1) say I am here with a family from Somalia and I need a
(2) Somali interpreter, and they say one moment please and
(3) they hook you up and then the Somali interpreter comes
(4) on and you put them on speaker phone or you do
(5) three-way calling, and it's great. It's provided a lot
(6) more accessibility than what we've had even five or ten
(7) years ago.

(8) Q. Is that service one that you have to
(9) subscribe to?

(10) A. The subscription is free. The State of
(11) Washington, someone in Olympia, not through OSPI but
(12) the general accounting office or whatever, has made it
(13) possible for the entire state to not pay a
(14) subscription. You just pay a per-minute fee.)

15 Q. Specialist for coordination of general ed
16 services with ELL services, is that a role that was
17 filled in Spokane when you were there?

18 A. I believe that when I worked as an ELL
19 facilitator and I had a colleague that did the same,
20 that that would be similar to what was intended by the
21 specialist. It's somewhat like an instructional coach.
22 So it's not a person that has direct instructional
23 responsibility for students, but to able to make sure
24 that ELL students are having full access to general ed
25 services and that if they're struggling, that there's

1 adequate ELL services provided and so forth.

2 Q. So you served that role for a while in
3 Spokane; is that correct?

4 A. Yes, yes.

5 Q. The assessment of language and academic
6 needs, is that something that you did in Spokane as
7 well?

8 A. That's already a state and federal
9 requirement, so that happens on an annual basis.

10 Q. Adequate administration, was it something
11 that, I assume that since you were the administrator of
12 the Spokane program, you would say that that was
13 adequate?

14 A. Was I adequate? I think the intent of
15 that is to say that a district realistically can't
16 assume that they can have a program of 500 or a
17 thousand ELLs but not assign someone to actually be an
18 administrator for the program.

19 Q. And interpreters, I assume that was
20 something that you had in Spokane as well?

21 A. Right, we provided for interpreters. (In
22 many respects that too is a basic ed responsibility.)
23 So a school that is doing a discipline, suspending a
24 child, et cetera, my program could provide an
25 interpreter, but ultimately that's a basic ed

(1) responsibility to communicate those issues to the
(2) family in a language they understand to the extent
(3) feasible.)

(4) Q. But without respect to whichever funding
(5) stream it comes out of, that's a service that you would
(6) say is integral to the ELL, education of ELL students?

(7) A. It certainly is integral to communicating
(8) with the home.)

9 Q. Is that parent involvement in the
10 student's education something that you would say is
11 important as well?

12 A. Yes.

13 Q. Skipping over teachers, we talked about
14 that, the instructional materials to bridge language
15 and content, is that something you had in Spokane as
16 well?

17 A. We provided picture dictionaries and other
18 items, but basically we focused on the grade level
19 curriculum and GLEs, the grade level expectations to
20 decide how would we want teachers to modify that so
21 that there's a connection between what the students are
22 learning with the ELL staff and what's happening in the
23 classroom.

24 Q. If we could turn to Exhibit-836, when you
25 were at Spokane, were you the person who would have

1 been responsible for applying for Title III funding?

2 A. Yes.

3 Q. When you were at Spokane, did you ever
4 have a year where you had some carryover dollars left
5 at the end of the year?

6 A. I'm trying to think. I think there was
7 always some carryover.

8 Q. When using the Title III money that's
9 provided by the federal government, there are certain
10 requirements of using that money; is that correct?

11 A. Yes.

12 Q. It must be used in compliance with the
13 federal program; is that correct?

14 A. Correct.

15 Q. In your current position, I believe you
16 said you've been attempting to have districts, you've
17 been trying to help districts find ways that they can
18 use this money in compliance with the Title III; is
19 that correct?

20 A. Yes.

21 Q. What sorts of things have you been doing
22 to help districts understand ways in which they can use
23 this money that's available?

24 A. Well, it's really not new information.
25 It's just more of an attempt to make sure that that

1 information is communicated more frequently. So we
2 have what we call K20s, which are like video
3 conferences, and we use webinars, which are
4 computer-based conferences, and we have also done the
5 road show where we've gone to different regions and
6 we've gone over all the allowable funding requirements
7 or allowable funding activities for both Title III and
8 TBIP, and we've done that certainly since I showed up
9 in 2007. We did it in January, February of 2008 across
10 the state or regionally.

11 We've had multiple K20s where we again
12 revisited what are the allowable expenditures under
13 Title III and TBIP, and then in the spring of 2008, we
14 did the iGrants workshops where we actually went
15 regionally and sat down and said we're here, we're
16 available. We put up on the screen these are the
17 allowable activities under Title III and under TBIP.
18 And then we did that again in the fall of last year and
19 then in the spring of this year where we had about 120
20 districts come. We have about 17 districts that
21 qualify for TBIP funding, about 120 that qualify for
22 Title III.

23 So since I've been there, although my time
24 there has been relatively brief, I feel that the
25 communication piece is one avenue of attack, if you

(1) will, to help districts spend the money.)

(2) Q. And your communication piece that you've
(3) brought, is that something new?

(4) A. That could be perceived as a matter of
(5) opinion, but I would say yes.)

(6) Q. From reviewing your prior deposition, I
(7) understand that there were some mixed messages that
(8) were coming out of OSPI; is that correct?

(9) A. Yes.)

10 Q. When you've talked to folks at districts
11 who are responsible, these federal program directors,
12 they have explained to you why they have carryover
13 dollars?

14 A. Some have. Some have for reasons of
15 perhaps poor planning. Some have for reasons of good
16 planning, but lack of availability of subs for
17 trainings that they wanted to do. Some things that
18 they did turned out to cost less than they
19 anticipated. I think that some carryover, and I
20 believe I stated in here as well, that it's always hard
21 to anticipate what everything will cost when charged to
22 Title III, and 15 percent is a fairly generous amount.
23 Most grants let you go within 10 percent without even
24 applying for a change. So a 15 percent carryover is a
25 generous amount.

1 I am there are to support districts. I
2 think some districts simply have not made it a
3 priority. So when they're given 500,000 or 150,000 of
4 money that wasn't spent in the previous year that needs
5 to be spent, we do look at their application at times
6 and wonder why weren't the activities completed? And
7 oftentimes it's someone that simply didn't make it a
8 priority to get it done.

(9) Q. (You mentioned earlier some of the costs)
(10) that are involved with applying for and then spending
(11) these moneys, the administrative costs that go along
(12) with it. Is that a reason the districts give to you
(13) for not either applying for or using all of the
(14) Title III money that's available?

(15) A. (No, because those districts would have)
(16) already completed an application. In reference to
(17) that, it's more a district that has one or two students
(18) that wonders should we complete the TBIP application?
(19) And of course I always encourage the district to do so
(20) so we can track the student, et cetera. But for
(21) districts with carryover, they've already done the
(22) grant.)

(23) And you've seen a copy of the grant. I
(24) think few would say the grant is so exhaustive that an
(25) hour of their time to complete it isn't worth the

(1) (potential hundred or two hundred fifty thousand dollars)
(2) (that they could access.)

3 Q. Could you turn to, say, Exhibit-837, which
4 is one of the iGrants that was put in front of you
5 earlier. Would you turn to the second page of the
6 exhibit, please. The assurances and certifications
7 that Mr. Clark turned your attention to earlier, I
8 believe you said those were from the federal law; is
9 that correct?

10 A. Yes.

11 Q. Could you tell me where those requirements
12 are contained?

13 A. It would be in the Title III language
14 under NCLB, No Child Left Behind. I believe it starts
15 with section 3300.

16 Q. If you could also take out Exhibit-838,
17 please, and turn to the second page of that document as
18 well.

19 A. Okay.

20 Q. It occurs to me in reviewing the total
21 number of students, the eligible English language
22 learner students, that there's about a 50-student swing
23 in these two years between the Exhibit-837, which is
24 for Edmonds school year 2008-2009, and Exhibit-838,
25 which was submitted by Edmonds for the 2007-2008 school

1 Q. Seems like a reasonable requirement.

2 A. Yes.

3 MR. ROBB: That's all I have. Thank you
4 very much.

5 MR. CLARK: I have a few questions, so
6 don't go yet.

7

8 EXAMINATION

9 BY MR. CLARK:

10 Q. (Let's start with Exhibit-837,
11 Mr. De Leeuw, and I won't move over. I'll just caution)
12 you to talk to Margaret.)

13 These assurances that I went over
14 specifically with reference to Exhibit-837, the one
15 that Mr. Robb drew your attention for, for example,
16 about the district is not in violation of any state law
17 including state constitutional law, the other assurance
18 is that the program will enable children to speak,
19 read, write and comprehend English and meet challenging
20 state academic content and student academic achievement
21 standards.)

22 My question is, I didn't go over them
23 specifically, but are those two assurances or
24 certifications contained in every Title III LEP federal
25 fund application from a district?)

(1) (A.) I would say yes. Title III going back to
(2) 2003, I would say yes, these are the standard
(3) assurances that the feds expect a district to check off
(4) on to receive these funds.)

(5) (Q.) Okay. So whether it's Renton, Issaquah,
(6) Edmonds, Spokane, any district that's applying for
(7) Title III LEP funds as far back as 2003 in your
(8) knowledge has to make at least those two certifications
(9) we've discussed in your deposition today, correct?

(10) (A.) That is my understanding, yes.)

11 Q. Okay. You referenced that there were a
12 thousand ELL students in Spokane when you were in the
13 Spokane district. What did that represent, if you
14 recall, in terms of the total student population in
15 Spokane?

16 A. The total student population was
17 approximately 29,000 students.

18 Q. So a thousand ELLs would represent 1/29th
19 of the population?

20 A. Yes.

21 Q. And with 1/29th of the population pie
22 chart anyway, part of Exhibit-2026, Spokane chose to
23 have a budget of \$2.47 million to service 1/29th of the
24 student population, correct?

25 A. Correct.

1 Q. That's how important a value Spokane
2 placed upon its ELL population and the needs to serve
3 it, correct?

4 A. Yes.

5 Q. Now, to the extent that your pie chart
6 represents that state ELL funding was 845,660 and the
7 balance of 1.6 million came from local funds, does that
8 indicate that Spokane chose to use local money to fund
9 its ELL program as opposed to state and federal money
10 that would have been available to fund the same
11 program?

12 A. I'm not sure if I entirely understand.
13 Did Spokane only look at the state ELL amount and any
14 existing federal dollars to create its ELL program?
15 No.

16 Q. And as you sit here today and looking back
17 on your experience in Spokane, is there any impediment
18 to the school district using the basic ed allocation
19 that the state supplies for every ELL student to offset
20 any of the expenses of that student's education?

21 A. No. As a matter of fact, many districts
22 provide for ELLs almost exclusively through the basic
23 ed allocation if they have a dual language program, for
24 example, they say all of our kindergarten classrooms
25 will be taught in English and Spanish. So all the

1 students learn English and Spanish. That is a basic
2 education funded activity because all students are
3 entitled to a kindergarten teacher. So there are ways
4 that districts have used basic education funding to
5 deliver the actual ELL instruction to ELL students.

6 Q. One last question on slide 16 in
7 Exhibit-2026, and Mr. Robb asked you specifically about
8 interpreters and you said it would be integral to the
9 communication with the home. The interpreters that are
10 being discussed on this slide then are not interpreters
11 that are used in the classroom?

12 A. Correct.

13 Q. They are interpreters that would be used
14 to facilitate communication with the student's family?

15 A. Correct. It is not an effective model to
16 have interpreters in the classroom.

17 Q. Okay, and I believe you testified about
18 that in your earlier deposition so we wouldn't go
19 through that again. Thank you.

20 MR. ROBB: Just one more question.

21
22 EXAMINATION

23 BY MR. ROBB:

24 Q. Mr. Clark was asking you about using basic
25 education allocation for the ELL program and whether

(1) there were any restrictions on that, but I just want to
(2) confirm my understanding from earlier, which is that
(3) you don't have any opinions or really knowledge about
(4) the sufficiency of the basic education allocation; is
(5) that correct?

(6) A. That is correct, that is correct. I would
(7) only add my job, both my role in the district and at
(8) the state level is to help districts understand that
(9) ELL students are primarily the responsibility of basic
(10) education first and foremost, rather than saying there
(11) has to be some program that will take an ELL student
(12) out of the classroom and provide what he or she needs.
(13) Very few districts articulate it that way, but if basic
(14) education were to go up or go down, my message wouldn't
(15) change.)

16 MR. ROBB: Okay. Thank you.

17 (Deposition concluded at 3:37 p.m.)

18 (Signature reserved.)

19

20

21

22

23

24

25

FILED
KING COUNTY, WASHINGTON

FEB 04 2010

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DEPUTY

THE HONORABLE JOHN P. ERLICK

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

MATHEW & STEPHANIE McCLEARY,
on their own and on behalf of KELSEY &
CARTER McCLEARY, their two children
in Washington's public schools;
ROBERT & PATTY VENEMA, on their
own behalf and on behalf of HALIE &
ROBBIE VENEMA, their two children in
Washington's public schools; and
NETWORK FOR EXCELLENCE IN
WASHINGTON SCHOOLS ("NEWS"), a
state-wide coalition of community groups,
public school districts, and education
organizations,

Petitioners,

v.

STATE OF WASHINGTON,

Respondent.

NO. 07-2-02323-2 SEA

SUBMISSION OF DEPOSITION
TESTIMONY BY MARY ALICE
OLIVIA HEUSCHEL

The parties offer into Evidence the following deposition testimony designations and exhibits, corresponding objections and attached pages from the April 28, 2009, deposition transcript for trial witness Mary Alice Olivia Heuschel:

I. Petitioners' Deposition Designations (transcript highlighted in yellow):

Cover page (page 1)

Appearances page (page 2)

In addition to the portions of the deposition transcript designated by Respondent, Petitioners designate the following:

Page:Line Range	Trial Exhibit Offered	Respondent's Objections
6:11-19		
6:23-7:17		
8:7-16		
9:16-18		
9:26-10:7		
14:20-16:7		
16:10-26:1		
27:14-29:6		
39:21-40:17		
48:12-49:3		
50:24-51:10	Petitioners offer Trial Exhibit 165 (Dep. Ex. 264)	
51:17-19		
52:24-53:24		
55:19-56:5		
56:26-57:7		
58:5-13		

Page:Line Range	Trial Exhibit Offered	Respondent's Objections
59:1-60:16	Petitioners offer Trial Exhibit 166 (Dep. Ex. 265)	
	Petitioners offer Trial Exhibit 167 (Dep. Ex. 266)	
	Petitioners offer Trial Exhibit 1154 (Dep. Ex. 267)	
66:23-70:16	Petitioners offer Trial Exhibit 1156 (Dep. Ex. 269)	
71:23-72:14		
73:8-76:22		
81:16-23		
88:10-21		
89:26-90:10		
93:13-94:22		
104:6-105:17		
136:7-26		
154:16-155:21		
164:10-165:8		
174:11-175:19		
177:19-178:11		
182:20-184:1		
184:11-185:2		
185:8-190:16		

II. Respondent's Designations (transcript highlighted in blue):

Page: Line Range	Trial Exhibit Offered	Petitioners' Objections
7:18-26		
16:8-9		
26:2-27:13		
30:14-32:15	Resp. offers Tr. Ex. 1150 (Dep. Ex. 263)	
33:17-24		
34:26-39:20		
40:18-43:22		
44:6-47:17		
48:1-11	Resp. offers Tr. Ex. 165 (Dep. Ex. 264)	
49:4-50:23		
51:20-26		
52:4-23		
53:25-55:18		
56:6-24		
57:8-58:4		
60:17-66:22	Resp. offers Tr. Exs. 166, 167, 1154, 1155 and 1156 (Dep. Exs. 265, 266, 267, 268 and 269)	
70:17-71:22		
72:15-20		
79:1-15		
81:24-82:5		
84:8-21		

Page: Line Range	Trial Exhibit Offered	Petitioners' Objections
85:17-22		
88:22-23		
90:11-93:12		
94:23-96:6		
99:11-26		
102:20-104:5		
106:8-108:15		
108:22-110:6		
110:20-112:22	Resp. offers Tr. Ex. 1157 (Dep. Ex. 274)	
114:24		
115:7-121:7	Resp. offers Tr. Ex. 1158 (Dep. Ex. 277) <i>Office W/Deposition</i>	Admit authenticity as draft, not final. Object to admission into evidence – lack of foundation, witness could not identify document, date of document creation is undetermined.
135:15-136:6		
137:1-2		
139:7-11	Resp. offers Tr. Ex. 1160 (Dep. Ex. 279)	
140:14-144:12		
144:14-18	Resp. offers Tr. Ex. 1161 (Dep. Ex. 280)	
145:3-146:15		
147:22-151:11	Resp. offers Tr. Ex. 1162 (Dep. Ex. 281)	Admit authenticity as draft, not final.
151:18-154:15		
155:22-156:18		
158:14-161:14	Resp. offers Tr. Ex. 1163 (Dep. Ex. 282)	

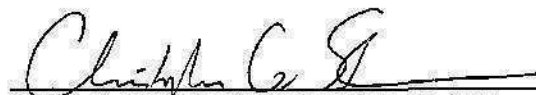
VA - 2501-1162

Page: Line Range	Trial Exhibit Offered	Petitioners' Objections
165:9-23		
173:4-174:6		
175:20-177:13		
190:24-191:18		

DATED this 23rd day of September, 2009.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MATHEW & STEPHANIE McCLEARY,)
on their own behalf and on)
behalf of KELSEY & CARTER)
McCLEARY, their two children)
in Washington's public)
schools; ROBERT & PATTY)
VENEMA, on their own behalf)
and on behalf of HALIE &)
ROBBIE VENEMA, their two)
children in Washington's)
public schools; and NETWORK)
FOR EXCELLENCE IN WASHINGTON)
SCHOOLS ("NEWS"), a)
state-wide coalition of)
community groups, public)
school districts, and)
education organizations,)

Petitioners,)

vs.)

NO. 07-2-02323-2 SEA

STATE OF WASHINGTON,)

Respondent.)

DEPOSITION UPON ORAL EXAMINATION
OF
MARY ALICE OLIVIA HEUSCHEL

9:08 A.M. - 12:34 P.M. & 1:15 P.M. - 3:57 P.M.

Tuesday, April 28, 2009

300 SW 7th Street

Renton, Washington

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16 Executive Director, Employee Relations
17 Renton School District
18 300 SW 7th Street
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20
21
22
23
24
25

26 I N D E X

1 2009, at 9:08 a.m. at 300 SW 7th Street, Renton,
2 Washington, before LORRAINE M. MILLAY, Notary Public in and
3 for the State of Washington, appeared MARY ALICE OLIVIA
4 HEUSCHEL, the witness herein;

5 WHEREUPON, the following proceedings were had,
6 to wit:

7
8 MARY ALICE OLIVIA HEUSCHEL, having been first duly sworn by
9 the Notary, testified as follows:

10
11 EXAMINATION

12 BY MR. CLARK:

13 Q Good morning, Dr. Heuschel. My name is Bill Clark. I'm an
14 assistant attorney general and I'm representing the State
15 in the case of McCleary versus State. It's also known as
16 the Basic Education Funding litigation.

17 Could we begin this morning by having you state your
18 full name and spell your last name for the record, please?

19 A Mary Alice Olivia Heuschel, H-E-U-S-C-H-E-L.

20 Q All right. And where do you live?

21 A In Renton. 1448 149th Place Southeast, Renton, Washington,
22 98057.

23 Q And what is your current employment?

24 A I'm the superintendent of the Renton School District.

25
26 Q How long have you been the superintendent of Renton?

1 A This is my third year.

2 Q So then you began in 2006?

3 A Six, correct.

4 Q And prior to that you were with OSPI?

5 A Correct.

6 Q For how long?

7 A I was the deputy state superintendent for six years. So I
8 came in 2001.

9 Q And what was your title with OSPI?

10 A Deputy state superintendent.

11 Q In which area?

12 A Learning and Teaching.

13 Q Did you hold that position continuously during your tenure
14 at OSPI?

15 A Yes.

16 Q Where did you work prior to that?

17 A I was the principal in Yelm.

18 Q Of any particular school?

19 A It was Mill Pond Intermediate School.

20 Q Is that a middle school?

21 A It was a fifth, sixth.

22 Q And how long were you there at Yelm?

23 A Six years.

24 Q Roughly, 1995 to '01?

25

26 A Mm-hm.

1 Q And where were you prior to that?

2 A Hawaii.

3 Q Hawaii.

4 A I was an assessment specialist for the state.

5 Q How long were you in that position?

6 A Two years.

7 Q Okay. Prior to working for the State of Hawaii what did
8 you do for work?

9 A I was a teacher, Department of Defense schools, so all over
10 the country.

11 Q How long did you do that?

12 A Well, I graduated in '83. And so, I was a teacher in
13 Boston for a year before I was in the military. So
14 Department of Defense schools didn't happen until we went
15 overseas, but I was in Louisiana and Kentucky and wherever
16 the duty station was.

17 Q All right. So you graduated from Wheelock in 1983?

18 A Mm-hm.

19 Q And you taught in the Boston area for a year?

20 A Yes.

21 Q Then you went into a position teaching with the Department
22 of Defense schools?

23 A Well, first I went to Kentucky and it was actually the
24 public schools. We were on a military base, but it was a
25
26 public school system. The Department of Defense role

1 didn't happen until we went overseas to Germany.

2 Q Okay. Were you in the military?

3 A My husband is military.

4 Q So graduating from Wheelock in 1983, teaching for a year in
5 the Boston area, then you held that position with the
6 Department of Defense schools until you went to Hawaii, or
7 was there some employment in between?

8 A Well, after graduating, after Boston, I worked in Louisiana
9 for three years.

10 Q Okay.

11 A That was military, but the public school system. Then went
12 to Kentucky for a year. And then went to the Department of
13 Defense schools in Germany with that duty station.

14 Q And you were in that position until you went to Hawaii?

15 A Correct.

16 Q What did you obtain your degree in at Wheelock?

17 A It was K-12, basic education. In those days the
18 certification was K-12. Now there's separate endorsements,
19 but...

20 Q Separate endorsements for what?

21 A Well, now to get a teaching certificate you don't really
22 get K-12, you might get a secondary degree or an elementary
23 degree or endorsements in particular areas. But in the
24 years that I graduated, they didn't have that system.

25

26 Q All right. Was your degree in K-12 basic education?

1 A It was a K-12 teaching certificate.)

2 Q Teaching certificate, okay. Have you gotten any other
3 degrees?

4 A Mm-hm. My master's degree is from Northwestern University
5 in special education, I have my principal's certificate
6 from Central, and my superintendent's certificate and
7 doctorate from Seattle Pacific University.'

8 Q What year did you obtain your master's from Northwestern?

9 A '86. I want to double-check that. I'm trying to recall.

10 Q Okay. Giving an approximation is okay.

11 MS. MOORE: We can always give you a resume.

12 A Yeah. It's on there. It's on my bio.

13 Q (By Mr. Clark) All right. The principal's certificate was
14 obtained approximately when?

15 A That was -- I have to go back. '95, '96.

16 Q Okay. And when did you obtain your superintendent's
17 certificate from SPU?

18 A 2004.

19 Q Have you ever given deposition testimony before?

20 A Not in this format. I testified as a principal in a Becca
21 case with a student, and I testified in court again as a
22 principal with a parent situation for restraining order.

23 Q Okay. Those are the two times that you've testified,
24 whether it's in deposition or trial?

25

26 A Correct.

1 education.

2 Q What about the funding of public education are you going to
3 testify about, if you testify at trial?

4 A Questions regarding the funding that's received from the
5 state to the district.

6 Q To the Renton School District?

7 A Right.

8 Q Are you going to talk about issues that pertain to
9 districts other than Renton?

10 MR. EMCH: Objection, Bill, calls for
11 speculation.

12 Q (By Mr. Clark) You can answer my question.

13 A I'm not aware of that.

14 Q Okay. So as far as you know today, your testimony will be
15 about issues that are pertinent to the Renton School
16 District and only the Renton School District?

17 A Well, I'm aware that there may be questions regarding any
18 knowledge I have of the state funding, since I worked at
19 the state level.

20 Q What connection between funding is there between funding
21 and your work at the state level that might be a topic for
22 your testimony at trial?

23 A Well, I'm aware of the allocation formula. I'm aware of
24 the legislative process. In my role as the deputy state

25
26 superintendent, I worked with state and federal funds and

1 requirements around those funding, the use of those
2 dollars.

3 Q What were your general responsibilities as the deputy
4 superintendent at OSPI? You said it was in Teaching and
5 Learning was the title?

6 A Mm-hm.

7 Q And what did that involve?

8 A I supervised Special Education, Learning and Teaching which
9 included school and district improvement initiatives. I
10 was in charge of No Child Left Behind and the Washington
11 state plan for implementation of that federal law and the
12 requirements around that.

13 I was in charge of the assessment development of the
14 WASL. I was in charge of Title 1, the categorical
15 programs, Title 1 and Title 3, the English Language
16 Learners, Title 5. I also supervised the college teacher
17 preparation programs and that certification.

18 I was also in charge of the curriculum department
19 that established the grade level expectations beyond the
20 essential learnings and the four state learning goals. I
21 think those were all my departments.

22 Q What is your understanding of the term "basic education" as
23 it applies to the State of Washington?

24 A Well, the four state learning goals were established by
25
26 House Bill 1209, from that work develop the Essential

1 Academic Learning Requirements that identified what
2 students need to know and be able to do.

3 Further clarification was necessary to help support
4 classroom instruction, which is how we developed the grade
5 level expectations that identified each grade level what
6 students need to know and be able to do, further
7 clarification of the essential learnings.

8 Q Did that complete your answer?

9 A Yes.

10 Q Okay. Do you believe that is the State of Washington's
11 definition of basic education, that is the 1209, four
12 learning goals, the EALRs, the grade level expectations?

13 MS. MOORE: Can you clarify? In her capacity as
14 deputy superintendent or as Renton School District's
15 superintendent?

16 MR. CLARK: Either. It doesn't matter to me.
17 If they differ, she can tell me.

18 A So the definition of basic education, I believe, has been
19 established in those laws and that process. The funding of
20 basic education and what happens in the Renton School
21 District has components of the program of basic education
22 that the Legislature identifies to help students meet those
23 goals and expectations.

24 Q (By Mr. Clark) Do you distinguish between basic education
25
26 and the program of basic education, are they different?

1 A I believe the funding of basic education identifies program
2 needs. I believe the essential learnings identifies what
3 students should know and be able to do. And so, in that
4 way they are different.

5 Q Okay. But in your mind, are they all part of the same
6 definition of basic education?

7 A They should be.

8 Q From your answer, do you mean to be they should be, but
9 they are not?

10 A Yes.

11 Q Please explain that answer. How is it that they should be
12 but are not?

13 A I believe there's a disconnect between what is identified
14 for what students should know and be able to do and what's
15 funded in the program identified by the Legislature and the
16 basic ed. formula for allocating funds.

17 Q Please describe for me what you mean by a disconnect
18 between those two.

19 A There are expectations identified in the Essential Academic
20 Learning Requirements in the areas of the arts, music, art,
21 drama, that are not included in the basic ed. allocation to
22 districts for funding positions to provide that
23 instruction.

24 Q Anywhere else that you perceive a disconnect other than
25
26 what you described?

1 A The expectations for students to graduate in four years in
2 high school and the requirements for the students to meet
3 those expectations requires the districts to provide a
4 certain number of hours, periods of the day, and the
5 funding model does not support those number of hours, so
6 local funds are required to support students meeting the
7 goals that are established in the law.

8 Q Let me see if I understand that then. You perceive there
9 to be a disconnect between the objective of having high
10 school students graduate on time, and I take that you mean
11 graduate with their peers?

12 A Mm-hm.

13 Q A disconnect between the expectation that high school
14 students will graduate on time and the amount of periods
15 per day that the state funds?

16 A Correct.

17 Q And the disconnect, as it were, is overcome by the district
18 by the district using local funds to, in essence, fund a
19 longer school day for the high school students so that they
20 can meet the graduation on-time expectation?

21 A Yes.

22 Q Any other aspects where you see a disconnect between the
23 definition of basic education and the funding that the
24 state provides to carry that out?

25
26 A The allocation formula and the design of how districts

1 receive funding is based on a 30-year-old definition of
2 basic education and does not consider the diverse learning
3 needs of what we have in our local schools and
4 district-wide for meeting those needs.

5 Technology is an example for what students need to
6 have to be successful, it didn't exist 30 years ago. Our
7 English Language Learner population and the learning needs
8 that they bring was not part of what was part of our public
9 school system 30 years ago.

10 So there's many examples that I can't come to right
11 here that I could probably think about more in depth that
12 the difference between the learning needs that we face in
13 our schools and that funding model does not allow us to
14 reach all of the needs because they're dramatically
15 different from what they were.

16 Q Okay. And you've given me three examples of that
17 disconnect and I appreciate that you could think of more,
18 but I'm trying to understand what you know today.

19 And so, I'm wondering if you can give me any other
20 examples other than the three that you've given me of where
21 you perceive there to be a disconnect between the
22 definition of basic education and the funding that the
23 state provides to carry it out.

24 A Local dollars are used to subsidize special education needs
25
26 that far exceed the learning needs of the state formula.

1 Local dollars are used to fund transportation that far
2 exceed the amount that we are provided.

3 Our utility costs and basic lights, insurance, health
4 care, you know, some of the NERC dollars far exceed the
5 formulas. So all of those are supported with local funds.)

6 Q All of the now four examples that you've given me, and the
7 fourth one actually has some subparts to it because it
8 pertains to special education, transportation, NERC
9 funding, all of those areas of disconnect seem to be areas
10 where -- if I could just summarize what you've said.

11 The state funding as you see it is inadequate to
12 supply all the needs and, therefore, local funding is
13 necessary; is that a fair statement?

14 A Yes.

15 Q Do all of the examples, and I recognize there may be some
16 you haven't told me about yet, but in your mind do all the
17 examples of the disconnect that you perceive between the
18 definition of basic education and the state funding for it,
19 do they all pertain to the need for the local district, in
20 your case Renton, to augment state funding with local
21 funds?

22 MR. EMCH: Objection; ambiguous as to augment.

23 A I don't understand the question.

24 Q (By Mr. Clark) Do all your examples of the disconnect
25
26 between the definition of basic education and the state's

1 funding of that definition boil down to the fact that the
2 local school district has to augment state funding in order
3 to provide services?

4 MR. EMCH: Same objection.

5 A In order to provide the transportation, I'll use that as an
6 example, to meet the requirements, we are required to use
7 district local funds to provide that. There is not
8 sufficient state dollars to meet the need.

9 Q (By Mr. Clark) Okay. I understand how that pertains to
10 transportation, special education and NERCs, but do all the
11 examples of a disconnect between that definition of basic
12 education and state funding boil down to the Renton School
13 District having to use local funding in addition to the
14 state money in order to provide an education to its
15 students?

16 A So are you talking about the other examples --

17 Q Yes.

18 A -- that I've given?

19 Q Yes. Are the other examples similar to the transportation
20 example that you offered?

21 A So for the high school time for students to meet those
22 expectations --

23 Q Local money is necessary?

24 A -- it is necessary for local dollars to be used to provide
25 that.
26

1 Q All right. In addition to the state funding?

2 A Yes.

3 Q Okay. In your opinion, does your school district provide a
4 basic education to its students with the use of the
5 federal, state and local money that it gets?

6 A The district is in compliance with the program requirements
7 and we stay within budget to address those requirements.

8 Q Okay. But in your opinion, does the Renton School District
9 supply its students with a basic education with the total
10 amount of money that it receives from state, federal and
11 local sources?

12 MR. EMCH: Objection; ambiguous as to basic
13 education, standards versus basic education program.

14 Q (By Mr. Clark) I want us to have a common understanding
15 about basic education and I believe that we do. I'm just
16 using yours.

17 My question is this: With a total amount of money
18 that you get from all sources, state, federal and local, is
19 the Renton School District able to provide a basic
20 education to its students?

21 MR. EMCH: Same objection.

22 A To address the question based on what the allocation
23 identifies and the requirements for developing that budget,
24 and then reporting on the actual use, we do that. It's
25
26 required by law.

1 Q (By Mr. Clark) In terms of meeting the expectations,
2 though, that go with providing a basic education, do you
3 believe that Renton is able to meet the expectations for
4 its students with the total amount of funding that it gets
5 from all sources, federal, state and local?

6 A We do the best we can with what we have.

7 Q I understand that. But do you believe you provide a basic
8 education to your students with the total amount of funding
9 that you get?

10 A My hesitation with the answer has to do with what I just
11 answered about providing what we're required to provide and
12 meeting all components of the law. We absolutely do that.
13 It's required.

14 We have diverse learning needs that are very
15 different now than what that allocation model provides.
16 And so to meet the needs that are specified in the program
17 we do a lot of outreach for additional help, additional
18 support, additional community involvement, and it's a
19 challenge.

20 Q And with that total amount of funding that you get from the
21 state, the federal, locals, from reaching out to the
22 community and the like, do you believe that your school
23 district provides a basic education to its students?

24 A Based on the 30-year definition, yes.

25
26 Q And that's with local funding as well. I'm not trying to

1 get you to say it's just with the state funding. I want to
2 be very clear about that.

3 A I understand.

4 Q Thank you. Now you're familiar, are you not, with this
5 legislative session's efforts with regard to reforming
6 basic education and the funding for it?

7 A Yes, I am.

8 Q I believe that your district and you personally are on
9 record as endorsing the legislation that has just been
10 passed by the House and Senate and is awaiting the
11 governor's signature?

12 A That is correct.

13 Q And why do you endorse that legislation?

14 A I believe that it recognizes the 30-year-old definition,
15 that it is inadequate for meeting the needs of the diverse
16 learners of Washington state, and it is at least intent
17 language for the Legislature to act on that.

18 It identifies some specifics of the learning needs
19 that should be part of basic education and presently is
20 not.

21 Q Do you believe that if the current legislation is signed by
22 the governor and is carried out by the State of Washington
23 that it will take care of any problems you perceive in the
24 state's funding of basic education for your district?

25
26 A Only if it's funded.

1 MR. EMCH: Objection; hypothetical, calls for
2 speculation.

3 Q (By Mr. Clark) Your answer is yes, but only if it's
4 funded?

5 A Only if it's funded.)

6 Q Okay. If the funding is provided for the program that is
7 outlined so far in the legislation currently passed by the
8 House and Senate, if that is funded you believe that that
9 will give your district the resources it needs to provide a
10 basic education to its students?

11 A Yes.

12 Q Why were you interested in the Renton superintendent
13 position?

14 MS. MOORE: Objection.

15 MR. CLARK: I didn't mean it to be
16 objectionable.

17 A My career path had a gap in that experience. I came to
18 OSPI and Terry Bergeson asked me to be the deputy. Most of
19 the deputies, colleagues across the country have been
20 superintendents prior to becoming deputy, usually smaller
21 districts, but have had that experience.

22 And lacking that on-the-ground learning, I really
23 wanted to make sure that I could experience that
24 understanding, so the opportunity to contribute my

25
26 knowledge and expertise to this district is what led me to

1 apply.

2 Q (By Mr. Clark) You have not taught in the Renton School
3 District before?

4 A No.

5 Q When you became superintendent of the Renton School
6 District what challenges were there to you in the district?

7 A Well, the first is typical to any district is learning the
8 culture and dynamics of the district itself, becoming part
9 of the team and forming the understanding of the leadership
10 needs to impact student achievement. There was also a
11 significant budget challenge discovered a few months into
12 the job.

13 Q So learning the culture of the district and becoming part
14 of the team, identifying leadership needs that there might
15 be that would impact student achievement, and a budget
16 challenge discovered a few months into the job.

17 Any other challenges that presented themselves to you
18 as you became superintendent?

19 A That covers it.

20 Q I think it does.

21 I take it that you were able to familiarize yourself
22 and learn the culture and team aspect of the district?

23 A Mm-hm.

24 Q Were you able to identify the leadership needs that you
25
26 were talking about that would impact student achievement?

1 A Yes.

2 Q What were those?

3 A Having the leaders in the district work together toward
4 common vision, common mission, common goals. Increase the
5 capacity of learning to use data to inform decisions that
6 were made.

7 Restructuring some of the direction involving the
8 community. And the opportunity to be a liaison for the
9 district with the community. And instructional leadership,
10 providing capacity to provide that leadership throughout
11 the system.

12 Q Does that complete your answer?

13 A Yes.

14 Q Okay. Please tell me about the budget challenge that was
15 discovered a few months into the job. What was that about?

16 A I did a complete analysis of the budget from the very
17 beginning to learn and understand components of the pattern
18 of spending and took a look at all of the state reports,
19 looking at our staffing, our student needs, our individual
20 building structures, and discovered that there were budget
21 decisions that had to be made in order to balance the
22 budget at the end of the year, and we had to make some
23 significant cuts to our budget in the first year as
24 superintendent.

25
26 Q What budget decisions needed to be made in order to balance

1 the budget?

2 A Well, there's a long list. I think you have a lot of the
3 documentation provided. The fund balance was dangerously
4 low. Cuts had to be made through a prioritization process,
5 which again you have the documentation of all of that
6 process. Decisions were brought forward to the Board for
7 approval based on our newly-established goals.

8 Q When you say cuts had to be made, are you talking about
9 programs that had to be cut?

10 A Programs, people.

11 Q You said the fund balance was dangerously low when you
12 became superintendent. Did you understand as to how that
13 came to be?

14 A I believe that it occurred because of ongoing efforts to
15 maintain programs and provide support where it was
16 identified as necessary support and not having the funds
17 available to do that, and so decisions had to be made to
18 cut critical needs because the dollars weren't available.

19 Q What critical needs do you recall having to curtail or cut?

20 A Well, we did a RIF. We had a reduction in force. And so,
21 some support was cut. Administrative positions were cut.
22 Positions were consolidated. Programs were cut. Again,
23 there's a very long list that's available for you.

24 Q Were teacher positions eliminated as part of the RIF, the
25
26 reduction in force?

1 A The first year we had some teacher restructuring. I can't
2 recall exactly the individual positions. There was an
3 impact to the teachers, but we kept it as far away from the
4 classroom as we possibly could. And so, there was an
5 impact, but I don't recall the number. Again it's in the
6 documents.

7 MR. CLARK: Mark that, please.

8 (EXHIBIT NO. 263 MARKED)

9 Q (By Mr. Clark) I'm going to place before you what's been
10 marked as Exhibit 263 in the case, Dr. Heuschel.

11 MR. EMCH: Bill, is this your copy? It's got
12 some flags on it.

13 MR. CLARK: Yes. Sorry. Thank you.

14 MR. EMCH: Thank you.

15 MR. CLARK: Pardon me for putting 263 on there.

16 MR. EMCH: I would do the same thing.

17 MR. CLARK: Okay.

18 Q (By Mr. Clark) Do you recognize this document?

19 A Yes.

20 Q All right. This is a Comprehensive Annual Financial Report
21 for the Renton Public Schools for the year ended August 31,
22 2007; is that correct?

23 A Yes.

24 Q And if you turn to -- well, it's page numbered five in the
25 document, but you'll see there's a Renton indicator number,
26

1 a Bates number, 2391. Is that your signature under the
2 respectfully submitted next to Rich Moore's?

3 A Yes.

4 Q Did you review this document when it was completed?

5 A Yes.

6 Q It indicates at the beginning, I believe, it was prepared
7 by the Business Office?

8 A Yes.

9 Q And that's the Business Office of the Renton School
10 District?

11 A Correct.

12 Q Who is responsible or heads up the Business Office?

13 A Rich Moore.

14 Q As superintendent, I take it you have a cabinet or a series
15 of principal subordinates?

16 A Correct.

17 Q Could you identify them, please?

18 A I have the Assistant Superintendent for Business and
19 Operations, that's Rich Moore. I have an Assistant
20 Superintendent for Learning and Teaching, presently that is
21 Rob MacGregor.

22 I have an Assistant Superintendent for Human
23 Relations, that is presently Paul Apostle. Sheryl Moore is
24 on cabinet. Randy Matheson is the Community Relations
25 Executive Director, he is also on cabinet.
26

1 Kathleen Bailey is the Chief Academic Officer for
2 Secondary Education. And Susan Mather is the Chief
3 Academic Officer for Elementary Education.

4 Q Okay. If you could turn to page 2385, the Bate stamp
5 numbers, which I believe is before the letter that bears
6 your signature.

7 There is a listing of the School Board and the
8 administrative staff, and then the schools are listed with
9 their principals.

10 A Mm-hm.

11 Q From your last answer, it appears as though there's been
12 some turnover with regard to the administrative staff?

13 A Correct.

14 Q Did that occur shortly after you arrived or has that
15 happened over the last three years?

16 A It's happened over the last three years.

17 Q Okay. Were any of the replacements involuntary
18 terminations?

19 A No. In fact, they were all retirements.

20 Q Okay. Thank you. Now the names have changed, but the
21 administrative staff positions that are listed on page
22 2385, does that comprise your cabinet or your principal
23 subordinates?

24 A The chief technology officer is not on cabinet, would be
25
26 considered a subordinate, a chief administrator, but the

1 restructuring of cabinet that is a position that was moved
2 under the supervision of Learning and Teaching.)

3 Q Okay. So the chief technical officer is part of the
4 Department of Learning and Teaching?

5 A Correct.)

6 Q Who is the chief technical officer now?

7 A Stosh Morency.)

8 Q I'm afraid you're going to have to spell that.)

9 A M-O-R-E-N-C-Y.)

10 Q Now on page 2385 there are a listing of elementary, middle,
11 and high schools?

12 A Mm-hm.)

13 Q Do those comprise all the elementary, middle, and high
14 schools currently in the district?

15 A Yes.)

16 Q On the following page, 2386, of Exhibit 263 there's an
17 organizational chart. Does that organizational chart for
18 your district pretty much remain the same today?

19 A There have been changes and restructuring of this.

20 Q The assistant superintendent slots, are they still the
21 same?

22 A Yes.

23 Q So it's the organizational framework below the positions of
24 assistant superintendent that have been altered?

25

26 A Correct.

1 Q Can you give me a couple of examples of how the
2 organizational structure has changed from that depicted on
3 page 2386?

4 A The chief technology officer is one example that's been
5 moved to Learning and Teaching. The executive director of
6 Facilities reports to the Business and Operations
7 Department.

8 The titles have, obviously, changed. Business
9 Services is now Business and Operations. Superintendent of
10 Instruction is Learning and Teaching. Human Resources
11 stays the same. Those are the major changes.

12 Chief academic officers have a new name. Rather than
13 executive director of Secondary Education, that position is
14 the chief academic officer. Similarly with the elementary.
15 Instead of executive director of Elementary Education, she
16 is the chief academic officer for Elementary Education.

17 Q Does the Renton School District have a preschool program?

18 A It has a program for Head Start, ECAP, those types of
19 services. It's not a separate preschool.)

20 Q Okay. Does the preschool program pertain to other than
21 special education students?

22 A Yes. We have regular education students incorporated into
23 those classrooms, again to meet the expectations of those
24 programs.)

25

26 Q All right. Where is the pre-K program provided? Is it

1 provided at different schools?

2 A It's a facility called Hillcrest. It is a building.

3 Q And that's one of the elementary schools?

4 A No. It's a separate building. It's not part of a K-6.
5 It's its own building.

6 Q Is it the same Hillcrest that's indicated on page 2385?

7 A Yes. Correct.

8 Q Okay. And you provide that with funding from Head Start --

9 A Some.

10 Q -- funding from the federal government for Head Start?

11 A It's also tuition-based for students who do not qualify for
12 those funding sources.

13 Q Is there a state funding base as well that's part of pre-K
14 in Renton, is there any kind of state funding that's
15 provided?

16 A I'm not sure.

17 Q You mentioned Head Start and then there was another word.

18 A ECAP.

19 Q ECAP. What is ECAP?

20 A What's it stand for? I don't remember.

21 Q Okay. Head Start is a federal program?

22 A Mm-hm.

23 Q Is ECAP also a federal program?

24 A I don't know.

25

26 Q Does the Renton School District provide any career and

1 technical education?)

2 A Yes.)

3 Q And how does it provide that, in what form?

4 A Well, we have career and technical programs throughout the
5 district through the CTE program. It's in all of our high
6 schools and some of our middle school programs.)

7 Q I was going to ask that. It's also in middle schools as
8 well?)

9 A Some of the programs.)

10 Q Some of it?)

11 A Mm-hm.)

12 Q Okay. Do all of the high schools have CTE?)

13 A Yes.)

14 Q Okay. Do all of the middle schools have it?)

15 A All of the middle schools have a program. They're not all
16 the same program.)

17 Q But they have some program for CTE in middle schools even
18 though it may differ depending upon the school?)

19 A Yes.)

20 Q Have any new schools been opened in Renton during your
21 tenure as superintendent?)

22 A I'm trying to remember if Kennydale opened the year -- it
23 was a building that opened, not a new school. There's been
24 some restructuring or rebuilding in facilities from the

25

26 bond, but not a new building or a new school since I've

1 been here. I think Kennydale opened the year I came or the
2 year -- it might have been as I was transitioning.)

3 Q Was it renovated?

4 A Kennydale was rebuilt.)

5 Q Rebuilt?

6 A Mm-hm.)

7 Q Okay. Any other schools that were rebuilt or refurbished,
8 other than Kennydale during your tenure?)

9 A Well, there's ongoing renovation work from bonds, but it's
10 a portion of -- you know, Lindbergh High School had a
11 section renovated since I've been here.)

12 Q Have any schools been closed since you became
13 superintendent?)

14 A No.)

15 Q On pages 2387, 88, 89, 90 and 91 in Exhibit 263 there's a
16 letter to the Board, and that's the letter that you and
17 Mr. Moore signed; correct?)

18 A Correct.)

19 Q Under Financial Information on page 2387 there's a
20 reference to a five-year plan to increase the fund balance
21 up to four percent. Do you see that?)

22 A Correct.)

23 Q Is that the fund balance issue that was part of the
24 challenges that were presented to you --

25

26 A Yes.)

1 Q -- when you became superintendent? Okay.)

2 And has the district been able to continue its
3 five-year plan to build its fund balance up to a four
4 percent level?)

5 A We will be proposing a change for that proposal this year.
6 We met our goal last year, but we will not be able to meet
7 the five-year plan and will request the Board reconsider
8 that goal.

9 Q Reconsider what aspect of the goal?

10 A We will be requesting a certain amount of fund balance
11 not -- or a certain amount of money not go toward the fund
12 balance, which means we would not stay on track of the
13 five-year plan to get to four percent because of the cuts
14 we are facing right now with the elimination of 728 and
15 other components.)

16 Q Will you still have a goal of eventually building the fund
17 balance up to four percent?

18 A I would anticipate that would remain. That's a
19 Board-established goal.

20 Q So the only thing that's really changing is it will take
21 longer to achieve that goal, the goal itself hasn't
22 changed?)

23 A That's the proposal to the Board.)

24 Q And this is due to funding cuts that occurred in this
25
26 legislative session?)

1 A Correct.

2 Q And you mentioned one of the initiatives, which one?

3 A 728.

4 Q And which one does that pertain to?

5 A That is the initiative for class size and other components
6 that are allowable. Renton School District primarily uses
7 that for reduction of class size and some professional
8 development, a small amount of professional development.

9 And so with those cuts, rather than impacting the
10 individual teacher, we are proposing some strategies that
11 could keep some of those positions and one is a reduction
12 of the fund balance contribution which puts the district in
13 an uncomfortable situation without having the funds needed
14 for an appropriate fund balance.

15 Q The goal is to build it to four percent. Do you know what
16 it currently stands at?

17 A About two and a half.

18 Q And what was it at when you became superintendent?

19 A In the beginning of the year, I do not recall. When we
20 discovered the process we actually had to borrow from
21 capital to cover our expenses. So we actually went in the
22 red.

23 Q When you say you had to borrow from capital, what are you
24 referring to?

25
26 A Allowable borrowing from the capital funds to ensure that

(1) (you can make payroll.)

(2) Q You had to move money from the capital fund account into
(3) the general funds account?

(4) A Correct. The interest account.

(5) Q And as I understand it from the documentation, that
(6) transfer from capital to the general fund was a transfer of
(7) interest earned on the capital account to the general fund
(8) account; correct?

(9) A That is correct.

(10) Q So that's interest on the principal that's in the capital
(11) account. You weren't required to transfer any principal
(12) capital funds themselves from capital to general?

(13) A Correct.

(14) Q And if the Board accepts your proposal, or it may not be
(15) yours, accepts the administration's proposal with regard to
(16) not building up the fund balance this year, will that
(17) result in fewer lay-offs of teachers?

(18) A Yes, it will.

(19) Q Will it eliminate all the lay-offs?

(20) A No.

(21) Q How much of a dent can you make in -- I don't know if you
(22) make a dent in preventing lay-offs, so let me rephrase
(23) that.

(24) Without the fund balance leeway that you're

(25)
(26) requesting of your Board, you will have to lay off how many

1 teachers?

2 A I-728 for Renton is equivalent to approximately 66 FTE. If
3 the elimination from the state was simply that straight
4 across, 66 teachers would be RIFed. The fund balance would
5 provide about three positions and a little bit.

6 Q So of the 66 that otherwise might go, you will be able to
7 save three positions with the fund balance request that
8 you're making to the Board?

9 A Correct.

10 Q Are there plans to try to keep any of the other positions
11 that might be laid off from being laid off through other
12 requests that you're making to the Board?

13 A Extensive. Yes.

14 Q How many of those positions is it your goal to preserve?

15 A Sixty-six, if I can.

16 Q All?

17 A Absolutely.

18 Q Do you have proposals to your Board with regard to whatever
19 means are necessary to preserve all 66 positions?

20 A It's in development.

21 Q When would you make that presentation to your Board so that
22 you can get a better feel for whether you'll have to lay
23 off and, if so, how many?

24 A The end of May.

25

26 Q If you turn to page 2390 of Exhibit 263 there's a chart --

1 A Sorry. 239... ?)

2 Q 2390. There is a chart rendered at the top of the page)
3 regarding Full-Time Equivalent (FTE) Enrollment. Do you)
4 see that?)

5 A Yes.)

6 Q If I read this correctly, enrollment in the Renton School,
7 District has grown from 2003 through 2007 and was projected)
8 to grow in 2008 as well?)

9 A Correct.)

10 Q And did that trend continue in 2008?)

11 A Yes.)

12 Q Has your enrollment grown since then?)

13 A Yes.)

14 Q Do you know or have a ballpark figure for what the current)
15 FTE student enrollment at Renton is?)

16 A Well, our current head count is about 14,000.)

17 Q 14,000, okay. And that would reduce to a full-time)
18 equivalent that would probably be less than 14,000?)

19 A Definitely. Yes.)

20 Q Okay. On the same page, 2390, there's a heading for)
21 Financial Condition. Do you see where I'm referring to?)

22 A Yes.)

23 Q It says, "The overall financial condition of the district)
24 as of August 31, 2007 has improved from the prior year as)
25
26 net assets have increased while long term debt was)

1 reduced."

2 Do you see that sentence?

3 A Yes.

4 Q It says, "As of August 31, 2007 the fiscal year revenues of
5 \$148,920,211 exceeded expenses of \$134,333,208 by
6 \$14,587,003."

7 In fact, did fiscal year revenues as of August 31,
8 2007, exceed expenditures for the district by that amount?

9 A Could you repeat that?

10 MS. MOORE: What's your question?

11 Q (By Mr. Clark) Did the revenues as stated in that
12 sentence, in fact, exceed the district expenses by that
13 \$14.5 million amount?

14 A To my knowledge, yes.

15 Q And that is revenues from all sources; correct?

16 A Correct.

17 Q So that would include state, federal and local --

18 A Correct.

19 Q -- and other, whatever that may be?

20 The subsequent sentences indicate that by comparison
21 the fiscal years '05-'06 and '04-'05 also had total
22 revenues exceeding expenditures; is that correct?

23 A Correct.

24 Q So in each of the years indicated in that paragraph that

25
26 we've been talking about, the Renton School District was

1 able to operate in the black?

2 A Correct, with the exception of the borrowing of interest
3 that was mentioned.

4 Q And what year did that occur in?

5 A My first year.

6 Q And what school year or fiscal year, rather, would that
7 have been? '06-'07? '05-'06?

8 A The borrowing occurred '06-'07.

9 Q Okay. Did you start during a school year?

10 A No. I was hired July 1st of '06.

11 Q All right. Just prior to the start of the '06-'07 school
12 year?

13 A Correct.

14 Q With the exception of the year in which you had to borrow
15 interest money from the capital account -- well, not borrow
16 it, but transfer interest money from the capital account to
17 the general fund account, has the district operated in the
18 black in every year that you've been superintendent?

19 A Yes.

20 Q Do you know of any years prior to your tenure when the
21 Renton School District did not operate in the black?

22 A No. Can I take a bathroom break?

23 Q Sure.

24 MR. CLARK: Off the record.

25

26 (Recessed at 10:16 a.m.)

(Reconvened at 10:21 a.m.)

MR. CLARK: Let's get going again. Thanks.

Q (By Mr. Clark) I'm sorry. Some of the questions I've asked you've anticipated. So rather than going over them, I'm just moving along.

Can we turn to page 2435 in Exhibit 263, please?
Notes to financial information is provided in this document, and this is note No. 5 that's entitled Construction In Progress.)

Were these the construction projects applicable to your district that were in progress at the time of this report?

A Yes.)

Q As you look at this list today, were there any of these construction projects that were not completed?

A Not that I am aware of.)

Q During your tenure as superintendent have you become aware of any construction projects that were terminated as a result of inadequate state funding?

A No.)

Q Are you aware of any projects, any construction projects, that occurred during your tenure as superintendent that had to be substantially delayed as a result of inadequate state funding?

A No.)

1 Q Now the state does not provide 100 percent funding for
2 school construction, does it?

3 A Correct.

4 Q What is your understanding of the state's program for
5 assisting districts with capital projects with school
6 construction?

7 A I'm aware that there is a program. I'm aware that we work
8 to access what we're eligible for. An example of what we
9 aren't eligible for is some of our work with the newly
10 passed bond for an early learning center that doesn't get
11 state match.)

12 So I'm not an expert in that area or have the
13 details, but I do know that there's opportunities and we
14 take advantage of whatever is available.

15 Q Do you believe that the state should be responsible for
16 funding 100 percent of school construction within your
17 district?

18 A No.)

19 Q Why do you believe that?

20 A Because I believe there is local responsibility that in
21 this district is upheld and amazingly supported for the
22 needs locally and the participation of that.)

23 Q Do you perceive there to be something problematic about the
24 issue of local control of construction projects, school
25 construction projects, and a requirement of 100 percent
26

1 state funding?)

2 MS. MOORE: A compound question and I guess a
3 concern that the first term was, I think, really
4 argumentative. So could you rephrase, please?)

5 MR. CLARK: Okay.)

6 Q (By Mr. Clark) Do you perceive there to be some difficulty
7 in the idea of local control over projects like school
8 construction and a requirement that the state be 100
9 percent responsible for funding those projects?)

10 A I'd like to ask a clarifying thing if I could.)

11 Q Sure. Go ahead.)

12 A The question is if there's a local desire to build
13 something and then there's control over the decisions
14 around building that and the state requirement of 100
15 percent funding it, would there be a problem with that?)

16 Q Do you see tension between those two concepts?)

17 A Yes.)

18 Q And what is it about those two that you see creates
19 tension?)

20 A If the state is funding it, there's a role to play in
21 approving or being part of what that local need is.)

22 Q Do you perceive some tension to exist between the idea of
23 locally determining the need for a construction project and
24 requiring the state to be the one that has to fund it 100
25 percent?
26

1 A Yes.

2 Q Currently when a school district like Renton constructs a
3 new school or renovates an old school, it's working on a
4 piece of property that the school district owns; correct?

5 A Correct.

6 Q The state doesn't have an ownership interest in any of the
7 Renton school buildings or facilities?

8 A Correct.

9 Q What is your understanding of the state's method -- not
10 method. What is your understanding of the state's program
11 for providing transportation dollars to local districts?

12 A There is a formula that drives where the crow flies
13 terminology for determining mileage, and there's a
14 ridership component for a count on a particular day over a
15 week period of time, I believe it is, where funding is
16 driven based on the number of kids that particular month
17 versus what's actual over the whole school year.)

18 Q Do you understand why the funding is predicated upon
19 ridership that is determined on a certain month?

20 A No.

21 Q Is there a reason for it, as you understand?

22 A I don't understand rationale behind it. I think they came
23 up with a way to come up with a way to determine a number,
24 but I don't -- I'm not privy to how that was developed or
25
26 any rationale behind it.

1 Q Do you understand that transportation funding by the state
2 is limited to trips to and from school?

3 A Yes.

4 Q And that would exclude, say, you know, school busing of
5 students or others to athletic events like football games,
6 basketball games and the like?

7 A Understood.

8 Q Do you think that the state should fund those trips that it
9 does not now fund, for example, the trips to the football
10 games and the like?

11 A No.

12 Q Are there aspects of the state's transportation funding
13 that you believe should be changed so that the state
14 supplies funding for things it now does not provide
15 transportation funding for?

16 A Absolutely.

17 Q And what would those be?

18 A A better formula for actually providing funding for
19 ridership that is not based on the one week but over time
20 month by month, you know, whatever a count equivalent is.

21 There are students that get added to the district
22 throughout the year that has substantial impact. Increases
23 to gas prices was a huge impact to us, particularly last
24 year.

25
26 Replacement of buses, there is opportunity that we

1 take advantage of. That doesn't get it all, but there
2 could be some improvements to that. And a revamping of
3 where the crow flies doesn't work.)

4 Q Could you turn to page 2490, please, still in Exhibit 263.
5 This is a Table 2 that states that it is the Renton School
6 District's changes in net assets over the last six fiscal
7 years. Do you recall who prepared this table?)

8 A The district office Business Department.)

9 Q Mr. Moore's group?)

10 A Correct.)

11 Q If I understand this table correctly, the bottom line,
12 let's say its change in net assets reflects a positive
13 change in net assets for the years 2001 through the year of
14 2006-'07?)

15 A Correct.)

16 Q Is that how you recall it?)

17 A Yes.)

18 Q On the following page, 2491, there is fund balance history
19 over the preceding 10 years for the report. Do you see
20 that?)

21 A Yes.)

22 Q And this relates to the fund balance for the district's
23 general fund?)

24 A Correct.)

25

26 Q As opposed to its capital projects or transportation)

1 vehicles --

2 A Correct.

3 Q -- or ASB fund; correct?

4 A (Witness nods head.)

5 Q If I understand the Total General Fund balance line, both
6 unreserved and reserved, the Total General Fund line I'm
7 looking at, between the '03-'04 year and the '04-'05 year
8 or during those years there was approximately a \$1 million
9 drop in the fund balance? If you look under the years
10 2003-4, the Total General Fund of 4.6 million or so?

11 A Mm-hm.

12 Q And the next entry for '04-'05 shows a reduction to 3.6?

13 A Mm-hm.

14 Q Now that occurred before your tenure?

15 A Correct.

16 Q Do you have an understanding as to why there was, you know,
17 about a \$1 million drop in the fund balance for the general
18 fund for that year?

19 A No.

20 Q There also is a drop between the '04-'05 and '05-'06 year,
21 do you see that? Are you aware of why that occurred?

22 A No.

23 MR. CLARK: Let's have this exhibit marked.

24 (EXHIBIT NO. 264 MARKED)

25

26 Q (By Mr. Clark) Doctor, handing you Exhibit 264, do you

1 recognize the document?

2 A Yes, I do.

3 Q This is the OSPI State Report Card for Renton School
4 District for the year 2007-2008; is that correct?

5 A Yes.

6 Q Okay. What is the report card document?

7 A This is on the OSPI Web site and it provides the
8 information required to report at the federal level
9 regarding the large scale assessment and the results of
10 adequate yearly progress.

11 Q Where is the AYP information indicated on the report card?

12 A It is a sub drop-down. I'm trying to see if you have it
13 copied here. It is a menu option. If you look at the
14 front of the summary, if you clicked on that AYP it would
15 provide you a summary of status of adequate yearly progress
16 for each of the schools.

17 Q Okay. Do you have schools currently in the district that
18 have not made AYP?

19 A Yes.

20 Q Approximately how many?

21 A I don't know. I have that data, but you make or don't make
22 adequate yearly progress in many different areas, and so
23 each school is evaluated based on reading, writing,
24 mathematics, the gender breakdowns, all of the requirements
25
26 of federal reporting. So I don't keep those in my head.)

1 Q I understand. There can be a great diversity of reasons as
2 to why something happens or doesn't happen, I understand?

3 A Yes.

4 Q The State Report Card is information maintained on the
5 state's Web site at OSPI; correct?

6 A Correct.)

7 Q And as you understand it, it's maintained for all school
8 districts in the state?

9 A Correct.)

10 Q The information about student demographics that appears,
11 for example, on the first page of Exhibit 264, is that
12 information that is provided by the district to the state?

13 A Correct.)

14 Q The WASL results that are depicted on the first page, where
15 does that information come from?

16 A Those are the results that are provided by the testing
17 company.)

18 Q To the state?

19 A To the state and the districts and the schools, but the
20 OSPI posts that from those results.)

21 Q Do you believe the WASL results for '07-'08 are as depicted
22 in Exhibit 264 for your district?

23 A Yes.)

24 Q Now on the first page of Exhibit 264 under Other
25

26 Information in the lower right-hand corner there's an

1 on-time graduation rate figure for the year '06-'07;

2 correct?

3 A Correct.

4 Q What do you understand on-time graduation rate to mean?

5 A Students that graduate within four years based on a
6 specific formula of when students enter into the high
7 school, and that cohort is formed when they enter ninth
8 grade.

9 Q So they enter ninth grade and if they graduate on time it
10 means that they go freshman, sophomore, junior, senior and
11 graduate in that four-year period?

12 A Correct.

13 Q Contrasted with extended graduation rate which means that
14 for whatever reason it takes more than the four-year
15 cohort?

16 A Correct.

17 Q Now in 2008 for the first time the state had a graduation
18 requirement that included passing the reading and writing
19 WASL; correct?

20 A Correct.

21 Q Do you know if you had any potential graduates from high
22 school who were not able to graduate because of WASL
23 performance?

24 A Yes.

25

26 Q In those instances was that solely due to WASL performance?

(1) or were there some other factors?)

(2) A In three of the cases it was solely due to WASL.)

(3) Q Three out of how many?)

(4) A Twenty-seven.)

(5) Q All right. So the other 24 had issues other than WASL
(6) performance that impeded their ability to graduate?)

(7) A Correct.)

(8) Q Of those 27 are any still trying to achieve graduation?)

(9) A Twenty-four.)

(10) Q Okay. Now the information on the '07-'08 report card for
(11) Renton the graduation rates are for the year '06-'07, are
(12) they not?)

(13) A Correct.)

(14) Q Do you know how the on-time graduation rate for '07-'08
(15) compared to the figure that's indicated on this document
(16) for the prior year?)

(17) A I don't know the number.)

(18) Q Do you know if it was better, the same, lower?)

(19) A I believe we have increased.)

(20) Q Okay. How about the extended graduation rate for '06-'07
(21) as indicated here, did the extended graduation rate for
(22) '07-'08 remain the same?)

(23) A That one I don't know.)

(24) Q On the second page of Exhibit 264 under Teacher

(25)
(26) Information, it's indicated that there are 873 classroom

1 teachers district-wide and of those it appears that the
2 total number of teachers who teach core academic classes is
3 653. What are core academic classes?

4 A Reading, writing, mathematics, social studies, English.)

5 Q Science?

6 A Science.

7 Q What are examples of classes that are not core academic
8 that are taught in the Renton School District?

9 A Title I. Teachers under federal support for reading,
10 mathematics sometimes. Teachers on special assignment to
11 provide support for professional development of teachers.

12 Q Would art teachers be considered to be ones that aren't
13 core academic classroom teachers?

14 A I do not believe they're calculated in core.

15 Q How about music?

16 A Music is not. PE is.)

17 Q PE is, okay.)

18 A I think.)

19 Q All right. Do you equate core academic classes with basic
20 education classes?

21 A Personally on this report?

22 Q Well, you personally and then I'll ask if the report is
23 different. But you personally, yes.

24 A Personally, I believe all teachers are core teachers to
25

26 meet the Essential Academic Learning Requirements. I.

1 believe that this report separates out by the funding
2 formula the classification of the teachers.)

3 I don't recall how and which content areas, but
4 that's the difference with 873 and 653 is the way the state
5 requests those reports.)

6 Q All right. So it's based upon the state's belief that core
7 academic teachers are the ones who are teaching -- or ones
8 they fund to teach basic education?

9 A I don't know if it's based on a belief. I think this is
10 based on the way reporting is required to be sent in and
11 then calculated by the state.)

12 Q So the way reporting is required to be done, the core
13 academic classes are the ones taught by the ones funded
14 through the basic education formula?

15 MS. MOORE: I think that mischaracterizes her
16 response.)

17 MR. CLARK: I don't mean to. If it does, I'm
18 sorry.)

19 A I believe the difference in these two numbers have to do
20 with the required state and federal reporting of teachers
21 based on the allocation formula.)

22 Q (By Mr. Clark) All right.)

23 A But this doesn't reflect my belief of core or the report of
24 who's most important in the system.)

25
26 Q Okay. Your personal belief is that all your teachers are

1 basic education teachers?)

2 A I believe that all my teachers are essential for meeting
3 the requirements that the state has set for what they say
4 students should now be able to do. I have no fluff in the
5 system.)

6 Q All right. I believe that. I wasn't looking for fluff, to
7 tell you the truth.)

8 (The financial data in Exhibit 264 on page 2 lists)
9 total revenues from all sources and then breaks down the
10 total expenditures by the expenditure center, does it not?)

11 A Yes.)

12 Q And it indicates that for the year '06-'07 anyway the total
13 revenues per student were less than the total expenditures
14 for the students; is that correct?)

15 MS. MOORE: I'm sorry. Where are you looking?)

16 MR. CLARK: Under Financial Data.)

17 MS. MOORE: All right.)

18 Q (By Mr. Clark) Total revenue per student is less than
19 total expenditures per student for the district for that
20 reported year; correct?)

21 A That's what it shows.)

22 Q Okay. Where did the balance of revenues or funds that were
23 necessary to make revenues and expenditures match, where
24 did they come from?)

25
26 A I don't know. I'm not sure what generates this report.)

1 Again, I believe that this is taken out of the state
2 databases from reports that we provide in the different
3 forms. So I would have to check how this is generated for
4 posting. I don't know that.)

5 Q The revenue and expenditure information are pieces of
6 information that the district supplies to the state,
7 though; correct?

8 A Correct.

9 Q And I take it they'd be taken from the F-196 reports?

10 A I would assume.

11 Q And the F-196s, for the record, are the annual financial
12 statements that each district provides to OSPI?

13 A And is audited regularly.

14 Q Okay. In fact, now that you mention audit, I believe in
15 Exhibit 263 there's an audit report from the state
16 auditor's office for the district for that year. Did you
17 see that in the collection?

18 A Yes.

19 Q Is that the audit you were referring to in your prior
20 answer?

21 A We're audited regularly.

22 Q Every year by the state?

23 A Mm-hm.

24 Q Okay.

25
26 (EXHIBIT NO. 265 MARKED)

1 Q (By Mr. Clark) Dr. Heuschel, you've been handed
2 Exhibit 265. Is this the State Report Card for the Renton
3 School District for 2006-2007?

4 A Yes.

5 Q And just to move things along, the entries on Exhibit 265
6 are the same types of entries that occurred on Exhibit 264;
7 correct?

8 A Correct.

9 Q And do you believe them to be accurate for your district
10 for the year in question?

11 A Yes.

12 (EXHIBIT NO. 266 MARKED)

13 Q (By Mr. Clark) Dr. Heuschel, you've been handed
14 Exhibit 266. Is this the State Report Card for the Renton
15 district for the year 2005-2006?

16 A Yes.

17 Q And it contains the same type of entries as to WASL
18 results, student demographics, teacher information, and
19 financial data as the prior two exhibits?

20 A Yes.

21 Q And do you believe them to be accurate for the year
22 2005-2006?

23 A Yes.

24 (EXHIBIT NO. 267 MARKED)

25
26 Q (By Mr. Clark) Dr. Heuschel, you've been handed

1 Exhibit 267 which is the F-196 report for Renton for the
2 year 2005-2006?

3 A Correct.

4 Q Are you familiar with these reports?

5 A Yes, I am.

6 Q They are generated, I take it, by your Business Office?

7 A Correct.

8 Q Do you have occasion to review them before they are
9 finalized?

10 A Yes, I do.

11 Q On the first page of the F-196, Exhibit 267, there's a
12 certification that on this document anyway is in blank.
13 There's a signature line for the school district
14 superintendent. Have you customarily signed off on F-196s
15 for your districts?

16 A Yes.

17 Q The first page of Exhibit 267 also has a report with regard
18 to different funds that the district maintains, does it
19 not?

20 A Yes.

21 Q On the far left, for example, is the general fund; correct?

22 A Correct.

23 Q What is the general fund, as far as you know? What does
24 the general fund represent?

25

26 A The general fund is our account.

(1) Q It's your basic operating account for the district?)

(2) A Yes.)

(3) Q As opposed to the ASB, which is a student fund-designated
(4) account; correct?)

(5) A Correct.)

(6) Q And when we talked a little bit about capital projects fund
(7) earlier, that is listed here as a separate fund for the
(8) district?)

(9) A Correct.)

(10) Q Is it from the capital projects fund that the interest
(11) was -- from which the interest was taken in order to put it
(12) into the general fund in the year we spoke about earlier?)

(13) A Correct.)

(14) Q Did the transfer of that interest money from the capital
(15) projects fund to the general fund adversely impact the
(16) district's ability to carry out capital projects?)

(17) A No.)

(18) Q It had the effect of lowering the amount in the capital
(19) projects funds; correct?)

(20) A Correct.)

(21) Q Did it have any other impact other than doing that?)

(22) A Not immediate impact.)

(23) Q Why do you say not immediate?)

(24) A Because it reduces by that amount the future -- the
(25)

(26) opportunity to access those dollars for future needs.)

1 Q Okay. And did you have needs that went unfulfilled because
2 of an inability to call on the money that was transferred
3 from capital to general?

4 A Could you say that again?

5 Q Yes.

6 A Did I have needs unfulfilled?

7 Q Yes. You said that the moving of that interest money from
8 capital to the general fund could have or did create a
9 problem with regard to a need for that money in the
10 capital.

11 Was there a need that went unfulfilled or unmet as a
12 result of the transfer of those funds?

13 A No. Actually what I think I said was that it has the
14 potential for an impact for a future need that may not be
15 able to be met because I had to use and access those funds
16 for payroll.

17 Q But thus far that need hasn't happened?

18 A Correct.

19 Q Do you see in the foreseeable future that there will be a
20 need that will go unfulfilled as a result of that transfer?

21 A I don't know.

22 Q For the year '05-'06 the general fund entry on the first
23 page of Exhibit 267 indicates that there was an excess of
24 expenditures over revenues for that year in the district;

25
26 correct?

(1) A That's what it shows, yes.

(2) Q And that there was a corresponding reduction in the total
(3) fund balance for that year to make up for that deficit; is
(4) that correct?

(5) A Correct.

(6) Q Now if you turn to -- I'm going to use the Bate stamp
(7) number which is F6REN you see down in the lower right-hand
(8) corner?

(9) A Yes.

(10) Q If you turn to the page that ends in 120, it's the
(11) Budgetary Comparison Schedule. This page depicts what was
(12) budgeted for the year, what actually occurred and what the
(13) variation was between budget and actual; is that correct?

(14) A Correct.

(15) MS. MOORE: Just to note for the record, this is
(16) the year ending August 31, '06. Dr. Heuschel would have
(17) just started July 1, '06.

(18) MR. CLARK: I understand.

(19) MS. MOORE: Thank you.

(20) Q (By Mr. Clark) If you could turn to page 166, the Bate
(21) stamp number in Exhibit 267. There is a Resource To
(22) Program Expenditure Report on that page. Do you see what
(23) I'm referring to?

(24) A Yes.

(25)

(26) Q Okay. One of the columns says State Resources on page 166.

1 Do you see that column?

2 A Yes.

3 Q And it ends down below with a total of 68,300,000 or so
4 dollars. Do you see what I'm referring to?

5 A Yes.

6 Q On page 120 under Actual State Revenues, under the Actual
7 column it indicates the state revenues were \$70,122,150.
8 Do you see what I'm referring to?

9 A I'm trying to find that number.

10 Q Under the Actual column.

11 A Yep. Okay.

12 Q Okay. I'm curious. If you know, the state resources total
13 on page 166 is \$68.3 million, roughly, and the state
14 revenue figure for the year on page 120 is listed as
15 \$70,122,150. Do you know why those two numbers are
16 different?

17 A No.

18 Q Who would best be able to answer that question?

19 A Rich Moore.

20 Q Rich Moore?

21 A Mm-hm.

22 Q And would the same be true of any difference between the
23 federal resources total reported on page 166 and the
24 federal revenues total reported on the prior page?

25

26 A Yes. Rich could answer all of those.

1 Q I have some other F-196s that also have the same difference
2 between state resources on one page, state resources on
3 another, and rather than take you through those I suspect
4 if I want the answer to that I have to ask Mr. Moore?

5 A Correct.

6 MR. CLARK: Would you mark this, please?

7 (EXHIBIT NO. 268 MARKED)

8 Q (By Mr. Clark) Exhibit 268 is a compilation of different
9 years Minimum Basic Ed. Requirement Compliance forms. Do
10 you recognize these forms?

11 A Yes, I do.

12 Q And on page 1 of Exhibit 268, for example, which is the
13 Minimum Basic Ed. Requirement Compliance form for '08-'09,
14 it bears your signature under the certification?

15 A Yes.

16 Q And the certification states, "We hereby certify that the
17 board of directors has been apprised and that the Renton
18 School District, meets all the requirements relating to the
19 minimum requirements of state basic education programs and,
20 that all deviations from these rules and regulations of the
21 Washington State Board of Education are recorded."

22 And you certified that in this report?

23 A Correct.

24 Q On page 2 it's the Minimum Basic Ed. Requirement Compliance
25
26 form for the '07-'08 school year, and you signed the

1 Certification of Compliance form below that as well?

2 A Correct.

3 Q The third page is the form where you signed the
4 Certification of Compliance on behalf of the district for
5 the '06-'07 year; correct?

6 A Correct.

7 Q And the last form is a two-page document for the '05-'06
8 year which was not signed by you; correct?

9 A Correct.

10 Q Who did sign that?

11 A The former superintendent, Dolores Gibbons.

12 Q And that was your immediate predecessor here?

13 A Correct.

14 Q What do you understand the purpose of these forms to be?

15 A These are the legal validation that you are meeting state
16 and federal compliance for -- not federal, I'm sorry.
17 State requirements for the program that you're responsible
18 for.

19 Q The program of basic education for your students?

20 A As defined in these laws.

21 Q Okay.

22 (EXHIBIT NO. 269 MARKED)

23 Q (By Mr. Clark) Do you recognize the document that's been
24 marked as Exhibit 269?

25
26 A Yes.

1) Q The cover page is an e-mail from you to Jennifer Priddy and
2) Bob Butts at OSPI?

3) A Correct.

4) Q And you also provided the enclosures to the cover page as
5) well?

6) A Correct.

7) Q Who developed the information that was on the enclosure
8) pages?

9) A The Business Office for the Renton School District.

10) Q Mr. Moore's group?

11) A Correct.

12) Q Did you review -- strike that.

13) Did you have any input to the information that's
14) contained on the attachments?

15) A Yes.

16) Q For example, with regard to pages 2 and 3 of Exhibit 269,
17) the Message to Legislators and the data that's contained
18) under that, did you provide input to the information that's
19) contained on these pages?

20) A I did.

21) Q What did you provide?

22) A I provided the outline for the message for the
23) communication.

24) Q The seven points?

25)

26) A The seven points. And requested the analysis that you see

1 with the data with the numbers that were provided by Rich's
2 office.

3 Q And that would be with regard to the analysis of local
4 costs and excess of funding?

5 A Correct.

6 Q The Washington Learns Funding element that's contained on
7 this page?

8 A Correct.

9 Q And it goes over -- the information anyway goes over onto
10 the next page with regard to unfunded mandates --

11 A Correct.

12 Q -- see attachment?

13 Which of the attachments indicates the unfunded
14 mandate of \$8 million?

15 A Are you talking about the reference to the Washington
16 Learns Funding?

17 Q Well, maybe I am. It depends, I guess, on what the
18 document means. But on page 2 there is a segment that says
19 Washington Learns Funding and has current budget, proposed
20 allocation and difference, and then over on the next page
21 of the exhibit there's a line that says Unfunded Mandates
22 of \$8 million, See Attachment.

23 And my question is, what's the attachment that refers
24 to this \$8 million unfunded mandate?

25
26 A Well, it looks like what you have attached is the beginning

1 of the list of costs that were generated that are mandates
2 that funding is not provided locally.

3 So this was an effort to begin listing various
4 components that costs money to the district and money is
5 not provided. I do not see -- this is 2002-3, 3-4 and 4-5.
6 I do not see the tally that got to \$8 million.

7 Q The tally for the costs for '04 and '05 which are the last
8 two pages of the exhibit is not filled in with amounts, and
9 the tally for the two prior years you mentioned that are
10 included in the attachments of this exhibit don't add up to
11 \$8 million.

12 A That would be a question again for Rich Moore.

13 Q The Message to Legislators on page 2 of Exhibit 269 says,
14 "The State funds 74% of Renton's teachers."

15 Does that mean that of the total compliment of
16 teachers that are being analyzed, the state only provided
17 funding for 74 percent of the total number?

18 A Correct.

19 Q And so, 26 percent of Renton's teachers, if I understand
20 this correctly, were being paid for out of local funds?

21 A Or federal dollars.

22 Q Or federal dollars?

23 A Correct.

24 Q Okay. Do you know how many percent of Renton's teachers
25
26 for the period that is the subject of this message to

1 legislators, how many of those teachers were funded by
2 federal dollars?

3 A I don't know, but Rich has that information.

4 Q Okay. Do you know if it was something under 10 percent?

5 A I don't know.

6 Q Is part of your message intended to be that the state
7 should provide the funding for the teachers that are being
8 funded by the federal government?

9 A No. The message was an effort to make sure there was an
10 understanding of the impact to passing COLA and the legal
11 interpretation of all means all and what it doesn't mean
12 that provides for the state not funding that increase and
13 not falling on local shoulders.

14 So this was an effort to localize the impact with
15 information regarding what it costs locally when decisions
16 were made in this case about the COLA.

17 Q Okay. Does all the information in the message to
18 legislators pertain to the COLA issue?

19 A No.

20 Q Okay. That's what I wanted to find out. The first point
21 that the state fund 74 percent of Renton's teachers was not
22 intended to pertain solely to this COLA issue; correct?

23 A Correct.

24 Q I mean, leaving the federally-funded teachers aside, what
25

26 point No. 1 says, and correct me if I'm wrong, is that the

1 state provides funding for 74 percent of Renton's teachers,
2 but it should provide funding for all of them; is that what
3 the message is intended to convey?)

4 A No.

5 Q Okay. What higher percentage of Renton's teachers then
6 should the state be funding if it's supposed to fund more
7 than 74 percent of Renton's teachers?)

8 A I don't have that percentage. I don't have that answer.)

9 It's an effort to provide information about what they do
10 fund and the impact to decisions that they make locally.

11 So the analysis of local costs and excess of funding)
12 at the bottom beyond the COLA issue was to try to
13 demonstrate that and the impact just on Renton so they had
14 data and information to use in their decision-making.)

15 Q Okay. So I take it then that part of the message to
16 legislators and that which is reflected in Point 1 here,
17 were you intending to tell the Legislature that the state
18 should be funding more than 74 percent of Renton's
19 teachers?)

20 A No.

21 Q It was just a piece of information you were providing?)

22 A Correct.)

23 Q Do you believe that the state should be funding more than
24 74 percent of Renton's teachers for the period that is)

25
26 encompassed by this message to legislators?)

1 A Yes.

2 Q Why do you believe that?

3 A The Washington Learns and studies before that identify what
4 the needs are and what needs to appropriately identify what
5 basic education is, and the analysis at the bottom reflects
6 the difference in cost applying the Washington Learns
7 research.

8 So having the Washington Learns turn into the basic
9 funding task force and realizing that huge difference is
10 part of the dilemma of how do you fund it.

11 So again, I wasn't making a statement about what that
12 is or declaring what they should or shouldn't do. It was
13 to provide factual information about impact before they
14 made decisions.

15 Q I see. Okay. So, for example, Point No. 2 which follows
16 on the 74 percent figure in Point No. 1 states that every
17 time the state grants a parenthetical needed COLA, Renton
18 must match the COLA for the remaining 26 percent of our
19 teachers?

20 A Correct.

21 Q Okay. Why does the state's granting a COLA for teachers
22 require that Renton in effect provide the COLA for in this
23 case 26 percent of its teachers?

24 A Why?

25

26 Q Yes. As I understand Point No. 2, does it state that the

1 state grants a needed COLA, but it only applies to 74
2 percent of Renton's teachers?

3 A There's only enough funding provided to the district based
4 on the allocation of the way they do the funding formula
5 that covers 74 percent of our staff. So in order to apply
6 the COLA, local dollars have to be used for what the state
7 allocation model does not fund.

8 Q Why does the state allocation for COLA not cover all of the
9 teachers in the district?

10 A Well, for example, the model doesn't include a music
11 teacher or the federal positions for special education, and
12 so there's not enough money given in the model allocated
13 for the COLA increase that requires locally you to use
14 local dollars to make up the difference.

15 Q For example, the district has to make up the difference for
16 the COLAs the state grants to teachers, Renton has to make
17 up the difference in COLA for those federally-funded
18 positions because the state doesn't provide it?

19 A If you look at the bottom, the very first Instructional
20 Staff and Materials, it lists some of those impacts for
21 K-12 counselors, librarians, elementary band, orchestra,
22 music, those are not positions that the state provides
23 funding for. They're not in the 74 percent.

24 Q What are you referring to when you say look at the bottom?

25
26 A Under the Analysis of Local Costs in Excess Funding, that

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1 very first category, the approximate costs and what we
2 receive, and then the difference of the impact to us.

3 Q Okay. You're talking about the entry for teachers, and the
4 examples are elementary band/orchestra, music, PE, K-12
5 counselors, and K-12 librarians?

6 A Correct.

7 Q Those are the positions for which the state was not
8 providing the funding for the COLAs?

9 A Examples of positions for which the allocation model did
10 not provide enough to cover all of our teachers.

11 Q This does not include the federally-funded positions?

12 A This example does not, but the 26 percent does.)

13 Q Okay. So the 26 percent comprises those teaching positions
14 or instructional positions that the federal government
15 funds and those positions which the state does not fund
16 under its definition of basic education; is that correct?

17 A It's the positions that the allocation model does not allow
18 for covering those necessary teaching positions.)

19 Q Okay. What positions can you think of other than
20 elementary band/orchestra, music, PE and K-12 counselors
21 and librarians are included in the ones that the state does
22 not provide funding?

23 A Title 1, Special Education, English Language Learner.

24 Q Title 1 and Special Education, those are federally-funded
25
26 positions?)

1 A Correct.

2 Q How about the ELL ones, are those federally-funded?

3 A Title 3.

4 Q Title 3. How about staffing the LAP program?

5 A State-funded.

6 Q Those are state-funded?

7 A Mm-hm.

8 Q For those positions does the state provide the COLA money?

9 A I don't know. I believe LAP is an allocation formula that
10 is just an allocation model for the districts to allocate.

11 Q In other words, you are provided with sort of a block grant
12 of funding under that category and the district hires
13 whatever staff it hires either within that funding or with
14 funding from another source?

15 A Correct.

16 Q So the state provides, you know, literally a block of
17 funding and you match the staff requirements to that
18 funding?

19 A Mm-hm. And therefore to try to answer the question, I'm
20 not certain that LAP dollars increase in the allocation
21 model based on the COLA increase that would apply to
22 staffing. So it could fall under the local requirements.
23 I'm just not sure.

24 Q You're just not sure, okay. In Point No. 7 you say,

25

26 "Please spare us from any more unfunded mandates."

1 The unfunded mandate with regard to the COLA is what?)

2 A The additional funds that we locally have to generate in
3 order to meet any laws they pass about increasing cost of
4 living.)

5 Q So when they, "they" being the state, enacts a COLA that
6 will apply to staff within the district, the problem, if I
7 understand it, is that that COLA money will only be
8 provided for the state-funded positions?

9 A Correct.

10 Q Leaving the locals to either -- well, leaving the locals to
11 come up with other sources of funding to cover those COLAs?

12 A Or to cut positions in order to be able to use the funding
13 from the position to pay for the difference.

14 Q Okay. In your tenure as superintendent has the district
15 ever cut positions in order to cover the COLA --

16 A Yes.)

17 Q -- expenses?

18 A Yes. Year one.)

19 Q How many positions were eliminated in order to accommodate
20 that?

21 A Thirty-three. To accommodate the budget, COLA was a
22 portion of that budget.

23 Q Thank you. Turn to page 4 of Exhibit 269. It's the chart
24 for Average Salary and Benefits Compared To State Funded
25
26 Units and then Historical Unfunded FTE rendered.

1 Q Now the district of course does have the latitude to hire
2 more staff for its district than the positions that are
3 funded by the state; isn't that correct?

4 A Correct.

5 Q The columns on this page, on page 4 of the exhibit, for
6 certificated administrative FTE and classified FTE are
7 rendered in the same way as the certificated ones, that is
8 the funded ones are the positions that the state pays for
9 and the actual cost numbers are for those numbers of staff
10 that the district actually goes out and hires --

11 A Correct.

12 Q -- above what the state funds?

13 A Correct. Or below --

14 Q Or below.

15 A -- as you can see in the administrative list.

16 Q Okay. I do see what you're saying.

17 Turning to pages 5 and 6 and 7 and 8, these are the
18 school district's annual costs under a series of
19 inadequately or unfunded mandates that arise as a result of
20 state, federal or local requirements?

21 A Correct.

22 Q Did you have any input in either listing the inadequately
23 or unfunded mandates themselves or the actual costs
24 associated with them?

25
26 A No. Just a request to start generating what those things

1 Q As you look down the list of the underfunded or unfunded
2 mandates are you able to identify for me which ones are
3 federal, which ones are state, which ones are local?

4 A Do you want me to go one at a time?

5 Q If you can. I mean, whatever is the more expeditious way
6 of approaching it, you tell me.

7 A Election costs are local. Audit costs are state.

8 MS. MOORE: In terms of meaning, sorry, local
9 requirement? I'm sorry. Did you mean -- I misunderstood.

10 So did you want her to identify the reason for the
11 requirement being a federal, state or other requirement by
12 that jurisdiction or how we're funding it? Because I mean,
13 I think the assumption is these are local costs that are
14 funding it.

15 MR. CLARK: Maybe I'm not understanding it.

16 Q (By Mr. Clark) Is the listing here a listing of state,
17 federal and local mandates that are inadequately funded or
18 not funded at all?

19 A Yes. So an example is audit costs the district \$25,600,
20 the state requires those audits, the district has to pay
21 for it, so it's an unfunded mandate.

22 Q From the state?

23 A From the state.

24 Q Okay. And you identified election costs as a local. Give

25
26 me the same response with regard to why that's a local one.

(1) A Well, the local School Board general election, the primary,
(2) all our levies and bonds, those are costs the district
(3) incurs for meeting local requirements.)

(4) Q For elections, for school levies and the like?)

(5) A Right.)

6 Q Do you know what the nature of the mandate is for the sales
7 tax?

8 A I don't. That's a Rich question.

9 Q Okay. Do you know what the nature of the sick leave
10 buy-back legislation is?

11 A That's the requirement in legislative changes for buying
12 back sick leave.

13 Q So if an employee reaches a certain amount I guess on an
14 annual basis and they exceed that amount, you know, it's
15 not use it or lose it, there's legislation that says, you
16 know, you buy a portion of it back from the employee at the
17 employee's option, I take it?

18 A At local cost.

19 Q Okay. I'm trying to look at the -- I know they all add up,
20 but I'm trying to look at the six-figure ones. For
21 example, those individuals with disabilities act on page 5
22 of the exhibit, student program and facility accommodation
23 of \$174,000, what is the nature of that mandate?

24 A Again, Rich is better for the details for what generated
25
26 that number. That would be an example of federal

1 Q Is that a federal mandate?

2 A Yes.

3 Q If I wanted to know, you know, just go down the list one by
4 one and know the nature of the mandate as opposed to
5 federal, state or local, I guess I should direct those
6 questions to Mr. Moore?

7 A Yes.

8 Q Okay. Now is it the position of the Renton School District
9 that each of these underfunded or unfunded mandates,
10 whether they're state, federal or local, that the state
11 ought to be paying them instead of the district having to
12 use local funds to pay them?

13 A No. That was not the position or the intent of this. It
14 was really to again try to provide information about local
15 burden to legislators before they made decisions on
16 additional well-intended legislation that they couldn't
17 provide funding for.

18 Q So the purpose of this document was not to convey to the
19 Legislature that these are underfunded or unfunded mandates
20 that the state ought to be picking up?

21 A No, that was not the intent.

22 Q If I could ask you to turn to page 8 of Exhibit 269, before
23 the total amount. I'll wait for you to catch up to me.
24 There's an item for special education that's in excess of
25
26 \$5 million. Are we on the same page?

1 A I can't see the numbers.

2 Q You're there, though. That's what I'm trying to line up.

3 A Yes.

4 Q Do you understand what this special education mandate is
5 that is inadequately or underfunded or unfunded, rather, as
6 its rendered here, what that refers to?

7 A This is the amount that is the local subsidy for providing
8 special education services to our students with
9 disabilities.

10 Q And if I understand it correctly, it's the difference
11 between your reported expenditures in program 21 for
12 special education and the categorical special education
13 funding that's provided by the state, is that what this
14 amount reflects?

15 A Correct. That's the additional cost after we receive state
16 and federal dollars for students with disabilities.

17 Q For each special education student the state provides a
18 basic education and allocation for that student; correct?

19 A Correct.)

20 Q It also provides an incremental categorical amount of
21 funding for the excess cost allocation; correct?)

22 A Correct.)

23 Q If I understand it, this amount, the special education
24 \$5 million or so amount of underfunded mandate, represents
25
26 the difference between the expenditures for special ed.

1 superintendents, with the business organization, not just
2 internal hand it to me. So it may have been used in other
3 venues.

4 Q Okay. There's a date in the lower right-hand corner of
5 February 13th of this year, 5:22 p.m. next to it. Is that
6 the date that this information was put together?

7 A I don't know.

8 Q It may just be a printout date?

9 A Yeah, possibly.

10 Q I don't see on Exhibit 270 as an example of an unfunded or
11 underfunded mandate. Underfunding of certificated staff,
12 other than substitute and administrative, I don't see
13 certificated instructional salaries, for example, listed as
14 something that is an unfunded or underfunded mandate; is
15 that correct?

16 A It's not here.

17 Q Do you believe that that category represents an unfunded or
18 underfunded mandate?

19 A Yes.

20 Q Is it one of the top ones?

21 A Likely.

22 Q Do you have any idea as to why it's not listed as one here?

23 A No.

24 Q When it says underfunding of classified average salaries or
25
26 underfunding of certificated administrative salaries, both

1 have dash BEA only after them, do you understand what that
2 reference is?

3 A I believe it's without benefits.

4 Q So you believe it's --

5 A I think it's the BEA costs only, but I'm not sure.

6 Q And the category Unfunded Sick Leave Buy Back is the same
7 category that we discussed in connection with Exhibit 269?

8 A Correct.

9 Q Exhibit 270 indicates that it's based on the 2008-2009
10 budget?

11 A Mm-hm.

12 Q The budget, is that the F-195 document?

13 A Correct.

14 Q So actual results may vary from the figures that are
15 represented here?

16 A Yes, which would be reflected in the F-196.

17 Q Which we don't have yet for the '08-'09?

18 A Correct.

19 Q Okay. Those aren't finalized until some time in the mid to
20 late fall in the given year; correct?

21 A Correct.

22 MR. CLARK: Why don't we take a short break.

23 (Recessed at 11:44 a.m.)

24 (Reconvened at 11:55 a.m.)

25

26 Q (By Mr. Clark) Before we go on to my next block of

1 exhibits here, part of the information on the report cards)
2 that we were looking at, and feel free to look back at them
3 if you need to, they reflected WASL results.

4 And my question is, are you satisfied with the WASL
5 results for your students as were reported, for example, on
6 the last year for either -- I don't know if it was '07-'08
7 or '06-'07 on the WASL?

8 A Am I satisfied with the results?

9 Q Yes.

10 A Absolutely not.

11 Q What are you doing as a district to improve those results?

12 A That could be two hours. We are taking a systemic approach
13 to improving student achievement, building capacity of
14 individual teachers with instructional tools and strategies
15 that are research-based to meet the diverse learning needs
16 of the kids.

17 Looking at the data and analyzing every step. This
18 is a very high level look. Analyzing who the students are
19 who met the standards, who exceeded the standards, who are
20 below and who are very below.

21 Doing a response to intervention model for meeting
22 the needs individually based on those results, using some
23 formative assessments, putting in place district-wide
24 analysis so that we can provide professional development

25
26 that has a common language of what quality instruction)

1 looks like, what student achievement looks like regardless
2 of what assessment is used, and making sure that we're all
3 going in the same direction rather than islands of
4 excellence that absolutely exist in the district, but how
5 do we do it as a team to meet the needs of 14,000 kids.)

6 Q When you talk about islands of excellence are you talking
7 about individual school performance?)

8 A Correct.)

9 Q Are you also talking about the performance of the student
10 population broken down by ethnicity or economic
11 circumstances?)

12 A That's the kind of data that we dive into deeply, but I was
13 more referring to individual teachers that are exceptional
14 in helping students to meet standard and how do we learn
15 from the individual teams of teachers or individual schools
16 that the data reflects amazing student achievement and how
17 do we capitalize on that as a system, as a district.

18 Q Where is the district finding the resources to pay for the
19 programs and staffing necessary to improve WASL performance
20 by the students?)

21 A Well, a variety of sources. One is federal funds working
22 in partnership with OSPI through the School Improvement
23 Assistance Grant and the District Improvement Grant, they
24 now have labeled that the Summit Initiative, we are part of
25
26 that process.)

(1) We also have a lot of people who donate their
(2) personal time. I teach the assessment class for teachers
(3) getting endorsements that I do to try to help. So some of
(4) it is not dollars but time and expertise.

(5) Q Are you able to provide those programs within your
(6) currently existing resources from all sources?

(7) A Well, with the resources we have we're implementing what we
(8) can in a district this size. Meeting the diverse learning
(9) needs of the adults to meet the diverse learning needs of
(10) the students requires quite an outreach, so it's phased in
(11) over time to try to build that capacity as I don't have the
(12) resources to do that for all teachers immediately which is
(13) the need, but over time we will continue to strive to
(14) accomplish that.

(15) Q To get the accomplishments, okay. And have you been trying
(16) to improve WASL scores since you became superintendent?

(17) A My focus has been on improving the knowledge of what
(18) students need to be able to do, know and be able to do,
(19) among the adults so they can communicate that to the
(20) students.)

(21) The WASL part is really helping adults to understand
(22) how students need to reflect that knowledge on that type of
(23) assessment. It hasn't been a focus to increase the WASL.)

(24) It's to increase the demonstration of student
(25)

(26) achievement, the WASL is one way to do that. And so, it)

1 has not been an intentional focus on the WASL at all.

2 It has been an intentional focus on the standards and
3 making sure there's common understanding and focus on what
4 students need to know and be able to do.

5 Q In short, it's an ongoing effort to improve student
6 achievement and performance that may be reflected partially,
7 by WASL results but is reflected elsewhere as well?

8 A Correct.

9 Q I want to go back for a few questions about the schools
10 within the district. As you sit here today, are any of
11 your school facilities in poor condition?

12 A No.

13 Q As you sit here today, are any of your school facilities
14 overcrowded?

15 A Yes.

16 Q Overcrowded in what sense?

17 A We have some classrooms that are taking place on a stage
18 area because of the lack of classroom space. We have very
19 creative uses of space for ensuring that there are programs
20 in music and the arts that sometimes space has to be
21 shared. Our hallways are used.

22 Q Okay. The stage setting that you mentioned, is that for a
23 particular type of class, a grade? What type of activity
24 occurs in the stage area?

25
26 A It is a classroom -- it is a set classroom. I believe that

1 it is for specific instruction in reading, but it is a
2 teacher on the stage, desks in a classroom, tables,
3 activities. It's a classroom.

4 Q It's not an assembly-type thing?

5 A Well, it used to be used for those kinds of activities and
6 they had to use the space to accommodate teaching a class.

7 Q How many of your schools do you believe are overcrowded
8 today?

9 A Two at the elementary level.

10 Q Any at the middle school level?

11 A Well, our middle schools are very large. One of the three
12 comprehensive middle schools.

13 Q How about the high school level?

14 A No.

15 Q What steps are you able to take today to alleviate the
16 overcrowding at these schools?

17 A Well, we were blessed with passing local bonds to help with
18 those things. You saw on the list some of the projects.
19 We use our projections for enrollment and the increases,
20 building an extension on one of our high schools because we
21 know that additional classrooms will be needed, additional
22 portables, trying to work on alleviating the overcrowding.

23 Q To alleviate the overcrowding you've just described do you
24 believe it's necessary to build a new school?

25
26 A No.

1 Q Could the overcrowding be alleviated by renovating the
2 existing facilities?

3 A That's what we're doing. Yes.)

4 Q Do you have students who take classes in portable
5 facilities?

6 A Yes.)

7 Q How many schools have portable facilities, for example?

8 A Practically all of them. I don't have that number. Most
9 of our elementaries have portables. All of our middle
10 schools have portables. I'm not sure about our high
11 schools. We could get that information.)

12 Q What is the condition of the portable facilities? Are they
13 in good condition?

14 A Yes.)

15 Q They're well-maintained?

16 A Yes.)

17 Q Are you familiar with the concept of deferred maintenance?

18 A Mm-hm.)

19 Q Does Renton currently have a deferred maintenance program
20 in effect for its facilities?

21 A I don't know that we have a written deferred maintenance.)

22 Again, we could get that information. We have had to make
23 decisions on moving things based on funding and changes in
24 decisions.)

25
26 Q Overall, how would you rate the competence of your teachers)

1 (in your district?)

2 A Exceptional.

3 Q How about your classified staff?

4 A Exceptional.

5 Q The administrative staff?

6 A Same category.

7 Q Okay. At some point in time you became aware of the Basic
8 Education Finance Task Force proceedings that were being
9 conducted by the state; correct?

10 A Correct.

11 MR. CLARK: Let's mark this one.

12 (EXHIBIT NO. 271 MARKED)

13 Q (By Mr. Clark) Exhibit 271, at least the cover page of it
14 anyway, is an e-mail from you to a number of people and
15 courtesy copying Jennifer Priddy at OSPI of March 23, 2008;
16 correct?

17 A Mm-hm.

18 Q You certainly can have any amount of time to familiarize
19 yourself with the contents of the exhibit, but my initial
20 question is, did you prepare the cover memorandum?

21 A Yes.

22 Q All right. Attached to it is a three-page document that's
23 called Development of SPI Finance Proposal. Are you
24 familiar with that document?

25

26 A Yes.

1 A Correct.

2 Q And the legislators' proposals, so there were three. Were
3 there any more that you recall that were presented?

4 A No. Those were the three.

5 Q Did your Board evaluate any of the proposals that were put
6 forward to it as a result of the task force?

7 A No. It was informational.

8 Q In was informational, so the Board didn't take a vote on
9 which it might prefer or which it might not prefer?

10 A No.

11 Q Back to Exhibit 271. There is a reference to Washington,
12 Learns in your e-mail to Dear Renton Leaders or
13 correspondence. What are you referring to as Washington
14 Learns?

15 A The original study that reflected the Washington Learns,
16 same as in the other document of what is needed for basic
17 education in that research, the governor's appointed
18 committee that turned into the Basic Education Funding Task
19 Force.)

20 Q So your reference to Washington Learns is a reference to
21 the Washington Learns effort, the Basic Ed. Task Force,
22 it's kind of a genetic tag for the ongoing effort that
23 began with Washington Learns but was continuing?

24 A That's correct. And that has been presented to the staff,
25
26 (and so they're aware of the Washington Learns report.)

1 considered?

2 A No.

3 Q For example, did your district have any involvement in the
4 developing of a full-funding coalition proposal?

5 A No. Not that I'm aware of.

6 Q Did it have any involvement in the development of the
7 legislators' proposal?

8 A No. I'm hesitating only because there were components of
9 proposals that I was asked about, but not in the full
10 proposal or the presentation or any of the actual document.

11 Q Okay. Were you on any of the Washington Learn committees
12 or subcommittees?

13 A No.

14 Q Did you have any involvement with Washington Learns while
15 you were still at OSPI?

16 A Just the creation of it. Not personal involvement, no.

17 Q When you say just the creation of it, what do you mean?

18 A I knew it was happening. I knew the intent. I knew they
19 were putting together the effort.

(20) Q At some point in time the task force came out with a
(21) recommendation and report. Did you review that
(22) recommendation and report after it came out?

(23) A Yes.

(24) Q Part of the recommendation and report was for a new
(25)
(26) definition of basic education; is that correct?

1 A Correct.)

2 Q As you understood it, what did the new definition of basic
3 education include that was not included in the former or
4 current, I guess it is, definition of basic education?)

5 A Lots. I'll try to recall as much as I can. It specified
6 formulas for the allocation model for class size ratios.)

7 (It had an entire section on new certification and
8 funding teachers at various levels and whole teacher
9 component of it, full-day kindergarten, funding counselors,
10 technology, security officers, various components of what
11 the Washington Learns research and other studies and the
12 meta-analysis of that information provided was necessary
13 for a 21st century public school system.)

14 Those are the things that stand out immediately. But
15 I know -- I mean there were many, many components of what
16 the need is for a public school system.)

17 Q Do you understand that -- did you understand, rather, that
18 the recommendation of the Basic Ed. Task Force would
19 include early learning or pre-K as part of basic education?)

20 A I recall that it was part of the conversation. What was
21 included was full-day K, but I don't recall where it landed
22 with the preschool portion.)

23 Q Whether it became part of the new basic education or not,
24 you're not aware of that?

25
26 A I don't remember that.)

Q Under the current, you know, definition of basic education is pre-K included in that?

A No.

Q Do you believe that it should be?

A I don't know.

Q Full-day kindergarten is not included in the state's current definition of basic education; correct?

A Correct.

Q Do you believe that that should be?

A Absolutely.

Q That is contemplated by both the task force report and the currently pending legislation; correct?

A Correct.

Q Do you believe that funding for highly capable students should be included in basic education?

A Yes.

Q Why?

A Because like other student needs, it is a specific diverse learning need that needs to be addressed in the public school system.

Q You don't think that programs for highly capable students is beyond the scope of what should be provided as a basic education?

A No.

Q You believe it should be funded categorically like we fund,

1 say, special education?

2 A Well, I don't think we appropriately --

3 Q I'm not asking you to judge it on the quantity, but just
4 the concept.)

5 A I don't have the analysis of the amount or what should be
6 funded or the -- I think basic education should include all
7 things that relate to addressing the learning needs of our
8 diverse learning population which is dramatically different
9 from the definition that presently exists from 30 years
10 ago.)

11 And so, the example in the question with highly
12 capable is an example of that diverse learning need that
13 sometimes is not talked about, that is part of what we need
14 to address in public education.)

15 Q Is there a highly capable element of basic education
16 contemplated in the current legislation?

17 A Yes.)

18 Q I want to show you a document here that you may have seen
19 or you may not have seen, and I'll start with that question
20 for it when it's marked and provided to you.

21 (EXHIBIT NO. 272 MARKED)

22 MS. MOORE: You'll explain this?

23 MR. CLARK: Yes.

24 Q (By Mr. Clark) Again, I don't know if you've ever seen a
25
26 copy of this document before or not. It has production

1 numbers that indicate it came out of OSPI. It's from
2 JoLynn Berge to a variety of distributees, you're not one
3 of them.

4 Vickie Damon here, though, is one of the persons
5 listed in the "To" line. My question, first of all, is do
6 you recall ever seeing a document like this before?

7 A No.

8 Q I'll just ask you a question that has reference to the
9 document but is independent of the document as well.)

10 (On the first page of Exhibit 272, JoLynn tells her
11 distributees, "Please remember to send David your analysis
12 of total ELL expenditures versus state ELL funding, and
13 what the 'gap' amount is.")

14 Then she says, "This amount should not include any
15 cost of basic education for ELL students, only the
16 additional costs for this population."

17 Do you understand what is meant by that sentence?

18 A Mm-hm.)

19 Q What is it?)

20 A Well, there's a BEA amount that all kids are basic ed.
21 first, whether it's ELL or special ed., and then there's an
22 enhanced amount to try to help address those needs. And
23 so, she's asking for the gap between the enhanced amount
24 and what you spend locally.)

25
26 Q Okay. So, in essence, she's telling them for the ELL)

(1) expenditures, you should segregate those that are being
(2) paid for by the ELL categorical component, if I can call it
(3) that, and not include basic education costs?

(4) MS. MOORE: So we're clear, you're asking her to
(5) speculate about what JoLynn is asking about?

(6) MR. CLARK: No. I'm asking her to elaborate on
(7) the answer she just gave.

(8) MS. MOORE: On her answer she gave, okay. Thank
(9) you.)

(10) A My understanding of this is you take the total amount per
(11) student, minus BEA costs, minus ELL state dollars, and what
(12) are you expending locally that subsidizes the cost of your
(13) program.

(14) Q (By Mr. Clark) Okay. Thank you. Do you know how your
(15) district, if it was able to do so, was able to disaggregate
(16) basic education costs from ELL costs?

(17) A I know we can. I don't have the formula.

(18) Q Is your district able to separate special ed. costs the
(19) same way?

(20) A Yes.)

(21) Q And do you know how that's done?

(22) A The same way, but I don't know the details of how it's
(23) done.

(24) Q You don't know the details, but it's a similar calculation
(25)
(26) that is performed for the ELL component?

1 A Correct.

2 Q Are you able to disaggregate basic ed. and lab costs, for
3 example, using the same?

4 A Yes.

5 Q But again, you don't know the details?

6 A Correct.

7 Q Who was it that came up with the method or procedure for
8 disaggregating the costs for ELL as reflected here?

9 A Rich Moore's office.

10 Q Do you know if his method or procedure for disaggregating
11 costs that way is something that is, you know, that other
12 districts can do?

13 A Yes.

14 Q Do you know if they do it uniformly in the same manner?

15 A No.

16 MR. CLARK: Let me just do a couple more quick
17 ones and I think I can get away from this topic, and then
18 we can have some lunch and pick up with another one after
19 that.

20 THE WITNESS: Okay.

21 (EXHIBIT NO. 273 MARKED)

22 Q (By Mr. Clark) Does Exhibit 273 appear to be minutes
23 of the Renton School District Board of Directors for,
24 September 10, 2008?

25
26 A Yes.

1 Q If you turn to page 5 of the document which is Bate stamp
2 No. 2702, there is a reference to a presentation by
3 Jennifer Priddy regarding basic education funding?

4 A Yes.

5 Q Is this the presentation with regard to the OSPI Basic Ed.)
6 Task Force proposal that you referred to earlier?

7 A Yes.

8 Q Did the presentations with regard to the other two
9 proposals, the legislator one and the Full Funding
10 Coalition, were those presented at about the same time that
11 Jennifer made her presentation?

12 A Yes.

13 Q At the bottom of page 5 it attributes to Jennifer,
14 "Assistant Superintendent Priddy stated changes in the
15 state's education system funding will not come overnight
16 and it will take time to implement changes."

17 Were you present when Jennifer made the presentation?

18 A Yes.

19 Q Do you recall her remarking that changes to the state
20 system for funding education wouldn't come overnight and it
21 would take time to implement?

22 A Yes.

23 Q Did you disagree with that?

24 A No.

25
26 Q Do you agree that the state's education funding reforms are

(1) going to take time to implement --)

(2) A Yes.)

(3) Q -- that they're not going to happen overnight?)

(4) A Yes.)

(5) Q Okay. Do you have any disagreement with that?)

(6) A No.)

7

(EXHIBIT NO. 274 MARKED)

8 Q (By Mr. Clark) Dr. Heuschel, Exhibit 274 is a copy of a
9 resolution by the Renton School District Board of
10 Directors. Do you recognize it?

11 A Yes, I do.

12 Q On page 2 of Exhibit 274 your signature appears as
13 Secretary for the Board of Directors?

14 A Correct.

15 Q What is the subject matter of this resolution that
16 apparently was adopted by the Board I think on February 11,
17 2009?

18 A It's to support the core provisions of House Bill 1410 and
19 Senate Bill 5444.

(20) Q Do you know what became of House Bill 1410 and Senate Bill
(21) 5444?

(22) A It was killed.)

(23) Q And who killed it? I mean, you said it was killed.)

(24) A There was a division among education groups and that

(25)

(26) divisiveness caused a lack of support for the direction of)

1 the bills, so through the legislative process it was voted
2 out of moving forward.)

3 Q And out of that series of events the bill that eventually
4 did pass emerged, did it not?

5 A Correct.)

6 Q Were you in favor of the House Bill 1410 and Senate Bill
7 5444?

8 A Yes.)

9 Q Were you disappointed when they were withdrawn?

10 A Yes.)

11 Q But you did approve of the bill that did emerge from the
12 Legislature after these two bills were withdrawn with
13 regard to education, reform and funding?

14 A Yes.)

15 (EXHIBIT NO. 275 MARKED)

16 Q (By Mr. Clark) Exhibit 275 is a document that frankly I
17 picked up yesterday from an OSPI Web site. I don't
18 think -- maybe you have seen it before, but I'll just ask.
19 Have you seen this two-page document before?

20 A No.)

21 Q It purports to list, under the heading Washington State
22 Basic Education Funding Coalition, "The following are those
23 people and organizations in support of Engrossed Substitute
24 House Bill 2261."

25
26 Are you familiar with Engrossed Substitute House Bill

1 (2261?)

2 A Yes.

3 Q It's the legislation that has been passed with regard to
4 basic education reform and is awaiting signature or action
5 by the governor?

6 A Correct.

7 Q On page 2 the third entry lists you as the superintendent
8 from Renton, Mary Alice Heuschel, who supports Engrossed
9 Substitute House Bill 2261. Is the information accurate?

10 A Yes.

11 Q And it also indicates that the Renton School Board also
12 endorses House Bill 2261, is that also correct?

13 A There's not a formal endorsement by the Board.

14 Q Okay. Do you know if there is one in the offing?

15 A No.

16 Q Do you intend to ask your Board to endorse Engrossed
17 Substitute House Bill 2261?

18 A No. There's not a need for that at this point.

19 Q And why do you feel that there isn't a need to request that
20 your Board do that?

21 A It's passed the House, it's passed the Senate and awaiting
22 the governor's signature.

23 MR. CLARK: All right. Why don't we take a
24 lunch break.

25

26

(Recessed at 12:34 p.m.)

1 Q Let me take a shot in the dark with a question with regard
2 to page 19 of Exhibit 276. This slide is entitled Fiscal
3 Year 2003/04 Proposed Budget Expenditure Increases.

4 The first is a \$1,400,000 item relative to previous
5 negotiation settlements. Do you have any idea what that's
6 in reference to?

7 A No.

8 Q On the last page of Exhibit 276, Bates 27, under
9 Expenditure Reductions there are three bullets, the middle
10 one of which indicates, "The District has not used the fund
11 balance in previous budget cycles to balance the budget."

12 Do you know if that is indeed the case, that prior to
13 the budgeting exercise for '03-'04 the Renton district did
14 not use its fund balance to balance the budget?

15 A I don't know.

16 Q How often during your tenure has the district had to resort
17 to its fund balance in order to balance revenues and
18 expenditures for that year?

19 A Well, except for borrowing of funds, we have set the plan
20 for increasing the fund balance, so we have not done that.

21 Q Okay. With that one exception that you mentioned earlier?

22 A (Witness nods head.)

23 Q All right.

24

(EXHIBIT NO. 277 MARKED)

25

26 Q (By Mr. Clark) I meant to ask earlier and it just slipped

1 my mind, but do you know why your predecessor as
2 superintendent left her position?

3 A Retired.

4 Q There was no dissatisfaction with her performance that
5 entered into the decision to enter retirement?

6 A Not that I'm aware of.

7 Q Have you seen Exhibit 277 before?

8 A No.

9 MR. CLARK: It has a date of 3/16/2009, and
10 maybe counsel can answer the question better than the
11 witness. Is that simply a print date?

12 MS. MOORE: Yes. Actually, I believe what this
13 might be is these are the dates -- this is from the
14 electronic production, I believe. So this is probably --
15 you know, every time you open a pdf file and re-sort it, it
16 gives you a new date.

17 So in the data collection, which most of this came
18 from the Business Office, and their electronic files were
19 converted into pdf, that would be the latest date, so in
20 preparation for giving you those jump drives.

21 So it's not the date of production. It's just the
22 date the last time it was sorted in the computer.

23 MR. CLARK: All right. And it also has no
24 relationship to when the document was generated?

25

26 MS. MOORE: No. None. And in fact, need be, we

(1) can always go back to the original documents which we
(2) house. Not the printed copies. They're all electronic.)

(3) MR. CLARK: All right. Thank you for that
(4) clarification.)

(5) MS. MOORE: Sure. In fact, the 3/16/09 date
(6) might be your date because it looks as if I would have
(7) produced it on or about March 1st.)

(8) So just as an example, I suspect when whoever was
(9) doing your data collection for you, when they printed it
(10) and sorted it off the jump drive we gave you, that would
(11) have been the date coming from probably your office, just
(12) as a point in fact.)

(13) MR. CLARK: You know, that's a possibility, but
(14) I don't think it's very likely because I don't think we got
(15) these documents until after the 16th.)

(16) MS. MOORE: Oh, really?)

(17) MR. CLARK: Yes.)

(18) MS. MOORE: I thought we produced them around
(19) the 1st.)

(20) MR. CLARK: No, because --

(21) MS. MOORE: Oh, that's right because --

(22) MR. CLARK: -- it was around St. Patrick's Day.)

(23) MS. MOORE: Yeah, because that's when Terry was
(24) sick. That would be right. Okay. We lost a few days.)

(25)
(26) MR. CLARK: But the important thing is it really

1 doesn't have any relationship to the generation of the
2 document.

3 Q (By Mr. Clark) All right. Recognizing that you haven't
4 seen the document before, nonetheless I'd like you to turn
5 to page 11 which is entitled Stormy Weather Key Points, and
6 it indicates, "The State can't continue to 'rob Peter to
7 pay Paul.'" .

8 And the three points that are made under that
9 reference relate to maintaining funding for education but
10 not maintaining funding with regard to other social
11 programs that the state funds.)

12 My question to you is this, you have heard the
13 state's duty to make ample provision characterized as the
14 paramount duty, have you not?

15 A Yes.)

16 Q Do you believe that the state has other duties which, while
17 not characterized as paramount, the state must still fund
18 as well as education? Not as well, as profitably as
19 education, say, but in addition to education?

20 A I think they have responsibilities in addition to
21 education.)

22 Q Okay. Would you agree that if the state were to make cuts
23 in other social programs to put more money into education,
24 that that might in fact hinder the state's performance of
25
26 its paramount duty to make ample provision for education?)

1 MR. EMCH: Objection; calls for speculation,
2 hypothetical.)

3 A I'm not sure I could answer that. I'm not sure I'd make
4 that connection.)

5 Q (By Mr. Clark) Okay. Well, let me give you an example.)
6 For example, in the current budget there are cuts that are
7 made to the state's provision -- the ability of the state
8 to make provision, rather, for the health insurance needs
9 of underprivileged families, underprivileged children.)

10 Would you not agree that making cuts to
11 state-subsidized or state-provided health insurance for low
12 income children could adversely impact their ability to get
13 an education?)

14 A Possible.)

15 Q Would you agree that, for example, if the state made cuts
16 to foster care funding that that would impact the ability
17 of foster children to get a good education?)

18 MR. EMCH: Same objections to this line of
19 questioning.)

20 A It's possible.)

21 Q (By Mr. Clark) Why do you say it's possible on both those
22 instances?)

23 A Because it's not always a direct correlation. There's lots
24 of situations that children end up in that they don't

25
26 access those services and there's other things that happen,

1 so I think it's very situational and based on the
2 individual circumstances.)

3 Q Would you agree that a child's health is going to impact
4 the child's ability to get a good education?

5 A I think a child's health impacts their readiness for
6 education that's provided.)

7 Q Do you agree with any of the points that are made on slide
8 11 to Exhibit 277?

9 MS. MOORE: Understanding that she has no
10 background in this area at all?

11 MR. CLARK: Understanding that she has no
12 background with this document.)

13 MS. MOORE: Or the situations around that at
14 that time.

15 MR. CLARK: In the district.)

16 MS. MOORE: In the district.)

17 MR. CLARK: Yes, I understand.)

18 Q (By Mr. Clark) But, for example, page 11 has a point that
19 says, "If funding is only maintained for education and no
20 additional revenue is generated, other human services will
21 receive drastic cuts."

22 Do you know if, in fact, that turned out to be the
23 case?)

24 A I don't know.)

25
26 Q On the third point, "Consequently, dollars allocated to)

(1) school districts for education will, out of necessity, have
(2) to go to addressing human services needs of our students
(3) and families as they won't receive these services
(4) elsewhere. Students can't learn if they are hungry, sick
(5) or without shelter."

(6) Do you agree with that point?

(7) MR. EMCH: Objection; lack of foundation.

(8) A Applying it to now, I would not state it this way.)

(9) Q (By Mr. Clark) How would you state it?)

(10) A Addressing human service needs of children is a need that
(11) supports their ability to perform in school. I wouldn't
(12) make the connection to the dollars.)

(13) Q You mean the first part of that point that the connection
(14) between dollars allocated to school districts will have to
(15) go to addressing human services needs, you would not make
(16) that connection?)

(17) A I would not.)

(18) Q Do you believe that it's the role of the schools to address
(19) human service needs for students and families?)

(20) A I think we do that.)

(21) Q I agree that you do. My question is, do you believe that
(22) it is the role of the schools in providing an education to
(23) students to address human services needs of students and
(24) families?)

(25)
(26) A I believe that we have an obligation morally and ethically)

1 to do all we can to help support student needs, and those
2 needs go beyond education for achievement.

3 I do not believe it's the primary responsibility of
4 the school to address the social needs of students and
5 their families, but we do it a lot and in most cases
6 without support, but we do it because it's morally and
7 ethically the right thing to do.

8 (EXHIBIT NO. 278 MARKED)

9 Q (By Mr. Clark) How about this one, have you seen
10 Exhibit 278 before?

11 A No.

12 Q Is this another document that's generated by the Business
13 Office?

14 A Correct.

15 Q Could you turn to page 5, it's a slide entitled Management
16 of Financial Resources.

17 A Oh, this is mine. I'm sorry.

18 Q Well, be careful now.

19 A 2005-6 would have been -- no. It was July -- I was hired
20 July '06.

21 Q That's what I thought you said earlier.

22 A So this would not be fiscal year '05-'06.

23 MS. MOORE: I could probably offer a
24 clarification, I believe.

25
26 MR. CLARK: Maybe that would be helpful.

1 Q And you were able to add something to the fund balance at
2 the conclusion of this fiscal year?

3 A I would say that we stabilized the budget to propose the
4 five-year plan. We didn't add money in the end because we
5 had to get a baseline after all of these other things were
6 put in place.

7 Q Okay.

8 A So really in the five-year plan we met our goal year one
9 which was last year, and this year we're not going to be
10 able to meet our goal.

11 Q Year two you're not, but you will continue in subsequent
12 years with that as a goal?

13 A I would anticipate the Board would maintain the four
14 percent goal.

15 Q Now there are steps with regard to Human Resources that are
16 listed on page 23 of Exhibit 278. Were these steps
17 actually implemented?

18 A Yes.

19 Q Were they steps that did not exist prior to your tenure?

20 A Yes.

21 Q Yes, they did not exist?

22 A Well, yes. Some of the processes existed and so they're
23 restatements of following the process.

24 Q Okay.

25

26 A So this got put in place to either confirm the process that

1 we will follow this and we did or things were added to
2 ensure that we had staffing procedures.)

3 Q And through these staffing procedures were you able to get
4 a better handle on the staffing aspect of your budget
5 expenditures?)

6 A Yes.)

7 Q Are you able to quantify any savings or benefits that were
8 achieved as a result of implementing the Human Resources
9 steps here?

10 A Well, it was a savings of cost unfortunately at the expense
11 of trying to meet the needs of the students.)

12 So, for example, we would have to not hire an
13 assistant to try to address English Language Learners in a
14 particular group that had joined a school because a
15 development opens and Section 8 housing and 90 percent of
16 the students are on free and reduced lunch and 70 percent
17 of the students don't speak English, that impacts one
18 school.)

19 And the inability to hire support staff to meet those
20 needs got withdrawn in the staffing process. So it did
21 meet the budget requirements by law at the expense of the
22 support for kids.)

23 Q If these steps weren't in place would that person have been
24 hired?)

25
26 A Absolutely.)

(1) Q And you would have gone over budget?

(2) A Correct.

3 Q The last slide concerns extra time and overtime steps.
4 Were these steps implemented as well?

5 A Yes.

6 Q Were they steps that had not been implemented prior to your
7 tenure?

8 A Partially.

9 Q Which ones were?

10 A Well, there was a process for approval of overtime, but it
11 did not go to the cabinet level. So extra time and
12 overtime had to have budget capacity, which was not always
13 reviewed, and cabinet level -- in this material it was
14 called Executive Committee, because that's what they used
15 to be called, was required to approve.

16 Q Is that a reference to the first item that says, "must
17 receive prior administrative approval"?

18 A Correct.

19 Q What is the significance of step No. 3? I'm not sure I
20 quite understand it.

21 A There are some situations that there is not the budget
22 capacity, let's -- the example might be an alarm goes off
23 on a weekend and there is a requirement for security to
24 respond and that has not been built into the budget, and so
25
26 the requirement to respond is approved by cabinet and that

1 meeting that need, then we may do a budget cut in some
2 other area, find a cut to the resource, tap into the fund
3 balance, try to identify what sources are available or we
4 seek other support, write a check. So it's so specific to
5 the circumstance.

6 Q Okay.

(EXHIBIT NO. 279 MARKED)

7
8 Q (By Mr. Clark) Have you seen Exhibit 279 before?

9 A I'm re-reading it, so I'm trying to recall.

10 Q I'm sorry. Go right ahead.

11 A Obviously it was sent to me, but it was a little while ago.

12 (Pause in proceedings.)

13 A The odd thing about this is the date of 3/16/2009, that is
14 not logical.

15 Q (By Mr. Clark) No. I quite agree it can't be logical. It
16 may be another instance of the phantom date appearing
17 depending upon whether I printed it, whether you printed it
18 or whether the printer printed it or what happened, but I
19 would agree with you that the time frame for this memo
20 cannot be March 16, 2009.

21 If we ignore that date, the subject matter of the
22 memorandum that is the reference line seems to be
23 consistent with the text of the memorandum which is, you
24 know, the subject matter is the '05-'06 financial
25
26 statements and things that occurred during the year that