

8-31-2009

**Reporter's Verbatim Report of Proceedings, August 31, 2009,  
Volume I--Sessions 3 and 4 of 4 [Pages 127-242] 07-2-02323-2**

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

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3  
4 MATHEW and STEPHANIE McCLEARY, )  
on their own behalf and on )  
5 behalf of KELSEY and CARTER )  
McCLEARY, their two children in )  
6 Washington's public schools; )  
ROBERT and PATTY VENEMA, on their) SUPREME COURT OF WA  
7 own behalf and on behalf of HALIE) No. 84362-7  
and ROBBIE VENEMA, their two )  
8 children in Washington's )  
public schools; and NETWORK )  
9 FOR EXCELLENCE IN WASHINGTON )  
SCHOOLS ("NEWS"), a state-wide )  
10 coalition of community groups, )  
public school districts, and )  
11 education organizations, )  
) )  
12 Petitioners, ) KING COUNTY CAUSE  
) No. 07-2-02323-2 SEA  
13 vs. )  
) )  
14 STATE OF WASHINGTON, )  
) )  
15 Respondent. )

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16  
17 REPORTER'S VERBATIM REPORT OF PROCEEDINGS

18 --oOo--  
19 MONDAY, AUGUST 31, 2009  
20 VOLUME I - SESSIONS 3 and 4 of 4

21 --oOo--  
22 Heard before the Honorable John P. Erlick, at King  
23 County Courthouse, 516 Third Avenue, Room W-1060,  
24 Seattle, Washington.

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CYNTHIA A. KENNEDY, RPR  
CSR No. 3005  
Official Court Reporter  
King County Superior Court  
516 Third Avenue, C912  
Seattle, Washington 98104  
  
(206) 296-9188

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A P P E A R A N C E S :

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THOMAS F. AHEARNE, CHRISTOPER G. EMCH, and EDMUND W. ROBB, Attorneys at Law, appearing on behalf of the Petitioner;

WILLIAM G. CLARK and CARRIE L. BASHAW, Assistant Attorney Generals, appearing on behalf of the Respondent.

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1 SEATTLE, WASHINGTON

2 MONDAY, AUGUST 31, 2009

3 AFTERNOON SESSION - 1:30 P.M.

4 --oOo--

5 THE COURT: Good afternoon. Please be  
6 seated.

7 Mr. Ahearne, any preliminary matters or  
8 should we proceed by way of testimony?

9 MR. AHEARNE: Petitioner is ready to proceed.

10 THE COURT: All right.

11 MR. CLARK: We're ready, Your Honor.

12 THE COURT: Very good. If we could get the  
13 witness back on the stand then.

14 DIRECT EXAMINATION (Resumed)

15 BY MR. AHEARNE:

16 Q. Mr. Blair, I'm handing you what's been marked  
17 as one of the state's exhibits, 1620, and I'll ask you  
18 to please look at the pages -- the segments of that  
19 exhibit that are marked starting with MURCHM 1 through  
20 MURCHM 79.

21 A. (Reviewing.)

22 Q. And could you tell me what MURCHM 001 through  
23 MURCHM 79 are pictures of?

24 A. Those are pictures of the Chimacum School  
25 District.

1 Q. Okay. If I could ask you to look at the  
2 first one, MURCHM 001 -- and from now on I will simply  
3 refer to photograph by number one, two, three.

4 If I could ask you to look at photograph  
5 number one for the Chimacum School District.

6 Could you please say what this is?

7 A. This is a sign that is at the entrance to our  
8 main campus, which houses grades 3 through 12.

9 Q. What's the building you see in the background  
10 there?

11 A. In the background is the back entrance to our  
12 kitchen area in the high school, some of the wood shop  
13 on the right. It doesn't show -- we have a couple of  
14 heaters on top of the building that are about a half  
15 century old. It doesn't show those, but it does show  
16 the building.

17 Q. And I notice that some of the state's  
18 experts' testimony or some of the testimony in this  
19 case, there's reference to heaters and roof equipment  
20 that kept breaking down.

21 Are those the heaters you're talking  
22 about?

23 A. Those are the primary problems we've had.  
24 Those heating units are old. You need to keep kicking  
25 them to get them running again and setting the valves



1 and setting the vents and so forth. It's been an  
2 on-going problem since I've been there.

3 Q. And picture number two, what's that?

4 A. That's my office. That's the district  
5 office. That's right by that sign, so it's right at  
6 the entrance to the main campus. And on the right  
7 there, those steps lead up to my office. And on the  
8 left side is the business operations office.

9 Q. Okay. Picture number five, what's that?

10 A. Picture number five is the -- looking  
11 straight ahead is our 3-8 library, that building way  
12 back there. You can't really see it very well. On the  
13 left is our 3-5 campus portion of the campus, grades 3  
14 through 5.

15 If you notice, one of the problems we've  
16 had is keeping out weeds -- our -- they're supposed to  
17 be flower gardens but they've become kind of weed  
18 gardens, so we've had a lot of trouble. So the one on  
19 the left is the one we continually have to address as  
20 being extremely weedy, so --

21 The problem with that is, you know, you  
22 try to instill pride and it's very difficult to instill  
23 pride. In fact, I just had a parent later drive up and  
24 ask me if she could take some dynamite to that island  
25 out there and blow it up. But that is an on-going

1 problem for us, so I did want to point that out.

2 Q. How is it related at all to education to the  
3 concept you said about instilling pride?

4 A. Well, I think in any organization, whether  
5 you go to the state capitol and see their manicured  
6 lawns or whether you go to a courthouse or whether you  
7 go to a school district or to the Boeing head offices,  
8 I think part of what you develop is a sense of  
9 community pride, a sense of accomplishment, and part of  
10 that is your facilities and how they're maintained and  
11 kept up.

12 And, you know, that's what we try to do  
13 at Chimacum to the best of our ability. It is  
14 important, I think, for the sense of -- for our  
15 students, the more that we can show that we care about  
16 our facility and concerned about our facility, the  
17 better chance we have of them taking ownership in the  
18 care of that facility. So it all kind of is related to  
19 education.

20 Q. Picture six, what's that?

21 A. That is our high school commons area. That's  
22 the cafeteria, primarily where the kids meet for  
23 lunch. We have one lunch period a day. Approximately  
24 350 to 400 students in the high school, and we've had  
25 difficulty for years now in replacing and keeping our

1 tables up in that facility, so a lot of the kids stand  
2 and eat lunch and grab a chair when they can. But that  
3 is our commons area.

4 Q. Approximately how many students does the  
5 cafeteria seat?

6 A. I would say about 80.

7 Q. And how many students are supposed to eat  
8 lunch there?

9 A. We do have off-campus privileges, but on any  
10 given day, approximately 150 to 200.

11 Q. Picture nine, please say what that is.

12 A. That is our high school kitchen where -- the  
13 food that's made in our high school kitchen is actually  
14 prepared for the entire main campus. So the food is  
15 made there and then we cart it to the middle school,  
16 and we cart it down to our grades 3 through 5.

17 And, as you can see, it's a full  
18 kitchen. One of the problems we have with the kitchen  
19 area is keeping that equipment up. It's a problem with  
20 our freezers and our heating units and keeping those  
21 things running.

22 We feed a lot of kids in a day so that  
23 kitchen is fully used.

24 Q. And does feeding kids have anything to do  
25 with education?

1       A.     Yes. I believe it has a huge impact on  
2 education. You know, we have those kids. They  
3 arrive -- they're on a bus for an hour, some of them,  
4 and they get to school, and then we have them for  
5 another seven hours or so, and then they have an hour  
6 going home or less, and we certainly want them to have  
7 the nourishment and the capability of doing the hard  
8 work that's required at school. So we think it's  
9 important to feed them, and so we have a food service  
10 program to do just that.

11       Q.     You mentioned something along the lines of  
12 you want to feed them.

13                       From your experience, is it necessary to  
14 feed kids during the day at school?

15       A.     Yes. It's necessary to feed kids during the  
16 day at school, and I think for some of our kids it's  
17 the two meals a day that they're getting.

18       Q.     Picture 10, what is that?

19       A.     That is our high school counseling center.  
20 Counseling has one counselor for about 400 kids, and  
21 then we have a half-time counseling secretary. We used  
22 to have two counselors but now we just have one to  
23 monitor our students, to guide them, to provide  
24 resources for them, in terms of scholarships, to help  
25 them with their classes, and also to track them as they

1 go through and meet the state requirements of the WASL  
2 and the portfolio and the accumulating project and  
3 those things. That's what our counselor does.

4 Q. Could you explain what, if anything, the  
5 counseling has to do with education?

6 A. Yes. A counselor is a real link, I believe,  
7 to the success and progress a student makes during  
8 their academic years, their academic career and, at the  
9 same time, guides them either into apprenticeships,  
10 helps guide them into the world of work, guides them  
11 into colleges, what might be appropriate after their  
12 education.

13 So they are the real connection to both  
14 the student and the family as to what might be  
15 appropriate for them and they do inventories to see  
16 what their interests may be. A lot of things happen in  
17 the counseling office. Critical to a child that he's  
18 determining or she is determining what her career may  
19 be and what line of work she may go into, or further  
20 education.

21 Q. And do you believe that Chimacum has the  
22 number of high school counselors that they need to  
23 amply provide all children in your district knowledge  
24 and skills that are in, for example, state standards?

25 MR. CLARK: Your Honor, I'm sorry, but I have

1 to object to the use of the terms amply provide or  
2 other terms that are taken right out of the  
3 Constitution, and to put it in a question, that  
4 solicits an answer to the question. I don't think it's  
5 relevant, and I think it clearly calls for a legal  
6 conclusion as well. And I make that objection for the  
7 record.

8 MR. AHEARNE: And I will go ahead and say  
9 right now, when I'm using the word ample, I'm using the  
10 common, ordinarily English meaning of the word ample.  
11 I'm not asking this witness or any superintendents to  
12 give any legal conclusion as to ample, paramount, all.

13 THE COURT: Well, I think that this witness's  
14 opinion or belief with respect to the degree of  
15 funding, whether it's ample is a factual question with  
16 regard to his understanding and his belief.

17 Obviously the term ample is a legal term  
18 that's been defined by our courts. I will allow it,  
19 but my concern is that unless he is using the ample  
20 term as defined, then it is irrelevant because he is  
21 simply talking about his personal understanding of what  
22 the word ample means and you run the risk of having 10  
23 people defining ample in a different way which doesn't  
24 give much guidance to the court as to whether the legal  
25 definition of ample has been used. That would be my

1 concern.

2 MR. AHEARNE: Again, and I understand your  
3 concern. I'll try to couch my questions in a way to  
4 avoid Your Honor's concern. So I will ask my question  
5 again.

6 THE COURT: Please.

7 BY MR. AHEARNE:

8 Q. From where you sit as the superintendent of  
9 Chimacum School District, do you believe you have  
10 enough counselors to provide students in Chimacum  
11 School District an effective or realistic opportunity  
12 to learn the knowledge of skills that are in state  
13 standards?

14 MR. CLARK: Your Honor, I'm going to object  
15 to the leading nature of the questions, too.  
16 I'm sorry, Your Honor, but I have to --

17 THE COURT: I understand you're protecting  
18 your record, counsel.

19 MR. AHEARNE: Your Honor, the problem I have  
20 is if I just ask, for example, do you have enough  
21 counselors and he says no, I'm going to have the  
22 argument later on -- we heard the argument, well, that  
23 doesn't mean anything because it wasn't tied to  
24 anything.

25 THE COURT: Right. I'm going to allow the

1 question. The objection is overruled.

2           THE WITNESS: You know, as you make these  
3 decisions as a superintendent and a leadership and a  
4 staff, this is one of the tougher ones to reduce from  
5 two counselors to one, because our kids have huge  
6 needs. They need a lot of guidance, a lot of contact  
7 with parents, and, at the same time, they have -- you  
8 know, they have the requirements to fulfill the state's  
9 mandated graduation requirements. All of that's going  
10 through our counseling office, which is appropriate.  
11 They work with those kids from grades 9 through 12 in  
12 this particular setting. So my strong feeling is that  
13 it is not adequate based on that, that because of the  
14 continually piling up -- not that they're bad. They're  
15 not bad. I think kids should have portfolios and plans  
16 for after they graduate, and they should have a  
17 culminating project to present to the community, and  
18 they should pass their WASL and they should meet those  
19 state standards.

20           To answer the question, I don't believe  
21 I have enough guidance for those students with just one  
22 counselor for 400 students, and I sacrificed that  
23 knowing full well I don't -- to try to save other  
24 programs.

25 BY MR. AHEARNE:



1 Q. I ask you to turn to page 11, please.

2 Photograph 11, what is that a picture of?

3 A. That's a picture of our high school library,  
4 and it shows books in the background and our  
5 computers -- some computers in the front.

6 I did want to point out on this  
7 particular picture that those computers I do need to  
8 replace.

9 Q. Why do you say you need to replace them?

10 A. Because I did -- this is a research center  
11 for a lot of kids that come in, and these are old  
12 computers. They've been around a while and they're --  
13 to keep them up and running is difficult. Kids come  
14 in. They're not able to stay on their research  
15 project. So we're hoping to find some dollars this  
16 year to do it but we weren't able to, so this is an  
17 on-going concern with those particular computers.

18 Q. When you say not able to stay on their  
19 research project, what do you mean by that?

20 A. Well, if they get on a research project that  
21 requires web searches and things like that and they're  
22 not -- the computer isn't working or the software isn't  
23 working, then they're shut down and their time is  
24 wasted in there.

25 Q. I ask you to turn to photo 18, please.

1       A.     That is a picture of our -- of one of our  
2 high school science classes.

3       Q.     And can you tell me how this science  
4 equipment in the class was paid for?

5       A.     Yes.  This was an expansion of the high  
6 school through a bond passed in 1999.

7       Q.     Was it local voter approved?

8       A.     Yes, it was local voter approval.

9       Q.     And is this the kind of bond that you were  
10 referring to earlier with the campaign that the school  
11 district would have to engage in?

12      A.     Yes, it was.  You have to run a campaign on a  
13 bond, in particular, because it's not something you do  
14 all the time and so you need to educate your community  
15 about what your needs are, so it's an extensive  
16 campaign for a bond.

17      Q.     Photo 22, please.  Can you identify what that  
18 is?

19      A.     That is a lab in our high school, and,  
20 unfortunately, this lab is really almost -- it's usable  
21 to some degree.  If we have 15 computers running at a  
22 time, we're fortunate.  It doesn't have enough  
23 computers in there, so we bring a class -- and our high  
24 school classes, you know, range from 25 to 35 given on  
25 the particular class, so not enough computers, and they

1 are also old and need replacing.

2 Q. When you say need replacing, why do they need  
3 replacing?

4 A. Well, again, this is a high school -- a  
5 teacher could bring a high school class in here for the  
6 purpose of demonstration and/or research, and if you  
7 bring a class in of 30 students and half of them are  
8 working or none of them are working or broken down,  
9 you're, again, wasting very valuable instructional  
10 time.

11 Q. Photo 27, could you please identify what that  
12 is.

13 A. That's a picture of our art facility. That's  
14 an art room in the high school.

15 And you'll note that the high school art  
16 room has some new tables, that we replaced the old  
17 tables because I just realized recently that the old  
18 tables had some asbestos under the lining of them, and  
19 so we used local dollars to get those repaired and  
20 fixed up -- actually not repaired, replaced.

21 Q. You said this is an art classroom?

22 A. This is an art classroom.

23 Q. Does art have anything to do with education?

24 A. Yes. Of course, it's one of our Essential  
25 Academic Learning Requirements. The state certainly

1 recognizes the importance of art. I recognize the  
2 importance of art or drama, Science Olympiad, Knowledge  
3 Bowl, those kinds of academic areas because, again,  
4 it's that hook that allows some students to come in --  
5 it might be their passion, it might be their love,  
6 their interest. Quite often it is.

7                   I have four children. One of them is  
8 very interested in art and did a lot of artwork, and  
9 every time he visits, my wife rushes up and puts some  
10 of his artwork up. And it's just something that,  
11 again, provides a hook, an interest in school.

12                   And these individual hooks that I'm  
13 talking about, Your Honor, what we've discovered is  
14 that if you have something like that, whether it's art  
15 or drama or a sport team or an academic competition,  
16 that it provides resiliency for them because it's that  
17 one thing that they can hang their hat on and say, man,  
18 I do that well, and it's critical, and I'm sure that's  
19 why the state sees that as an essential academic  
20 learning requirement. It provides that opportunity.

21       Q.       When you say it's critical, do you mean  
22 critical to the person, critical to education, critical  
23 to what?

24       A.       Probably all of the above. It's critical to  
25 the person, critical to their education, to get a well-

1 balanced education, appreciate the arts, appreciate  
2 what those freedoms give us.

3 Q. Picture 28, could you identify what that is,  
4 please.

5 A. 28 is a greenhouse and the greenhouse is part  
6 of our horticulture class. We have a horticulture  
7 class, and the kids go out there and do a pretty good  
8 job of growing some plants and vegetables. As I  
9 mentioned earlier, we have a tradition of farming, a  
10 lot of organic farming in the area right now, small  
11 little farms, and there's a lot of little markets out  
12 there and little community markets, and so this is a  
13 nice tie to our community, but, also, it's a great  
14 educational tool.

15 The kids -- it's like a business  
16 operation. They make these plants and -- grow these  
17 plants and they have a yard sale or whatever -- a sale  
18 of these plants and they keep the money to reinvest in  
19 the greenhouse and reinvest in seeds for the following  
20 year.

21 And attached to the greenhouse we have a  
22 pumpkin patch. The pumpkin patch has been there for a  
23 long time, a lot of pride in that pumpkin patch. I  
24 share this with you because the kids not only grow the  
25 pumpkins, in the summer they water them and take care

1 of them, but in the fall, we bring all -- we bus all of  
2 our kindergarten kids up from that little primary  
3 school and they go into the classroom with the older  
4 kids and they carve their pumpkins and take them home.  
5 So it's a great teaching model, a great -- a role model  
6 for older kids to be helping our younger kids.

7                   That's all out in that area of that  
8 greenhouse.

9       Q.       And how did Chimacum pay for the greenhouse  
10 there?

11       A.       That's through local funding.

12       Q.       Picture 29, what is that?

13       A.       29 is a picture of a portable that I  
14 mentioned earlier. That's where I started my  
15 alternative high school, and it says on it Focus  
16 Alternative High School. Prior to this it was kind of  
17 a leaky storage facility, and so through some local  
18 dollars we put a new roof on it, cleaned it out and put  
19 our alternative high school there.

20       Q.       And you talked earlier about alternative high  
21 schools in Deer Park, but the alternative high school  
22 at Chimacum, what does that do?

23       A.       That's similar as I talked about before.  
24 It's an opportunity to bring kids back into the system  
25 that may have dropped out. We didn't have one when I

1 came and I just felt, as some of my experiences before,  
2 that I just didn't want to lose these kids. I knew  
3 they were out there. I knew they could get some help.  
4 Let's start a school, let's tear out the storage  
5 facility, put a roof on it, and we had a -- I believe,  
6 a local -- a local individual helped us. You know, I  
7 begged, borrowed and steal and got someone to put in  
8 some computers for the kids, one of our local  
9 citizens. And we also, I believe, had some federal  
10 dollars to help us with computers on that particular  
11 facility.

12                   So those kids now come in. They're  
13 earning credit. I believe we've graduated, in the five  
14 years since we started this school, over 70 kids that I  
15 would almost guarantee you would not have graduated had  
16 that facility not been there.

17       Q.     And the money to build that facility, where  
18 did that come from?

19       A.     You know, that's an old portable so I don't  
20 know what was used way back when they built that --  
21 what money was used. Do not know.

22       Q.     And the money to fix the roof and make it --

23       A.     That was local.

24       Q.     The money to transform it from a leaky  
25 storage shed to the alternative high school, where did

1 that money come from?

2 A. Used local dollars for that.

3 Q. Could you define what photo 32 is?

4 A. I believe that that is a picture of a --

5 Q. Maybe the prior picture.

6 A. Yeah, let me look at the prior picture.

7 So that is pictures in -- okay. I  
8 thought it was. That's pictures inside of that  
9 alternative school. So those are some of the computers  
10 I was talking about that were helped -- we helped get  
11 those with some federal dollars, I believe, in  
12 combination with some local dollars from a citizen.  
13 And he's doing this to this day, bringing in technology  
14 into that building.

15 Q. When you say citizen is bringing in  
16 technology what do you mean by that?

17 A. Well, he goes out and does fundraising, talks  
18 to people. He has a real interest in our kids that  
19 have dropped out. A lot of people have an attachment  
20 to an alternative school because they realize this  
21 might be their last chance. He was at --

22 MR. CLARK: Your Honor, I'm sorry to  
23 interrupt the witness, but he does tend to, when asked  
24 a question, expand it into a lot of different topics,  
25 and I'm happy to listen to them but I think it goes



1 well beyond the scope of the questions that are being  
2 asked.

3 THE COURT: Your objection is narrative?

4 MR. CLARK: Yes.

5 THE COURT: The objection is sustained.

6 MR. AHEARNE: Your Honor, if it's okay if I  
7 can interrupt the witness to sort of head him off at  
8 times, is that acceptable?

9 THE COURT: That would be fine.

10 And if you could just limit your answers  
11 to the question asked, please.

12 THE WITNESS: Okay. All right.

13 THE COURT: Thank you.

14 BY MR. AHEARNE:

15 Q. So with respect to these computers that are  
16 in picture 32, we were talking about how a citizen  
17 brings them in or something.

18 Could you explain what you mean by this  
19 citizen bringing them in. Not why or attachment to the  
20 school. What did you mean by --

21 A. That he goes out and raises the funds for  
22 them.

23 Q. Okay. And do you have an understanding as to  
24 why this particular citizen does this for this school?

25 A. Yes. He has an interest in the kids that

1 attend that school and helping them.

2 Q. Okay. Photo 33, could you identify what  
3 that's a picture of?

4 A. That's a picture of our gate, a gate that  
5 goes by our baseball and soccer and softball field to  
6 the back of the main campus. Then in the distance you  
7 see a building, that's a cooperative bus garage, bus  
8 barn, where we have our buses and where we have our  
9 mechanics and folks like that. That's in the  
10 background.

11 Q. When you say a cooperative bus barn, what do  
12 you mean by that?

13 A. We are in a cooperative with the local school  
14 district to run that barn so we both have joined to fix  
15 buses and use that facility.

16 Q. When you said -- is that another school  
17 district?

18 A. Right.

19 Q. So it's a cooperative between Chimacum School  
20 District and what school district?

21 A. Port Townsend School District.

22 Q. All right. And are the facilities for this  
23 co-op bus facility between the two school districts,  
24 are those facilities in good shape? What kind of shape  
25 are they in?

1       A.     We need major renovation of the bus garage.  
2 It's old. The roof is leaking. There's only one  
3 facility for bus drivers to use, restroom facility, so  
4 we need to add facilities in that area, too.

5       Q.     Photo 37, would you identify briefly what  
6 that is?

7       A.     That is -- used to be a video room and now  
8 it's our, what we call our health clinic.

9       Q.     And can you explain what funds or what the  
10 source of the equipment and the things you see in  
11 photograph 37?

12       A.     We have a health clinic that we've partnered  
13 to develop. So the Jefferson County Commissioners have  
14 put a one-tenth-of-one-percent sales tax on. It can  
15 only be used for mental health, so two days a week we  
16 have a mental health -- adolescent mental health  
17 specialist come into that facility.

18                   Then we've also partnered with our local  
19 hospital that I mentioned before, Jefferson Health  
20 Care, and they've been good enough to give us a nurse  
21 two days a week to be in that facility.

22       Q.     And do you charge these other agencies that  
23 provide the nursing and the staff a fee to use that?

24       A.     No. We provide that to them.

25       Q.     When you say provide, you let them use this

1 room?

2 A. Yes.

3 Q. And do you know where the equipment came from  
4 that's in there?

5 A. That equipment you see came from the  
6 hospital.

7 Q. And is this kind of a facility -- does it  
8 relate at all to providing kids an education?

9 A. Yes, it does.

10 Q. How so?

11 A. By dealing with health issue needs of our  
12 students. We only have a four-hour nurse on our campus  
13 and there's a lot of needs, particularly at the high  
14 school level, that this helps them -- helps address  
15 those needs.

16 Q. Do those needs in any way relate to whether  
17 or not they get an education?

18 A. Yes. We've learned that a child who --  
19 having health difficulties is going to have difficulty  
20 learning.

21 Q. Picture 40, could you identify what that is?

22 A. Yes. That's our auditorium for the main  
23 campus. It's on the main campus. It seats about 400.

24 Q. And what is that used for?

25 A. We use that primarily for drama productions.

1 We use that for productions of -- we'll have folks that  
2 want to come in and maybe present a musical, an  
3 ensemble or something to our students so we use that  
4 facility for that. So we can use our various buildings  
5 to see the performance.

6 Q. Does that relate in any way to education?

7 A. Oh, I think this is very critical. You've  
8 got a facility here that the community's very proud  
9 of. Again, speaking about pride. You've got a  
10 facility that, again, one of the Essential Academic  
11 Learning Requirements would certainly fit under the  
12 arts and drama, and this facility allows our students  
13 to perform that -- in front of that community that is  
14 very proud of their work.

15 Q. Picture 42, would you identify what that is?

16 A. That is the choir -- an elementary choir room  
17 right next to the auditorium.

18 Q. And, briefly, what is that used for?

19 A. That's for music for our elementary students.

20 Q. And is that -- other than music, does having  
21 music class provide any other sorts of benefits for  
22 education?

23 A. Well, you know, other than the music, it is  
24 the opportunity that our teachers have. We use the  
25 elementary music. So a 3rd grade teacher, for example,

1 would bring their class to this choir teacher and then  
2 that teacher would use that time while they're with  
3 choir for prep, prep time. So, one period a day a  
4 teacher has prep and the choir is being taken on by the  
5 choir teacher.

6 Q. When you say prep time, could you briefly  
7 explain what you mean by that?

8 A. Preparation time is time that teachers have  
9 with no students to prepare for the classes and prepare  
10 their instruction.

11 Q. And is that at all important for providing  
12 education?

13 A. Yes, they need to be prepared -- well  
14 prepared to provide their instruction.

15 Q. Picture 44 , would you identify what that is,  
16 please.

17 A. 44 is a middle school science classroom.

18 Q. And I notice that there are computers in  
19 there.

20 Do you know how the school district  
21 secured those computers?

22 A. Those computers -- the computers in our  
23 middle school were obtained through a Gates grant. Our  
24 school qualified and our middle school qualified for a  
25 Gates grant so that provided not only software and

1 hardware, but it also provided training for those  
2 teachers.

3 Q. Picture 48, would you briefly identify what  
4 that is, please.

5 A. That's a middle school math class, I believe.

6 Q. And I notice there's -- it looks like there's  
7 a projector and TV and some video equipment in there.

8 Do you see that screen?

9 A. Yes.

10 Q. And how does the Chimacum School District pay  
11 for that kind of support equipment?

12 A. Again, this was part of the Gates grant, and  
13 also, besides the grant, teachers had an opportunity to  
14 participate in teacher leadership through the Gates  
15 organization. So they used some of those -- and they  
16 received dollars for technology. And there was some  
17 local funds, I'm pretty sure, that helped with some of  
18 the middle school.

19 Q. Picture 50.

20 A. That's our middle school lab. That's where  
21 our middle school kids go to get assistance on  
22 computers.

23 Q. And where did Chimacum School District get  
24 these computers?

25 A. These computers were from the grant to

1 establish a lab, the Gates grant. And there was some  
2 additional local dollars that helped purchase some of  
3 these.

4 Q. When you say the Gates grant, is this like  
5 the Bill and Melinda Gates foundation?

6 A. Yes. Yes. For quite a while they were  
7 providing dollars to schools called Gates grants,  
8 yes --

9 Q. Okay.

10 A. -- for technology and training.

11 Q. Okay. Photograph 59, could you briefly just  
12 say what this is?

13 A. That is our 3 through 5 kitchen.

14 Q. When you say kitchen, is this one -- does  
15 this actually cook?

16 A. No, this is where we serve. It's a heating  
17 area. There's no cooking taking place there.

18 Q. That's because you use that one master  
19 kitchen for all your schools.

20 A. Correct.

21 Q. Photograph 60, could you briefly identify  
22 what that is?

23 A. That is a middle school. I believe that's a  
24 middle school classroom.

25 Q. And there's some technology there, the



1 overhead and the projector and the screen.

2                   How did Chimacum pay for that?

3       A.     I believe that was through local dollars.

4       Q.     And is this kind of technology important at  
5 the elementary school level?

6       A.     Yes.  It's -- you know, the child today is in  
7 a technology world, so they're in a world of video  
8 games and of high tech, and the average teenager's on a  
9 video game three hours a day so we find that in  
10 reaching these students and communicating with these  
11 students and providing the technology and the education  
12 they're used to that these are absolutely essential and  
13 valuable when we can provide them, yes.

14       Q.     And how did Chimacum pay for these?

15       A.     These were local dollars.

16       Q.     Picture 62, could you identify what that is?

17       A.     Those are urinals in our elementary school,  
18 three urinals.

19       Q.     And I assume that the school district has to  
20 pay utilities, like, water, electricity and things like  
21 that?

22       A.     Yes.

23       Q.     Approximately how much does Chimacum pay for  
24 utilities, water and electricity each year?

25       A.     About \$390,000.

1 Q. And approximately how much does Chimacum pay  
2 for insurance every year?

3 A. About \$105,000.

4 Q. And approximately how much does Chimacum pay  
5 when you add up the elections -- the school board  
6 elections, the State Auditor's Office charges, and then  
7 the charges for the co-ops you have or the data  
8 processing? Approximately how much does that all add  
9 up to?

10 A. Election's around 20,000, the audit around  
11 11,000, our co-op around 30,000. So 50 to \$60,000 for  
12 those items.

13 Q. So those items alone, do they add up to more  
14 than about what?

15 A. 525, 550 for those items.

16 Q. And how much does the state -- and those --  
17 are those items that are included within the NERC  
18 category --

19 A. Yeah, those are related to staffing, right.

20 Q. Are they in the NERC category?

21 A. Yes.

22 Q. And how much does the state provide for  
23 NERC's?

24 A. About 550,000.

25 Q. So after you've paid for utilities, the

1 insurance, the State Auditor's Office, the other items  
2 you've mentioned, do you have any money left of the  
3 state funds for textbooks or library books?

4 A. No.

5 Q. Or technology at all?

6 A. No.

7 Q. For the toilet paper in the stall right next  
8 door?

9 A. No money for the toilet paper.

10 Q. Any money for maintenance supplies or  
11 anything like that?

12 A. No.

13 Q. Picture 68. Talking about library.

14 Could you identify what picture 68 is?

15 A. 68 is our 3-8 library.

16 Q. Now, I notice that there are several book  
17 shelves. It looks like a lot of books. Are these all  
18 the library books in your library?

19 A. No. Those are from a book fair that we hold  
20 annually.

21 Q. So are the books in this photograph then from  
22 this book fair?

23 A. Yes, those are from the book fair. They do  
24 not belong to the district.

25 Q. And could you briefly explain what a book

1 fair is and why Chimacum School District has one?

2 A. And most districts, I think, have these.

3 Certainly in Deer Park we had it.

4 A book fair is a private company that  
5 comes in and provides an opportunity for parents,  
6 students, staff to buy books. It's an advantage to the  
7 school district because, depending on the number of  
8 books that are purchased at this book fair -- also  
9 encourages, you know, learning and education. But,  
10 beyond that, we get points for the books that are sold  
11 and those points allow us to buy additional books for  
12 the school.

13 Q. And the books that Chimacum library has right  
14 now when the book fair books are taken out, do you  
15 believe that that is a current collection, an adequate  
16 collection for your school?

17 A. No.

18 Q. Picture 70, what is that?

19 A. 70 are the libraries that are in -- excuse  
20 me. 70 is the computers that are in that library.

21 Q. Okay. What are those computers used for, if  
22 anything?

23 A. Well, again, students can come in and use  
24 this for research work. What we use these particular  
25 computers for as much as we can is to provide what we

1 call an Accelerated Reader Program, which is a great  
2 program that helps students -- motivates them to read,  
3 to track their reading, to help with their  
4 comprehension, and just to get them to read and use the  
5 library. Because of this, they come in, they check out  
6 a book. It has a certain grade level that matches  
7 their grade level and then they use these computers to  
8 test their comprehension.

9 Q. And are these computers all working and  
10 functioning?

11 A. No.

12 Q. Are these the computers, when they are  
13 working -- functioning, are used for the Accelerated  
14 Reading Program?

15 A. Yes, they are, when we keep them running.

16 Q. Does your school district have an adequate  
17 number of computers to do, for example, the Accelerated  
18 Reading Program that you are talking about?

19 A. No, not working computers.

20 Q. Page 71. Same question on 73 and 74.

21 Are these all book displays for this  
22 book fair that you were talking about?

23 A. 71 is. 73 is. And the top of the shelves on  
24 number 74 are part of the book fair.

25 Q. Are you referring to, like, the sweatshirts

1 and the boxes with books, and then the stacks of books?

2 A. Right.

3 Q. Now, I'm assuming the free signs, those are  
4 all from the book fair, not Chimacum?

5 A. Right.

6 Q. Page 76.

7 A. They're not free, by the way. I want to, you  
8 know, read that free, because this is pretty typical of  
9 how they encourage people to purchase books. It says  
10 you buy one book and you get one free. There are no  
11 free books in that.

12 Q. The importance of reading.

13 Photo 76, could you identify what that  
14 is?

15 A. That's a -- that's one of our kindergarten  
16 classrooms.

17 Q. Is that an all day kindergarten, half day,  
18 both? What is it?

19 A. Yes, when this picture was taken, it was an  
20 all day kindergarten.

21 Q. These pictures were taken this spring,  
22 correct?

23 A. Yes, they were. I believe so.

24 Q. And because these are the pictures by the  
25 state's experts.

1 A. Yes.

2 Q. In the spring when these pictures were taken,  
3 how many full-day kindergartens did Chimacum have?

4 A. We had four.

5 Q. How many do you have -- are you going to be  
6 having this upcoming year?

7 A. One.

8 Q. And why did you reduce the number from four  
9 to one?

10 A. Similar to my counseling discussion, Your  
11 Honor. I have a real strong belief that full-day  
12 kindergarten -- research is pretty clear on that --  
13 definitely impacts closing the gap -- achievement gap  
14 of particularly our low income students, and so when we  
15 had I-728 dollars we --

16 Q. Let me interrupt you just for a second.

17 Could you explain to the judge what the  
18 heck I-728 dollars are?

19 A. Okay. As alluded to before, that's that  
20 initiative that the voters passed for class size  
21 reduction and professional development. I think  
22 Mr. Clark referred to that.

23 So we used those dollars, as I mentioned  
24 before, to help facilitate our all-day kindergarten  
25 program so that students could take advantage of that

1 and reduce the cost.

2                   With that cut next year, we don't --  
3 we're only going to have a parent pay part, so that's  
4 why we only have one, and that was a tough call.

5       Q.     And that's something you cut this coming  
6 year?

7       A.     Yes.

8       Q.     Is that the same legislature that passed  
9 2261?

10      A.     Yes.

11      Q.     Photograph 78, could you identify what that  
12 is, please?

13      A.     That is a picture of that K-2 building, and  
14 that's the lab that they had -- they have in there at  
15 this time.

16      Q.     Okay. Are those computers in good condition?

17      A.     Those computers we have to keep running -- I  
18 mean, keep working on to keep them running. They break  
19 down but we usually are able to get most of them  
20 running.

21      Q.     And how did Chimacum buy those computers?

22      A.     Those were part of the bond to build the  
23 building in '99.

24      Q.     Look at the last picture, 79. Could you  
25 briefly identify what that is a picture of?



1           A.     That is a picture of our cafeteria eating  
2 area and also our gymnasium for our K-2 building. Our  
3 little guys use that facility.

4           Q.     And how did Chimacum pay for this facility?

5           A.     That was the bond that we ran in 1999 to pay  
6 for that.

7           Q.     The local levy bond?

8           A.     The local levy bond, yes.

9           MR. AHEARNE: Okay. Your Honor, I would like  
10 to move to admit the photographs and then from  
11 Chimacum, the block numbers 1 through 79 of trial  
12 exhibit 1620.

13                     Your Honor, let me just tell you sort of  
14 where I'm at with the joint statement of evidence that  
15 the state submitted. It's separated by line for each  
16 of the school districts for each of the schools.

17           THE COURT: But the --

18           MR. AHEARNE: The trial exhibit itself is  
19 1620 --

20           THE COURT: Right.

21           MR. AHEARNE: -- and because the way the  
22 state marked the exhibit, it was all the pictures taken  
23 by expert Murphy, and --

24           THE COURT: Right. But the problem is that  
25 we typically don't break up exhibits, so we either have

1 to admit all of 1620 or take out subs 1 through 79 and  
2 create another exhibit. And we don't have any way of  
3 admitting subparts of an exhibit.

4 MR. AHEARNE: And I just want to avoid a  
5 practical problem, but Mr. Blair obviously can't  
6 testify to what the other school district ones are.

7 THE COURT: Well, is there any objection to  
8 1620?

9 MR. CLARK: No, Your Honor. We can admit the  
10 entire exhibit.

11 THE COURT: All right. And, Mr. Ahearne,  
12 would you object to any of 1620?

13 MR. AHEARNE: I don't think so, but the  
14 concern I have is we've had testimony on the Chimacum  
15 pictures buried in this gigantic stack. If there was  
16 some way -- I guess the numbers --

17 THE COURT: The numbers will speak for  
18 themselves. If I admit 1620, however, I would consider  
19 the entire of 1620 even though I assume that there's  
20 going to be some basis for supporting the balance of  
21 the exhibit.

22 MR. AHEARNE: Frankly, I'll just lay all my  
23 cards on the table here. I'm not objecting to the  
24 pictures because I'm assuming that Mr. Murphy's going  
25 to come in and say, you know, darn straight I took

1 these pictures and they're all from the school  
2 districts I claim they're from. But between Mr. Blair  
3 and us, I mean, I can't swear that the pictures from  
4 other districts are --

5 MR. CLARK: If neither side raises an  
6 objection --

7 THE COURT: All right. There's no objection  
8 so I will admit 1620.

9 EXHIBIT ADMITTED

10 MR. AHEARNE: Thank you, Your Honor.

11 THE COURT: You're welcome.

12 BY MR. AHEARNE:

13 Q. What is the most recent year that Chimacum  
14 school district has an audited financial statement for?

15 A. That would be -- that would be '07-'08.

16 Q. And by financial statements, do they have a  
17 -- an acronym or a term that are used?

18 A. F-196.

19 Q. Okay. And who audits F-196's?

20 A. The State Auditor's Office.

21 Q. And why does Chimacum choose the State  
22 Auditor's Office to do the audit?

23 A. That's mandated by state law.

24 Q. So state law mandates that the State  
25 Auditor's Office audit your F-196's.

1                   Does the state pay for those audits?

2       A.       No, we pay for the audit.

3       Q.       Okay.  What does the state auditor do when it  
4 audits the F-196's of the school district?

5       A.       Well, he spends about two weeks in our  
6 district.  He goes through all of the financial  
7 statements to determine their accuracy.  He looks for  
8 any problem areas that -- for example, ASB accounts.  
9 He checks out, or she checks out, the staffing, that  
10 we're, you know, tracking staffing appropriately, the  
11 right certification and the right pay for that  
12 individual.

13                   They also look at federal programs.  Are  
14 we following federal law.  They look at enrollment.  
15 They could look at enrollment issues or enrollment  
16 problems in the district.  And they could look at  
17 transportation.  They can evaluate our transportation  
18 and our stops and our load factor.  Very thorough, very  
19 thorough two weeks that they work with my business  
20 manager in my business office.

21                   They also go out into the buildings and  
22 talk to our fundraising folks, our secretaries, and  
23 determine how we're tracking the dollars that come into  
24 the district, and do a fine job.

25       Q.       Does the State Auditor's Office audit the

1 school district to determine the accuracy of its  
2 financial statements?

3 A. Yes.

4 Q. Handing you Exhibit 463.

5 THE COURT: You may proceed, counsel.

6 BY MR. AHEARNE:

7 Q. Handing you Exhibit 463. Can you identify  
8 what that is?

9 A. Yes, that is a brochure that is presented by  
10 the State Auditor's Office. It's called the citizens'  
11 auditor.

12 Q. If I can ask you to turn to the second  
13 page -- paper page of Exhibit 463, and under schools,  
14 it says the State Auditor's Office audits school  
15 districts to determine the accuracy of districts'  
16 financial statements, compliance with federal  
17 regulation for districts that spend more than 500,000  
18 in federal funds a year, and accountability audits for  
19 compliance of state laws.

20 Do you see that?

21 A. Yes.

22 Q. Is that consistent with your understanding of  
23 what the State Auditor's Office does when it audits the  
24 Chimacum financial statements?

25 A. Yes, it is. That's what I described.

1 Definitely.

2 MR. AHEARNE: Your Honor, I'd like to move to  
3 admit Exhibit 463.

4 THE COURT: 463 is offered.

5 MR. CLARK: No objection, Your Honor.

6 THE COURT: 463 is admitted.

7 EXHIBIT ADMITTED

8 BY MR. AHEARNE:

9 Q. Handing you Exhibit 375. Can you identify  
10 what that is?

11 A. Yes. That's the first page -- cover page of  
12 the F-196 report on the Chimacum School District.

13 Q. And the pages that are after that, is that  
14 the remainder of the F-196 report?

15 A. Yes.

16 Q. Is this the audited financial statement that  
17 you just talked about for Chimacum School District?

18 A. Yes. It's for 2007-2008.

19 Q. Is this the most recent audited financial  
20 statement?

21 A. Yes.

22 Q. If I can ask you to look at the cover page on  
23 the F-196, do you see under debt service funds, it has  
24 the total expenditure figure of the \$1,401,938.61, do  
25 you see that?

1 A. Yes.

2 Q. Can you briefly explain -- what's that for?  
3 What does that pay for?

4 A. That's basically the payment of our bond of  
5 1999. Sort of like a mortgage payment, paying back  
6 that bond that was issued.

7 Q. And what did the bond pay for?

8 A. The K-2 building that I referred to before  
9 and some remodeling, upgrades to our high school.

10 Q. And of that service here, the 1.4 million,  
11 does the state pay any of that portion?

12 A. No. That's paid by our local tax payers.

13 Q. If I can ask you to turn to page 17, please.  
14 And the page 17 actually has page 17 typed at the top,  
15 because I know there are a variety of page numbers on  
16 this exhibit titled Program/Activities/Object Report,  
17 upper right-hand corner all caps, page: 17.

18 A. I'm at 16. There's 17.

19 Q. Could you briefly explain -- well, first, do  
20 you see this column in the middle that says activity  
21 title and then number? Do you see that?

22 A. Yes.

23 Q. Could you briefly explain what activity codes  
24 61 through 64 and then 67 are paying for? What are all  
25 those activity codes?

1       A.     Well, those activity codes are basically the  
2 upkeep of our building, so it's our maintenance crew,  
3 our -- which is one person, our grounds crew, which is  
4 one person, our custodians, their supplies, our  
5 maintenance supervisor. He's half time. Those things  
6 that keep those buildings running.

7       Q.     Okay. If you add up then the activity code  
8 61 through 64 and 67, and then that debt service fund  
9 expenditure you just testified about, is that what it  
10 actually costs Chimacum to own and operate their school  
11 buildings in this year?

12      A.     Yes.

13      Q.     Okay. I notice there's a capital project  
14 fund as well.

15      A.     Yes.

16      Q.     That's also for facilities, too?

17      A.     Yes.

18      Q.     But, if I add up the debt service fund amount  
19 and activity code 61 through 64, plus 67, that gives me  
20 a number of 2.1 million. Is that --

21      A.     Yes.

22      Q.     That's how much it costs to operate -- own  
23 and operate the building. That's just a little  
24 understated, right?

25      A.     Yes.



1 Q. Just so I can keep track of these numbers,  
2 I'm going to start writing them down. I've got 2.1,  
3 buildings.

4 And if Ms. O'Connor were here, you'd be  
5 able to say that Tom was bright about learning  
6 penmanship.

7 If I could ask you to please turn --  
8 well, actually, I'd like to introduce another  
9 exhibit -- or at least offer one. Exhibit 1081,  
10 please.

11 You've been handed trial Exhibit 1081,  
12 which is a less than wonderfully legible document that  
13 is one of the state's documents. But, on the first  
14 page there is a section labeled Chimacum School  
15 District.

16 Can you make that out?

17 A. Yes.

18 Q. Do you know what this chart is or what the  
19 figures on this are?

20 A. Yes, I do.

21 Q. Could you explain to the court what this is?

22 A. The Office of Superintendent of Public  
23 Instruction, our state agency, asked us to prepare --  
24 did a survey to prepare documentation of what projects  
25 in the school district would be shovel ready should

1 there be stimulus money available. That's really what  
2 that is. We did that with our facility person, our  
3 business manager.

4 Q. Briefly, what was the process you went  
5 through to figure out -- well, let me back up a  
6 little.

7 If I can read this correctly, it looks  
8 like for Chimacum there's one listed at 1.4 million in  
9 shovel-ready projects, ready to go?

10 A. Yes.

11 Q. Okay. And by shovel ready, can you give me  
12 an understanding of what you mean by that?

13 A. What I mean by that, and what I understand  
14 the survey was asking, is that those are projects that  
15 have been determined their cost and are ready to begin  
16 that construction or whatever.

17 Q. So if I understand it correctly, this is the  
18 1.4 million that Chimacum turned in as shovel-ready  
19 projects?

20 A. Yes.

21 Q. And does Chimacum have more projects that  
22 need to be done than the ones that are listed on the  
23 shovel ready list?

24 A. Yes.

25 Q. Why did you not include those?

1       A.     Well, we didn't feel they fit the category  
2 that was being asked of us and, that is, we haven't  
3 gone out and determined those costs, done an analysis  
4 and didn't feel comfortable including those as shovel  
5 ready because they're not shovel ready. These have --  
6 we determined some costs, determined what the need is,  
7 what the construction costs may be, round about, and  
8 that's why we put them in there. The other projects  
9 that the district is looking at is not included.

10       Q.     Okay. And you said the other projects that  
11 the district is looking at.

12                     Does the district need other repairs or  
13 construction projects done?

14       A.     On-going, yes.

15       Q.     And why don't you cost those out to get  
16 contracts ready and have those shovel ready?

17       A.     Well, we only have so much time. I only have  
18 so much people, and we have these ready to go and  
19 they're shovel ready, and as money becomes available  
20 I'm sure we'll go out and continue to look for other  
21 projects.

22       Q.     Okay. The 1.4 million of shovel-ready  
23 projects you turned in for Chimacum, how much of those  
24 were funded by the state?

25       A.     We've received no funding for those projects.

1 Q. And in fairness to the state, the  
2 understanding here was these --

3 A. Yes.

4 Q. -- were shovel ready. They're being turned  
5 in to Washington D.C if there was money, correct?

6 A. I don't know where OSPI turned them in, but,  
7 yes, we were under the impression that should stimulus  
8 dollars become available, they want to know right away  
9 where they could be applied, yes.

10 Q. I'll ask you to go back to Exhibit 375,  
11 please.

12 A. So where is that? I've got so many books up  
13 here, Tom. Oh, okay.

14 Q. We're back on trial Exhibit 375, the F-196  
15 for the '07-'08 school year, correct?

16 A. Correct.

17 Q. And I said school year. I noticed the F-196  
18 says 2007-2008 fiscal year.

19 For school districts, are the fiscal  
20 year and the school year the same thing?

21 A. Pretty much, yes.

22 Q. If I can ask you to turn to page 17, please.

23 A. Okay.

24 Q. That's that same page that -- and you might  
25 find it just tabbed or tagged or something, because

1 we'll be turning back to it frequently.

2                   Could you identify what activity code 27  
3 is for?

4       A.       That's the teaching in the classroom. All  
5 the -- all the expenses that are related to the  
6 classroom. Teachers in the classroom, educational  
7 assistance in the classroom, supplies for the  
8 classroom. Classroom related.

9       Q.       Would it be fair to say that if it's in the  
10 classroom, whether it be the materials for the teacher,  
11 it's in activity code 27?

12       A.       We would charge it to this account, right.

13       Q.       And you heard Mr. Clark note earlier that  
14 school districts, Chimacum in particular, pays their  
15 teachers more than the state-based allocation amount;  
16 is that correct?

17       A.       That's correct.

18       Q.       Why do you do that?

19       A.       We pay what we feel is a competitive wage in  
20 our region. We have school districts around us that  
21 are paying those monies and we compete with them.

22       Q.       Why do you have to pay a competitive wage?

23       A.       Well, we feel we have really, really great  
24 teachers, quality teachers, quality professionals, and  
25 just like any person in any operation, you want to have

1 a competitive wage to attract people to your district  
2 and retain them.

3 Q. What do you mean by retain? What does the  
4 wage have to do with retaining? When they're there,  
5 don't they just stay?

6 A. No, they don't just stay. They will look  
7 around and see if there are more competitive wages for  
8 them. They're young families.

9 Q. And does Chimacum have a high turnover of  
10 their teachers?

11 A. No.

12 Q. Why do you believe that's true?

13 A. Well, we are being competitive in our area,  
14 and we feel we have a great school district that treats  
15 people well, including respecting their -- their area  
16 of wage, in other words, competitive with the Port  
17 Townsend, Sequim, Kitsap. We feel that's critical and  
18 that's why they stay.

19 Q. You mentioned that activity code 27 also  
20 includes materials and things like that in the  
21 classroom.

22 A. Yes.

23 Q. Are all of the expenses for classroom  
24 materials within activity code 27, or are there other  
25 things or people that pay for classroom materials at

1 Chimacum?

2 A. Parents pay for classroom material, PTA pays  
3 for classroom materials, yes.

4 Q. And does your staff pay for classroom  
5 materials?

6 A. Staff, yes. Staff go out and buy DVRs or  
7 equipment they may need for the classroom, yes.

8 Q. And who pays for the classroom materials in  
9 kindergarten?

10 A. In the kindergarten class about three years  
11 ago we had a grandma who -- her granddaughter was going  
12 to the primary and going to go to kindergarten and she  
13 offered and has indicated she will pay for all  
14 kindergarten supplies that the parents would normally  
15 have to pay. She is covering that total cost every  
16 year from now on.

17 Q. And when you don't have a grandmother or  
18 parent like that that covers the classroom material  
19 costs for the kids, where does that money come from?

20 A. The parents would pay that.

21 Q. When we're talking about classroom materials,  
22 are we talking about, like, the backpack that Johnny  
23 brings, or what are we talking about?

24 A. Those are things that are used in the  
25 classroom, whether it be paper, pencil, glue, scissors,

1 supplies that you see when you go to WalMart and the  
2 school district lists what they require to be in their  
3 school -- to be in their class. Teachers have  
4 different lists, but generally it's a classroom supply  
5 list that the students bring.

6 Q. If I --

7 A. And that's tough for some of our parents.  
8 I'll be honest with you.

9 Q. Why is it tough?

10 A. Well, it's a low-income area, and it's an  
11 area that faces economic depression at times. It may  
12 not be where you live, Tom, but where our people live  
13 and work, paying for these things is difficult. It's  
14 not an easy thing. It's really tough for some of our  
15 folks.

16 Q. Looking at activity code 27, teaching, is  
17 about \$5.7 million for Chimacum, how much their cost  
18 was for classroom teaching; is that correct?

19 A. That's correct.

20 Q. So \$5.7 million would be the actual cost to  
21 Chimacum for its classroom teaching activities for that  
22 year?

23 A. Yes.

24 Q. I'll try to get you Ms. O'Connor's address to  
25 talk to her about my penmanship.



1                   If I can ask you to look at the cover  
2 page of the F-196, please, and there's a transportation  
3 vehicle fund.

4                   Do you see that?

5       A.       Yes.

6       Q.       And there's an expenditure of \$415,182.81.

7                   Do you see that?

8       A.       Yes.

9       Q.       Could you explain what that expenditure is  
10 for?

11       A.       Yes. The transportation vehicle fund is  
12 where we buy our buses. That expenditure was to buy  
13 three buses, and to pay the loan off on a couple  
14 others.

15       Q.       And where did the money come for that?

16       A.       We were fortunate to get a capital -- excuse  
17 me, to get a transportation vehicle levy passed by our  
18 voters, a one-year levy --

19       Q.       This is a --

20       A.       -- to buy three buses, right.

21       Q.       The one-year local levy to pay for three  
22 buses?

23       A.       Right.

24       Q.       Why did Chimacum School District by three  
25 buses?

1       A.     Well, you know, I'm listening to my  
2 transportation director and business manager and we had  
3 buses that were at 400,000 miles and they were old.  
4 And even though they would pass safety inspection by  
5 the state, we just had concerns for the safety of our  
6 kids out on those old buses and we decided we were  
7 going to go and ask our community to help us out, and  
8 they did.

9       Q.     If I can ask you to turn to page -- same  
10 page, 17, activity codes 51 through 59.

11                       What do those generally pay for?

12       A.     That's our transportation department. Those  
13 are expenditures there for our transportation director,  
14 for our drivers' fuel, for maintenance, rebuilding  
15 engines, putting transmissions in, whatever, and then  
16 there's a cost to ensure those buses, and that's in  
17 that category also.

18       Q.     So if I were to add up activity codes 51  
19 through 59, would that be fair to say that's the  
20 operations costs of your student transportation?

21       A.     Yes.

22       Q.     Is that student transportation to and from?

23       A.     To and from.

24       Q.     And so if I add that to then the  
25 transportation vehicle fund expenditure, it comes to

1 1.3 million.

2                   Would 1.3 million be the actual costs to  
3 Chimacum of this year's pupil transportation?

4       A.     '07-'08, yes.

5       Q.     If I could ask you to please turn to -- or  
6 stay on page 17, please. I'm going to have some  
7 questions about activity codes 21 through 22 and then  
8 24 through 26.

9                   Do you see those?

10      A.     Yes.

11      Q.     Learning resources, supervision, guidance and  
12 counseling, pupil management and safety, and then  
13 health-related services.

14                   Do you see those?

15      A.     Yes.

16      Q.     Could you generally describe what those  
17 activity codes are paying for?

18      A.     Those generally are paying for those things  
19 that support the classroom. They're not in the  
20 classroom. They're supportive of the classroom. I  
21 think -- well, I know that 21 is our special ed  
22 director, and our CT director is in that category.

23                   Learning resources are a library. We  
24 have one certificated librarian, and then we have a  
25 couple of educational assistants that are in that

1 category that help out in the library in our three  
2 libraries.

3                   Then we have guidance and counseling.  
4 That's our three counselors that we have in the school  
5 district.

6                   And pupil management and safety, that's  
7 your educational assistance that supervise the  
8 playground, make sure those little rascals are not  
9 hurting each other. They're also in the lunch room.  
10 We actually hire crossing guards. We have a state  
11 highway that goes right by that main campus, which is  
12 somewhat dangerous, so we have a crossing guard in that  
13 category.

14                   That's really what's covered in those  
15 categories.

16       Q.       So if I were to add up those categories, I  
17 get -- generally would that be, like, the  
18 non-classroom --

19       A.       Right. Non-classroom, but supportive of the  
20 classroom is what I would call that, yes.

21       Q.       And that's about 1 million dollars that was  
22 the actual cost to Chimacum for that non-classroom  
23 instructional support?

24       A.       Yes.

25       Q.       What's activity code 23?

1       A.     23 is your building costs, building  
2 principle, the principals, the vice principals, the  
3 assistant principal, things like that in that category.

4       Q.     Just so we're clear, when you said building  
5 costs, is that anything to do with the costs of the  
6 building or just the cost of the administration?

7       A.     No. The administration of the building.

8       Q.     Okay. And how many principals does Chimacum  
9 have for its five schools?

10      A.     Presently we have two principals.

11      Q.     And does the state fully fund the salary that  
12 you pay the principals?

13      A.     No.

14      Q.     Why do you pay them more?

15      A.     Again, we have to be competitive to attract  
16 people to serve in this very difficult position, so we  
17 have to pay and we pay the competitive salary to hire  
18 an administrator, a building principal, assistant  
19 principal. That's why.

20      Q.     So if I look at activity code 23, then the  
21 building administration costs for Chimacum, the actual  
22 cost that year was approximately 650,000; is that  
23 correct?

24      A.     Correct.

25      Q.     We talked a little about -- earlier about the

1 utilities, the insurance, things like that, and  
2 district-wide expenses.

3                   Could I ask you to look at activities 11  
4 through 15, please.

5       A.     Okay.

6       Q.     Could you briefly explain what that clump of  
7 activities does or pays for?

8       A.     This quite often is referred to as central  
9 office costs, board of directors to take care of your  
10 audit, your election costs. They also --

11      Q.     Can I interrupt for a second? Board of  
12 directors, is that the elected --

13      A.     Elected officials, right. Those are those  
14 five elected officials.

15      Q.     And so the superintendents office is myself  
16 and a secretary and a receptionist in that office. A  
17 business office is a business manager, a payroll clerk,  
18 and a half-time accounts payable person. Those are the  
19 general costs. They're human resources personnel. The  
20 time is charged to a person in personnel.

21                   Central office in my -- in that portable  
22 that you had a picture of is where we're located.

23      Q.     And then activity 65, what is that?

24      A.     65. That's the utilities that I spoke  
25 about. That's 390,000 of which 300,000 alone is power,

1 Puget Sound Energy and another 90,000 for water and  
2 phone and things like that.

3 Q. Okay. Are those utilities solely in the  
4 building or on school grounds, or do you pay utilities  
5 elsewhere?

6 A. Well, we do have one cost off campus.

7 Q. What is that?

8 A. Right next door, as I mentioned, there's a  
9 state highway, and I think it was my second year here  
10 we had a student struck in the crosswalk there. And  
11 when the kids are coming to school at, you know, 7:00  
12 in the morning -- we start our middle school at  
13 seven -- at that time around 7:35, 7:40, it's dark. A  
14 lot of rain out there. And he was struck. Fortunately  
15 he wasn't hurt. He kind of bounced off the car.

16 So I asked the state that I -- that we  
17 felt that it was not properly lighted. There was just  
18 a flashing light but the lighting was real dim out  
19 there, so I asked the state to put in new lights, that  
20 we needed lights for the kids to get to school safely,  
21 and they said no, we weren't going to do that. So we  
22 went ahead and put lights on that state highway and  
23 then we pay the utility bill every month for those  
24 lights. So that's -- I think that's the only utility  
25 we have off campus.

1 Q. Okay. Item 68 -- activity code 68, what is  
2 that, generally?

3 A. That's our property and liability insurance  
4 that we pay to our risk pool annually.

5 Q. And risk pool is being the equivalent of the  
6 pool of school districts for insurance?

7 A. Yes, insurance. Right.

8 THE COURT: Mr. Ahearne, would this be an  
9 appropriate time for us to take our afternoon recess?

10 MR. AHEARNE: I will do whatever Your Honor  
11 wants. I've got one more activity code to ask about,  
12 then I can do my little box, and then go.

13 THE COURT: Very good. Let's do that.

14 BY MR. AHEARNE:

15 Q. Activity code 72, information systems. Could  
16 you briefly explain what that pays for?

17 A. Yes. That pays for our -- you know, our  
18 manager of our information system. It pays for the  
19 hardware, the backbone and the infrastructure of that,  
20 supplies and materials that may be needed to keep that  
21 running.

22 We have to keep that running because we  
23 have a lot, you know, reports that we have to get in to  
24 the state and we just can't let that go down. We need  
25 to keep that running for our teachers and those kinds



1 of things. So that's basically technology.

2 Q. And you say information system. Is that,  
3 like, the computers and stuff?

4 A. Yeah. And the servers and the hubs and  
5 the -- all those electronics, yes.

6 Q. Would that be equivalent of what other folks  
7 call, like, the IT department?

8 A. Yes.

9 Q. And does Chimacum have, like, a T-1 line or  
10 something?

11 A. We have two T-1 lines.

12 Q. Who provides those?

13 A. It might be three now. We buy those. We pay  
14 for those.

15 Q. But who provides them to you?

16 A. The T-1 lines --

17 Q. Yes.

18 A. -- are provided by, I believe, it's the  
19 state.

20 Q. Does the state give you --

21 A. The K-12 system.

22 Q. Do they give it to you for free or does the  
23 state charge --

24 A. No.

25 Q. -- you for those?

1 A. We have an annual fee for those.

2 Q. Are those essential to providing access to  
3 your information systems?

4 A. The main -- yeah. They're very expensive  
5 because we would jam up if we didn't have broadband  
6 capacity for that.

7 Q. Okay. And the activity codes we've talked  
8 about, 11 through 15, 65, 68 and 72 on, are those  
9 sometimes referred to as district-wide expenses?

10 A. Yes, uh-huh.

11 Q. And if I add those up, I have then 1.1  
12 million was the actual district-wide expenses for  
13 Chimacum in that particular year?

14 A. Yes.

15 MR. AHEARNE: Okay, Your Honor, I'm at a  
16 stopping point.

17 THE COURT: Thank you, counsel.

18 We'll take our afternoon recess at this  
19 time for 15 minutes.

20 THE WITNESS: Thank you.

21 THE COURT: Court is in recess.

22 (Whereupon a recess was taken.)

23 THE COURT: Please be seated.

24 Mr. Ahearne, you may continue with  
25 direct examination.

1 MR. AHEARNE: Thank you, Your Honor.

2 BY MR. AHEARNE:

3 Q. Almost finished with trial Exhibit 375, the  
4 F-196.

5 If I can ask you to please turn to  
6 activity code 28 on page 17.

7 Do you see that?

8 A. Yes.

9 Q. Can you explain what that activity code is  
10 paying for?

11 A. That's our co-curricular program that pays  
12 for advisors, for programs in athletic competition, in  
13 the arts competitions, in the academic competitions.

14 Q. Does that relate in any way to education?

15 A. Yes. I have shared with you before that I  
16 think our co-curricular programs are critical and they  
17 relate to education. First of all, they're in central  
18 academic learning requirements, health and fitness,  
19 arts. They -- they provide that hook, that opportunity  
20 for kids to explore, to broaden themselves, but they  
21 also provide that hook for kids to have a reason to  
22 stay in school.

23 Q. What do you base that on?

24 A. Well, I have personal experience that I might  
25 just share with you why I base that.

1                   I was always, as I said, moving around a  
2 lot, trying to fit in to schools, and one thing I could  
3 do very well from the age of eight on or so was to play  
4 the sport of baseball and that was an avenue for me to  
5 fit into a school and be part of the school and that  
6 activity was critical, important in my life. And then  
7 as I got into high school, went to a small high school  
8 which allowed me the opportunity to play football and  
9 baseball. And, you know, I was going to go and  
10 probably work at that sheet metal factory that I  
11 mentioned before, but one night the local community  
12 college coach came up and sat with my dad and mom and  
13 myself and talked about going down to the community  
14 college and playing some sports. I said, okay, well,  
15 that sounds pretty good to me, and so it opened that  
16 avenue for me.

17                   My guess is I wouldn't have pursued --  
18 I'm the first person in my family to get a college  
19 education. So I went down there and actually did  
20 fairly well in both sports, but in football I was given  
21 a full scholarship to continue my education at the  
22 University of Wisconsin and become a Badger and play  
23 football for them. And, there again, you had to  
24 maintain a certain grade point average and concentrate  
25 on your studies, and that allowed me to go to a school,

1 a university I probably would have never gone to.

2                   And then after that we were playing some  
3 semi-pro baseball and I was able to sign a contract  
4 with the Boston Red Socks organization and actually  
5 played a little summer ball and learned about  
6 competition, and, more than that, learned about  
7 failure. But during all of that time, I'm getting an  
8 education. And so when the Boston Red Socks said, you  
9 know, Mike, you can't seem to get anybody out. You  
10 know, your ERA is around nine, you need to find another  
11 career.

12                   And I was pretty fortunate that, because  
13 of this particular co-curricular, I was able to  
14 graduate and have that collage degree that opened the  
15 door for not only the Allstate Insurance, but also to  
16 get into teaching and my first love in coaching.

17                   And so personal experience, it is  
18 critical.

19       Q.       Other than personal experience, do you have  
20 any basis to conclude or state that athletics or arts  
21 or any kind of competition are important to provide  
22 this hook that you've been talking about?

23       A.       I have talked to many families. We had a  
24 very strong wrestling program at Deer Park. In fact,  
25 they won the last two state championships. And I had

1 many parents tell me that my, Mike, if you did not have  
2 that program my son would not be in school. It was no  
3 question in their mind.

4 I've talked to kids. I've seen kids,  
5 and I've seen them when they've been told that they're  
6 no longer eligible to participate because of their  
7 grades, they get those grades back up.

8 I've had students who go that extra mile  
9 to participate in Science Olympiad, to our Knowledge  
10 Bowl, to Destination Imagination, and those activities  
11 have allowed them to actually leave Jefferson County  
12 and go to other parts of the state and see what it's  
13 like to get out and experience the world.

14 You can't -- you know, that's just --  
15 you can't put a price on that. It's just invaluable,  
16 so I consider them co-curricular.

17 Q. And you said it's invaluable. But does it  
18 have anything to do with education?

19 A. Yes, it does. It's part of the central  
20 academic learning requirements certainly. It's part of  
21 a well-rounded education. It provides students with  
22 the opportunity to learn things outside the classroom  
23 that will help them in life, will help them compete,  
24 help them in the business community, and help them in  
25 education.

1 Q. If I look at then the F-196, I see it's  
2 \$230,000 for any co-curricular activities?

3 A. Yes, right.

4 Q. And is 230,000 the full cost to Chimacum of  
5 it's co-curricular activities? Does that include refs  
6 and things like that?

7 A. Some of those activities are paid by our  
8 students through their ASB funds. So they may pick up  
9 the cost. I don't know exactly what that is, but, for  
10 example, officials, equipment, things like that. That  
11 would be picked up by those.

12 Q. And you referred to the ASB fund. If you  
13 would look at the cover of the F-196, under ASB funds,  
14 the total expenditure is 178,945.37.

15 Do you see that?

16 A. Yes.

17 Q. And that would be the ASB fund paying for  
18 officials and equipment and things like that?

19 A. Yes.

20 Q. And is the ASB fund a state fund, a Chimacum  
21 fund? Where does the money come from in the ASB fund?

22 A. The ASB fund is a student fund, as it says,  
23 Associated Student Body, and the students have  
24 fundraisers. They have donations, gifts to their  
25 various clubs and organizations, and so it's their

1 fund. They receive the revenue and they monitor that  
2 fund. They make the decisions on what to do with that  
3 money.

4 Q. But just so I'm clear, the things that the  
5 ASB fund pays for, that's not included in the 230 --

6 A. No, that's separate.

7 Q. And does Chimacum charge any fees to  
8 participate in sports?

9 A. \$50 a sport.

10 Q. That's not very much, is it? Does that  
11 really matter?

12 A. Well, again, as I said, it's -- for folks in  
13 my neighborhood, any amount of extra money for  
14 something like this is difficult, supplies and then  
15 sports.

16 Well, you take a family with, let's just  
17 say two kids, which is very common, so you have two  
18 high school kids, let's say a sophomore and a senior,  
19 and they're each playing three sports. And, by the  
20 way, that's not uncommon either. Small schools give  
21 you the opportunity to play three sports.

22 So now a parent is coming in the door  
23 and paying \$300 to play those sports. And that's --  
24 you know, that hurts me. That probably hurts me more  
25 than anything. We've tried to hold that fee level now



1 for three years and I don't know if I can do that  
2 anymore. I didn't pay a dime to play sports in high  
3 school.

4 Q. Could you have paid a dime to play sports in  
5 high school?

6 A. It would have been extremely difficult. I  
7 would have had to have received some help. My dad  
8 didn't make enough money to pay that kind of money.

9 Q. And if you didn't receive that help, do you  
10 think you would have gone to college and been where you  
11 are today?

12 A. I don't know. I don't know.

13 Q. Doesn't Chimacum offer people help if they  
14 can't afford the money? They just say, hey, I can't  
15 afford it. Can you help me?

16 A. You know, and I have -- we have what's called  
17 Cowboy days. So this coming Friday. We are the  
18 Cowboys. This coming Friday the parents will come in  
19 to register their high school kids. They will walk out  
20 with their writing a 6 or \$700 check maybe because they  
21 needed not only pay for sports but perhaps drama, part  
22 of the wood class, or whatever. But in some things  
23 they buy is their choice, like, the manual that you get  
24 to remember your years.

25 But, you know, in our community, that is

1 a difficult thing to pay for that.

2 Q. But to get help, all they have to do is ask;  
3 is that right?

4 A. Well, like I was going to say, I'll have some  
5 parents come in and a couple will come in and say,  
6 Mike, this is a -- they're going to say it Friday. I'm  
7 going to hear it Friday. They're going to say, Mike, I  
8 couldn't afford it. I need help. I can't pay for all  
9 the things that you guys want us to pay for. This  
10 is -- this happens every Cowboy day.

11 And so I'm able to find funds for them.  
12 I can do that. I have contacts and avenues to do  
13 that. I go out and beg and borrow. I forgot to  
14 mention I'm also president of the Rotary Club so I do  
15 some arm twisting with those folks.

16 The problem with that is not all parents  
17 are going to come in and not all kids are going to come  
18 in. They don't -- they're -- as I said before, they're  
19 uncomfortable about asking for a handout. They want to  
20 do it on their own. They don't want that help, and so  
21 I think we lose some kids because of it.

22 Q. Okay. Back on page 17.

23 A. Okay.

24 Q. Could you identify -- there's activities  
25 codes 41 through 49, what do those pay for?

1       A.     That is our food service program that I  
2 talked about before, our breakfast and lunch program.  
3 So that's our supervision, our cooks, our -- the food  
4 that you have to buy, the operations.

5       Q.     That adds up to about \$350,000?

6       A.     Yes.

7       Q.     Does that relate to education at all?

8       A.     Again, as I indicated before, we have  
9 children there for anywhere from seven to eight hours  
10 and they are not going to get the knowledge and skills  
11 that they need if they're not well nourished. We think  
12 it's critical to nourish them.

13      Q.     And a large component of that is parent paid?

14      A.     Yes, most of that's parent paid.

15      Q.     Okay. A large component, at least some of  
16 it, the federal free and reduced prices?

17      A.     That's correct.

18      Q.     And the cost to the school district is then  
19 the \$350,000 for the food services?

20      A.     In that category, yes.

21      Q.     So if you add all those up, at least for this  
22 year, the year we're talking about, the last one for  
23 which there's an audit financial statement audited by  
24 the state auditor, the total cost -- the actual cost of  
25 operating the Chimacum schools was over \$12.4 million?

1 A. Yes.

2 Q. I'm finally done with that -- actually I take  
3 that back. I have another question here on it.

4 Has the state specified in any way the  
5 knowledge and skills that Chimacum School District is  
6 supposed to be teaching to its students?

7 A. Yes.

8 Q. How has the state done that?

9 A. As I mentioned before, through House Bill  
10 1209. Also though, I think, the decision that was made  
11 in the Seattle School District decisions that was  
12 displayed on this screen, you know, several hours ago.  
13 Those two categories, I think, describe to us  
14 superintendents what's expected of our students.

15 Q. And did the essential academic learning  
16 performance play any role in that?

17 A. Yes. They referred back -- excuse me. They  
18 refer to those four substantive paragraphs of our  
19 learning standards. Read with comprehension, write  
20 effectively, know the core concepts of math, science,  
21 the arts, and so forth, yes.

22 Q. Trial Exhibit 144. Handing you trial Exhibit  
23 144.

24 Can you identify what this is?

25 A. Yes. That's an OSP website describing the

1 Washington State standards.

2 Q. Okay. And under Washington State standards  
3 it says Essential Academic Learning Requirements. Do  
4 you see that?

5 A. Yes.

6 Q. What do you understand the Washington  
7 Essential Academic Learning Requirements to mean?

8 A. Well, those -- those are the -- that's the  
9 content area -- the academic content area that our  
10 students need to know determined by the state. And  
11 they did a wonderful job in developing this back in  
12 1993 to '95 -- what our students need to know to be  
13 able to participate in a democratic society. They  
14 got -- they have this in front of them. This is their  
15 standards.

16 They also need this to have -- to  
17 compete in the marketplace and compete in the  
18 marketplace of ideas. This is what they need to know.  
19 These are the skills and the knowledge that they have  
20 to have. That's the Essential Academic Learning  
21 Requirements, and I think they are essential. The  
22 state thinks they're essential. We've got to get  
23 there.

24 Q. And above the box, the matrix, there's a  
25 sentence that states, The Essential Academic Learning

1 Requirements, EALR's, where all content areas were  
2 initially developed beginning with the Basic Education  
3 Act of 1993.

4 Do you see that?

5 A. Yes.

6 Q. And do you have an understanding of what that  
7 is, the Basic Education in 1993 is referring to?

8 A. Yes.

9 Q. What is that?

10 A. Well, that's House Bill 1209.

11 Q. Okay. Are the four paragraphs that you had  
12 mentioned earlier, are those the four paragraphs that  
13 are above that sentence on trial Exhibit 144, the  
14 reading comprehension, et cetera?

15 A. Yes, the ones I referred to. Absolutely.

16 Q. And then later on what it says after Basic  
17 Education Act of 1993 it says, These standards define  
18 what all students should know and be able to do at each  
19 grade level.

20 Do you see that?

21 A. Yes.

22 Q. Are there EALR's for different grade levels,  
23 10th grade, et cetera?

24 A. Yes.

25 Q. And it is your understanding that they define

1 what all students should know?

2 A. Yes.

3 MR. AHEARNE: Your Honor, I'd move to admit  
4 144.

5 THE COURT: 144 is offered.

6 MR. CLARK: No objection, Your Honor.

7 THE COURT: 144 is admitted.

8 EXHIBIT ADMITTED

9 BY MR. AHEARNE:

10 Q. Handing you trial Exhibit 2.

11 Do you have that in front of you?

12 A. Yes, I do.

13 Q. Does this have any significance to you as a  
14 superintendent?

15 A. Yes, it does.

16 Q. And how does this relate, if it does at  
17 all -- let me strike the question.

18 Does this relate at all to the knowledge  
19 and skills you were referring to earlier?

20 A. Very much so. I think this is very important  
21 what's stated here. If I could, I'd like to read it.

22 Q. Please do.

23 A. Is that all right?

24 Q. Sure.

25 A. Consequently the state's constitutional duty

1 goes beyond mere reading, writing and arithmetic. It  
2 also embraces broad educational opportunities needed in  
3 the contemporary setting to equip our children for  
4 their role as citizens and as potential competitors in  
5 today's market as well as in the marketplace of ideas.

6 Education plays a critical role in a free  
7 society. It must prepare our children to participate  
8 intelligently and effectively in our open political  
9 system to ensure that the system survives. It must  
10 prepare them to exercise their First Amendment freedom  
11 both as sources and receivers of information, and it  
12 must prepare them to be able to inquire, to study, to  
13 evaluate and to gain maturity and understanding.

14 The constitutional right to have the state  
15 make ample provision for the education of all resident  
16 children would be hollow, indeed, if the possessor of  
17 the right could not compete adequately in our open  
18 political system, in the labor market or in the  
19 marketplace of ideas.

20 Q. And to you, as the superintendent of Chimacum  
21 School District, how, if at all, does that relate to  
22 the job you have to do?

23 A. I feel this is great direction and guidance  
24 for me as I lead the district. I have to have a school  
25 that follows these models and these expectations and



1 these standards set by the Supreme Court.

2           They're saying it's more than reading,  
3 writing and arithmetic. They're saying our kids have  
4 to be able to compete. When they graduate, they have  
5 to do those things that allow them to have an  
6 opportunity to succeed. We need to provide effective  
7 opportunities. We need to have -- we need to have a  
8 populous that will go out there and continue to make  
9 this country great, and to do that, they need the  
10 education that's stipulated here in this short but, I  
11 think, great paragraph.

12           MR. AHEARNE: Your Honor, I'd move to admit  
13 trial Exhibit 2.

14           THE COURT: 2 is offered.

15           MR. CLARK: We object on the grounds that  
16 it's incomplete documents. It's also Seattle School  
17 District's state opinion which is very lengthy. We  
18 don't think it's appropriate just to put one portion of  
19 it in as a piece of evidence, and the decision speaks  
20 for itself, Your Honor.

21           THE COURT: I don't think this is factual  
22 evidence, counsel. I guess this witness has stated  
23 that he has relied or relies upon and finds this as  
24 guidance. It's not going to be admitted, Mr. Ahearne.

25           MR. AHEARNE: Your Honor, I would request

1 that it be admitted. I understand that, you know, it's  
2 not a legal conclusion that a witness could testify  
3 about. But we will also be submitting the transcript  
4 of prior Superintendent Burke and there are some  
5 questions about deposition Exhibit 2, and trial Exhibit  
6 2 is precisely deposition Exhibit 2. So for the  
7 transcript to make sense, we have to have --

8 MR. CLARK: We object to the admission of  
9 this document whether it's in connection with this  
10 testimony or in connection with the deposition  
11 transcript for the same reason, Your Honor.

12 THE COURT: All right. I understand this may  
13 have some relevance down the road with regard to  
14 Superintendent Furgeson but I'm going to reserve on  
15 this at this time. So 2 is reserved.

16 MR. AHEARNE: Thank you, Your Honor.

17 BY MR. AHEARNE:

18 Q. Trial Exhibit 6, 7, 8. Handing you Exhibit  
19 6, 7, 8. Do you have that in front of you?

20 A. Yes.

21 Q. Do you know what that is?

22 A. That is a document off the website of the  
23 Office of Superintendent of Public Instruction. It's  
24 kind of black so I don't see their OSPI logo, but that  
25 refers to the Essential Academic Learning Requirements.

1 Q. Again, it's titled Dream Big, Work Hard, Live  
2 the Dream.

3 Do you see that?

4 A. Yes.

5 Q. It says, Preparing students for 21st century  
6 living through strong academic standards with passage  
7 of House Bill 1209, 1993, Washington launched a major  
8 effort --

9 (Interruption by the court reporter.)

10 Q. -- launched a major effort to better prepare  
11 children for life in a challenging and complex 21st  
12 century world.

13 MR. AHEARNE: Thank you for telling me to  
14 slow down.

15 Q. Do you see that?

16 A. Yes.

17 Q. Is that your understanding of what House Bill  
18 1209 was supposed to be doing?

19 A. Yes.

20 Q. And if I can ask you to look at the few  
21 paragraphs down, there's a heading Essential Academic  
22 Learning Requirements.

23 Do you see that?

24 A. Yes.

25 Q. And could you please read what those three

1 paragraphs say?

2       A.     I can. Before 1993 there were no statewide  
3 learning goals for children. Students graduated from  
4 high school with varying levels of skills and knowledge  
5 . Academic standards differed from district to  
6 district.

7                     The solution was to create a set of  
8 statewide learning standards, hundreds of teachers,  
9 principals and other educators work with parents,  
10 business leaders and community leaders to create  
11 Essential Academic Learning Requirements, often  
12 referred as to an acronym EALR's. Their goal to  
13 specify the skills and knowledge in core subjects that  
14 all students are expected to master as they move  
15 through Washington public schools. EALR's have been  
16 created by the following subjects: Reading, writing,  
17 mathematics, communication, science, social studies,  
18 the arts and health and fitness.

19                     Washington set rigorous learning  
20 standards for a reason. Our high school graduates must  
21 have the level of knowledge and critical thinking  
22 skills needed to survive and thrive in today's  
23 competitive, technologically sophisticated society.  
24 The EALR's will continue to be reviewed and updated to  
25 ensure the statewide standards in all subjects are in

1 line with the knowledge and skills students must have  
2 to be prepared for all post high school options, from  
3 college to direct entry into the work force.

4 Q. Is that your understanding of what  
5 Washington's Essential Academic Learning Requirements  
6 are?

7 A. Yes.

8 Q. And is that the understanding of the  
9 Washington Essential Academic Learning Requirements  
10 that you tried to teach at the Chimacum School  
11 District?

12 A. Yes.

13 Q. If I can ask you to return to the second page  
14 where there's a Washington Assessment of Student  
15 Learning.

16 Do you see that?

17 A. Yes.

18 (There was an off-the-record discussion  
19 between counsel.)

20 MR. CLARK: Sorry for to colloquy, Your  
21 Honor. We're just trying --

22 THE COURT: I understand there's some lack of  
23 communication.

24 MR. AHEARNE: I should have been clearer.  
25 I'm sorry.

1 THE COURT: It happens, counsel.

2 MR. CLARK: We work so well together, Your  
3 Honor, that we have --

4 MR. AHEARNE: Usually he reads my mind, so --  
5 second page.

6 BY MR. AHEARNE:

7 Q. Top of the second page where it says  
8 Washington Assessment of Student Learning.

9 Do you see that?

10 A. Yes.

11 Q. Could you read just the first paragraph,  
12 please.

13 A. Sure. The Essential Academic Learning  
14 Requirements created strong, statewide learning  
15 standards. The next obvious step was to create an  
16 assessment system to measure whether students were  
17 meeting those learning standards. The result, the  
18 Washington Assessment of Student Learning, commonly  
19 referred to as the WASL, was first introduced in 1997  
20 and has evolved into one of the most rigorous and  
21 reliable assessment of student achievement in the  
22 country. It's goal, to measure the progress students  
23 are making toward mastering fundamental skills in  
24 reading, writing, mathematics and science identified in  
25 the Essential Academic Learning Requirements.

1 Q. Is that your understanding of what the WASL  
2 is as a superintendent of a school district in our  
3 state?

4 A. Yes.

5 Q. And does the state issue any sort of report  
6 card on whether the children in your school district  
7 are or are not learning the knowledge and skills  
8 specified in Washington's Essential Academic Learning  
9 Requirements?

10 A. Yes.

11 Q. Trial Exhibit 689 in a notebook all by  
12 itself.

13 Handing you Exhibit 689. Do you have  
14 that in front of you?

15 A. Yes.

16 Q. Is this a collection of the report cards that  
17 you were referring to earlier?

18 A. Yes.

19 Q. If I can ask you to turn to tab three,  
20 please.

21 Is that a printout from the state of the  
22 report card for -- with respect to Chimacum School  
23 District?

24 A. Yes, for the '08-'09 school year.

25 Q. And which kind of information is on this

1 report card from the state?

2 A. You have the results of the WASL test in  
3 reading, math, writing and science, and some trending  
4 charts there. You have student demographics, free and  
5 reduced, minority populations, dropout rate. You have  
6 teacher information, number of teachers that have a  
7 masters, those kinds of things. The number of teachers  
8 that are highly qualified. You have some financial  
9 data, and then you have some total expenditure  
10 percentages.

11 Q. Okay. And as a superintendent of a  
12 Washington School District, do you have an  
13 understanding of the purpose of the state issuing this  
14 report card on your district is?

15 A. Yes. It's to provide the public, our parents  
16 or the community information about our school district.

17 Q. Would that include sort of a report card of  
18 how well you're doing?

19 A. That's right.

20 Q. One of the state's experts that visited your  
21 school says your WASL scores are pretty good.

22 Would you agree?

23 A. No. Our WASL scores unacceptable.

24 Q. Why do you say that?

25 A. We can't have WASL scores where 60 percent of



1 our students are failing math. That's not acceptable.

2 Q. Well, what about writing? I see only 11  
3 percent are failing. Is that acceptable?

4 A. I think that we can reach all goals. All  
5 students can learn to all these goals. So we're  
6 getting there in writing, but we believe we can get all  
7 students to standard, but it's certainly unacceptable  
8 with math. Reading is plateaued for us.

9 Q. If I can interrupt. What do you mean by  
10 plateaued?

11 A. Well, we're hovering between 60 and 80  
12 percent in the various grade levels, and they've been  
13 that way for several years, as you can see down below  
14 in the chart. The last three years, they've kind of  
15 flattened out, and that's been the case. And, you  
16 know, I think that -- again, that can be improved for  
17 sure. Science is fairly low.

18 So, no, they're not -- they're not good  
19 WASL scores. We're not going to accept this. Our  
20 district's not going to accept this. We're going to  
21 continue to do what we can to improve it.

22 Q. Okay. Let's take, for example, the state has  
23 referred earlier to the 90 percent passage rates on  
24 writing.

25 Is that 90 percent of all the kids that

1 enter the school system or just --

2 A. Well, what I would say is, these percentages  
3 certainly are of -- and we get most of our kids, Your  
4 Honor, to take the test. Very few of them don't take  
5 the test, so all of our sophomores pretty much take  
6 it. They have a report here on how many, somewhere,  
7 took it. So we reached the 95 percent plateau.

8 The problem is that there's some kids  
9 that drop out, so they don't end up taking that 10th  
10 grade test. So it's 90 percent of the kids that are in  
11 school as sophomores that haven't dropped out. And  
12 then as you get older and you keep taking the test --  
13 again, it's a measurement of those kids that have  
14 stayed in school.

15 Q. So just taking, for example, the 89 percent  
16 passing writing in 10th grade, is that 10th graders  
17 passing the 10th grade test, or does that also include  
18 12th graders who did pass it in 10th grade, didn't pass  
19 it in 11th grade, but then they take it in 12th grade  
20 and they're able to pass the 12th grade?

21 A. That's 10th graders passing the tests.

22 Q. Okay. Is there a place on this report card  
23 that shows the 12th graders?

24 A. I don't think so.

25 Q. Okay. On the on-time graduation rate -- do

1 you see that?

2 A. I do.

3 Q. And what's -- briefly, what's the difference  
4 between an on-time graduation rate and an extended  
5 graduation rate?

6 A. What that means is if a student -- when the  
7 student enters high school as a freshman, he has -- to  
8 be on-time graduation rate percentage, he needs to  
9 graduate from high school in four years. And it  
10 indicates there that about 18 percent of our kids do  
11 not graduate in four years.

12 The extended graduation rate is we keep  
13 tracking kids to try to determine -- I believe for a  
14 couple years. I'm not sure about that. But we  
15 continue tracking them to see if they can come back at  
16 our school or another school and graduate if they have  
17 extended time. Quite often you'll find that perhaps  
18 with special ed populations.

19 Q. And the state's experts that visit your  
20 school district said that your district has -- with  
21 respect to your graduation rate, it's very high  
22 compared to national standards.

23 Do you think that means that your  
24 graduation rate is good?

25 A. No. I think this is not a good graduation

1 rate. 18 percent --

2 Q. Why do you say that?

3 A. Well, Mr. Ahearne, if that was your son that  
4 didn't graduate, you would certainly not agree that  
5 it's a good number. It's 82 percent is -- I talked  
6 about that earlier. Those kids, I worry about their  
7 future. I worry about what's ahead of them. A kid  
8 getting out of this life and this age without a high  
9 school education is in for serious trouble. I've got  
10 18 percent of those kids that I feel are just being  
11 tossed away. We failed them. We have not provided an  
12 opportunity for them to graduate.

13 MR. AHEARNE: Your Honor, I'd like to move to  
14 admit Exhibit 689.

15 THE COURT: 689 is offered.

16 MR. CLARK: No objection, Your Honor.

17 THE COURT: 689 is admitted.

18 EXHIBIT ADMITTED

19 MR. AHEARNE: I have two other exhibits.  
20 They're similarly fast. They are trial Exhibit 491 and  
21 492 which are similar in compendium of the report cards  
22 for the 2006-'07 and 2007-'08 school years.

23 My preference, if counsel will allow  
24 this, move to admit these, because I think there's no  
25 objection to them.

1 MR. CLARK: Just one moment for me to look at  
2 them.

3 MR. AHEARNE: Oh, sure. Sure. Sure.

4 MR. CLARK: No objection, Your Honor.

5 THE COURT: 491 is admitted. 492 is  
6 admitted.

7 EXHIBITS ADMITTED

8 MR. AHEARNE: Can I just ask the witness,  
9 please, to identify what 491 and 492 are before I ask  
10 the question?

11 BY MR. AHEARNE:

12 Q. Is trial Exhibit 492 a similar document,  
13 report card document but for the year 2006-2007?

14 A. 2006-2007.

15 Q. Is that a yes answer?

16 A. Yes. That's on the front page, right.

17 Q. Well, the front page but also the entire  
18 exhibit?

19 A. (Referring.) Yes.

20 Q. And would Exhibit 491 be the same type of  
21 report card document but for the 2007 to '08 school  
22 year?

23 A. Yes.

24 Q. Thank you.

25 MR. AHEARNE: Exhibit 646 and 649.

1                   Your Honor, with respect to Exhibit 646  
2 and Exhibit 649, Exhibit 646 is a rata sheet, the  
3 answer to interrogatories that the state provided with  
4 a corrected set of matrixes, and Exhibit 649 is a  
5 matrix that goes with Chimacum School District.

6                   I'll be asking to admit -- just to get  
7 that out of the way right now, Exhibit 649. My  
8 understanding is there's no objection to that.

9                   MR. CLARK: That's correct.

10                  THE COURT: So 649 is offered. 649 is  
11 admitted.

12                                   EXHIBIT ADMITTED

13                  MR. AHEARNE: And then with respect to 646,  
14 that is the sheet that identifies Exhibit 649. I'll  
15 offer that into evidence as well.

16                  MR. CLARK: No objection, Your Honor.

17                  THE COURT: 646 is admitted.

18                                   EXHIBIT ADMITTED

19 BY MR. AHEARNE:

20                  Q.     Mr. Blair, if I can ask you to look first at  
21 Exhibit 646, and there's a line there that -- look at  
22 subpart A of interrogatory 10. It says, Please state  
23 the dollar amount that the state sum would cost to  
24 provide the constitutionally required basic education  
25 to every child residing within that district for the

1 following school years, and it lists several school  
2 years.

3 Do you see that?

4 A. Yes.

5 Q. And I'd like you to now look at Exhibit 649,  
6 which is the matrix for the Chimacum School District.

7 Do you see Chimacum School District in  
8 the upper left-hand corner? Do you see that?

9 A. Yes.

10 Q. And on the first column on the right, not the  
11 number column but the one in the text, letter A. Line  
12 13 refers to the basic ed portion. Line 12 special  
13 ed. Line 13 LAP or Learning Assistance Program. Line  
14 25 bilingual. Line 29 transportation.

15 Do you see those?

16 A. Yes.

17 Q. Is it your understanding that those are the  
18 program funding formula amounts that correlate to what  
19 Mr. Clark was talking about earlier, those five  
20 categories of the programs that the state has for,  
21 quote, basic education, close quote?

22 A. Yes. I believe Mr. Clark referred to those  
23 program funding formulas that the state uses to  
24 calculate allocation, right.

25 Q. And could you briefly just put it in context,

1 briefly outline what those program funding formulas  
2 are? I mean, I'm not asking the detailed question of  
3 what the math equates in the factors, but what are  
4 they?

5 A. Well, it's been stated they're allocation  
6 formulas -- program funding formulas that the state  
7 uses to determine what they're going to give the  
8 Chimacum School District in these various categories.

9 So it's a math calculation. So many --  
10 so many teachers, so many certified per students, so  
11 many classified, those kinds of things.

12 Q. Okay. Just one example. You were talking  
13 earlier about the salaries you paid to classroom  
14 teachers.

15 A. Yes.

16 Q. And the point came up that you actually pay  
17 classroom teachers more than the state funding  
18 amount --

19 A. Yes.

20 Q. -- correct?

21 And is the state funding amount you're  
22 referring to in the state funding amount that's in that  
23 program funding formula?

24 A. Yes.

25 Q. And if you add up what the state's



1 interrogatory answers said is the total basic education  
2 allocation for Chimacum for the 2007-2008 school  
3 year -- do you see that?

4 A. Yes.

5 Q. It does say estimated at the top. '07-'08  
6 estimate they have \$6,194,787, correct?

7 A. Correct.

8 Q. Rounding up, that would be then \$6.2 million  
9 is what the state's interrogatory answer in this case  
10 is saying, that is the dollar amount that it costs to  
11 provide the constitutionally-required basic education  
12 to every child residing in the Chimacum School  
13 District.

14 A. Yes.

15 Q. My question is, do you believe that that  
16 provides enough resources for you to drive all kids in  
17 your school district with the knowledge and skills  
18 that's specified in the state standards?

19 A. No, I do not.

20 Q. Do you believe that level of resources  
21 provides you the resources you need to provide all  
22 children a realistic or effective opportunity to learn  
23 the knowledge and skills that are specified in state  
24 standards?

25 A. No, I do not.

1 Q. Do you believe that they provide enough  
2 resources for the district to provide effective or  
3 realistic opportunity for the students in your district  
4 to learn the knowledge and skills that are specified in  
5 that passage from the Supreme Court that you read?

6 A. No, I do not.

7 Q. There are other years listed on Exhibit 649,  
8 for example, the '06-'07 school year \$5.9 million,  
9 '05-'06 school year \$5.7 million.

10 Do you see that whole line with the  
11 total basic ed allocation amount?

12 A. At the bottom, yes.

13 Q. Okay. Are there any years listed there where  
14 you believe that the amount that the state is providing  
15 would provide the district enough -- a level of  
16 resources that is sufficient to provide all children in  
17 your district the knowledge and skill specified in the  
18 state standards?

19 A. No, I do not.

20 Q. Any of those years that that level of funding  
21 provides the resources you need to provide all children  
22 in your district a realistic or effective opportunity  
23 to learn the knowledge and skills in the state  
24 standards?

25 A. No.

1 Q. Why do you say that?

2 A. Well, I believe those state standards are  
3 essential, and we have students that enter school that  
4 need some of the intensive assistance that I talked  
5 about earlier. We need to provide funding to train our  
6 teachers. We have -- we started out, Your Honor, where  
7 we were going to have 10 days funded by the state for  
8 training. We now have one. Started with three. This  
9 is intensive training to retool our system. We need  
10 intensive extra time, tutorial help. We need full day  
11 kindergarten to begin closing the gap of our low income  
12 students and their failures. We need more help with  
13 guidance. We need coaching opportunities for  
14 teachers. We need -- we have no money for technology.

15 It's difficult to keep our backbone  
16 running, no less provide the training for our teachers  
17 so they can use technology in their teaching, and keep  
18 computers in front of kids that are working. We have  
19 no money for textbooks. We don't have any adoption  
20 dollars. There's no money designated. As you saw  
21 earlier, Your Honor, we are out of NERC's.

22 By the time we're done paying our  
23 insurance, we just don't have the dollars, I feel, that  
24 are necessary to help all kids reach those standards  
25 that were set forth in House Bill 1209. That is what

1 basic education is.

2 I think the state has defined it and  
3 defined it very well. It is those knowledge and skills  
4 defined in that House Bill 1209 and in the Supreme  
5 Court that the court adjudicated back in '79.

6 Q. If I can ask you to go back to trial Exhibit  
7 375, please, the F-196. Ask you to turn to page three,  
8 please.

9 A. Okay. I'm there, page three.

10 Q. And ask you to please look at the line that's  
11 under revenue is all caps. It says state, and if you  
12 go all the way over to the right, there's a  
13 70,292,431.44 figure, do you see that?

14 A. Yes.

15 MR. CLARK: Your Honor, I'm lost. I'm  
16 looking at page three and I'm just not finding it.

17 (There was an off-the-record discussion  
18 between counsel.)

19 MR. CLARK: Thank you.

20 BY MR. AHEARNE:

21 Q. You see the number I'm referring to?

22 A. Yes.

23 Q. Is that the total amount of funds that the  
24 state provides to the Chimacum School District?

25 A. Yes.

1 Q. And that's bigger than the 6.2, we're now  
2 7.3?

3 A. Right.

4 Q. And what kinds of funds are in the difference  
5 from the state?

6 A. The state is providing -- you're talking  
7 about the debt service fund?

8 Q. Well, what I'm talking about -- the state has  
9 said that the constitutional amount of money they have  
10 to pay in the basic ed program funding formula is the  
11 6.2 million bucks. Their total funding though is 7.2  
12 or 7.3 if you round up. And you referred earlier to  
13 the 728 money that is part of that.

14 Can you just give the court some kind of  
15 examples of funding the state provides that it says  
16 isn't part of basic education that they do provide?

17 A. Right. So, we have -- there are funds that,  
18 I guess, Mr. Ahearne is referring to the I-728 dollars  
19 that the state provides to us. There's a K-4 class  
20 size reduction ratio formula that is not part of basic  
21 education that is in that -- probably in that category.

22 Q. When you say not part of basic education, you  
23 mean the funding formulas?

24 A. The 6.2 million, right. There's program  
25 funding for another 6.2 million. So the I-728 money,

1 the K-4 staffing ratio. There might be some grants in  
2 there, like something called Navigation 101. That  
3 could be part of that formula, very small grants.  
4 Things like that.

5 Q. Could you briefly explain what Navigation 101  
6 is?

7 A. Navigation 101 is the program that encourages  
8 the tracking and guidance of students through the  
9 public schools, and it's one of the key components of  
10 Navigation 101, and we have it in Chimacum.

11 It's to involve the parent, and that's  
12 done through a process of student-led conferences, so  
13 teachers were using Navigation 101 to develop those  
14 training in that area. To provide students with some  
15 access to surveys, academic interest surveys and things  
16 like that. So that's a grant that Chimacum, I'm pretty  
17 sure, had in '07-'08.

18 Q. Is this additional funding from the state  
19 that is stable and dependable?

20 A. No.

21 Q. Why do you say that?

22 A. Well, this year's a good example. You know,  
23 we lost I-729 funds.

24 MR. CLARK: Your Honor, I'm going to have to  
25 object again to this question. When he uses stable and

1 dependable, it's language right out of Seattle School  
2 District versus State. It is stable and dependable tax  
3 sources, not stable and dependable funding from  
4 whatever source.

5                   So I'm afraid what we're doing is asking  
6 him to bless his testimony with Seattle School District  
7 versus State, but he's got the wrong concept.

8                   I object to the question. His answer on  
9 this is irrelevant.

10                  MR. AHEARNE: I don't think I asked whether  
11 it was coming from the state as a dependable tax  
12 source. I asked whether the funding stream that is  
13 coming in is established and dependable.

14                  MR. CLARK: But it's the stable and  
15 dependable tax source that's relevant, Your Honor, not  
16 stable and dependable funding from wherever.

17                  MR. AHEARNE: Your Honor, I do believe that  
18 it's relevant to, if the state is going to be arguing  
19 that these are funds that the school districts can rely  
20 on to be providing basic education or education to the  
21 children in the State of Washington or Chimacum. It is  
22 relevant whether the funds that the state is saying the  
23 district should rely on are stable and dependable, Your  
24 Honor.

25                  MR. CLARK: That is not what the Seattle

1 School District versus State case says. It says the  
2 tax source, and that means the general fund or some  
3 other tax source has to be the source of the funds that  
4 come out. So whether they're A, B, C or D, they come  
5 out of that fund, that's the issue. And what  
6 Mr. Blair's being asked to opine is on relates to  
7 something entirely different. I don't think what he's  
8 doing -- or offering rather, is relevant, Your Honor.

9 THE COURT: Mr. Ahearne?

10 MR. AHEARNE: If the state is going to say  
11 right now that they are going to base their entire case  
12 on this 6.2 million being all that this case is based  
13 on, this ample provision right there, we might have a  
14 different issue. But the state, I am pretty sure, is  
15 going to say, well, I to have look beyond 6.2. I have  
16 to look to 7.3. I can only count on that. And this  
17 year is a good example if you can't --

18 THE COURT: Well, perhaps we can -- I'm not  
19 sure of whether it fits within the Seattle School  
20 District case or not, but, again, to go back to where  
21 we were the last inquiry that was like this with regard  
22 to ample and using a term of art, I think if you just  
23 ask it perhaps more lay terms whether this witness can  
24 count on this funding, if any, as a steady stream of  
25 funding, perhaps.



1           MR. AHEARNE: I will try to use different  
2 words, but I'll also confess, Your Honor, that the  
3 thing I'm worried about, I use a different word and  
4 then I hear later on in the case, oh, but he didn't say  
5 stable and dependable. He said something else. He  
6 used a different word, and I'm trying to avoid that  
7 trap.

8           THE COURT: All right. Well --

9 BY MR. AHEARNE:

10         Q.     Mr. Blair, these other funds, are they the  
11 stream of funds that you can count year to year?

12         A.     No.

13         Q.     And why do you say that?

14         A.     Well, because they have a history of those  
15 funds going up and down, and this year, in particular,  
16 I-728 is not available. I believe that was cut  
17 substantially and that resulted in my loss of four-day  
18 kindergarten.

19         Q.     And it doesn't matter from an education  
20 perspective if funds go up and down year to year.

21         A.     How does that matter? Let me share with you  
22 how it matters very quickly.

23                     Your Honor, if I'm going to plan a trip  
24 across the country and the first leg of that trip is  
25 from Seattle and ends in Missoula and I want to refuel



1 step down.

2 THE WITNESS: Thank you.

3 THE COURT: We'll pick up with Mr. Blair's  
4 direct in the morning.

5 Counsel, one housekeeping item before we  
6 adjourn this matter. Wednesday I have a prior  
7 commitment in the morning at 10:30, and it's going to  
8 be for at least an hour, perhaps an hour and a half.

9 What I'm proposing is that we compress  
10 all of our recesses so that we adjourn from a recess  
11 from 10:30 to 12:30 and then have an afternoon session  
12 from 12:30 until 4:00. Of course we'll have a short  
13 recess in there as well.

14 I've cleared it with the clerk and my  
15 bailiff, and then I still need to clear it with court  
16 reporters.

17 (A discussion was had between the court and  
18 court reporter.)

19 THE COURT: Okay. So we're all set.

20 So our session on Wednesday will be 9:00  
21 to 10:30, 12:30 to 4:00.

22 MR. AHEARNE: Thank you, Your Honor.

23 THE COURT: We'll see you all tomorrow  
24 morning.

25 Yes, counsel.

1 MS. BASHAW: We have one housekeeping matter  
2 that we would like to present.

3 THE COURT: All right.

4 MS. BASHAW: We've been talking about  
5 deposition designations --

6 THE COURT: Yes.

7 MS. BASHAW: -- and trying to figure out a  
8 method for that, and we'd like to present a draft of  
9 something we've been working on.

10 The intent would be to identify  
11 basically in a pleading the various pages and line  
12 designations and have attached to the pleading then the  
13 colors -- petitioners would pick yellow. We will pick  
14 blue. So they will always be highlighting in yellow,  
15 and we would always be highlighting in blue. And then  
16 once we go through our machinations with that, then to  
17 have it marked as a trial exhibit, offer it, have it  
18 admitted as a trial exhibit so that it becomes part of  
19 the record, and then Your Honor can read it when it's  
20 appropriate to do so.

21 So we brought a draft, if you want to  
22 take a look at it.

23 THE COURT: Sure.

24 MR. EMCH: Your Honor, petitioners agree with  
25 that proposal. We're trying to follow the rulings you

1 set forth for designations and just trying to do it in  
2 a way that we could e-mail it back and forth a little  
3 quicker.

4 MS. BASHAW: We would identify objections  
5 both on the pleadings and then on one of the attached  
6 pages that I've provided. Using Adobe we're able to  
7 also show the objection in the margin.

8 THE COURT: Okay. That looks like what I  
9 wanted, so that should work.

10 What I normally do on these, if you want  
11 it -- just trying to think if you're going to file  
12 these, I usually go through them. I assume you want my  
13 rulings on them.

14 MS. BASHAW: On the objections?

15 THE COURT: On the objections.

16 MS. BASHAW: Right.

17 THE COURT: So I'm going to have to file  
18 those as well.

19 What I normally do is just write O or S,  
20 O for overruled, S for sustained.

21 (A discussion was had between the court and  
22 the clerk.)

23 MS. BASHAW: Well, typically, Your Honor,  
24 according to Taglund what happens is they do get  
25 marked, in particular, if you have a jury, they would

1 get marked as exhibits, but in the case of a jury, they  
2 would be offered as exhibits. The transcripts or the  
3 designations wouldn't actually go back to the jury  
4 room, but they would still be an official part of the  
5 record. Otherwise, we have no way of going up on  
6 appeal to be able to have these as part of the  
7 appellate record.

8 THE COURT: Well, actually when there is a  
9 jury, we don't admit them. We don't mark them, we  
10 don't admit them, but they're part of the record  
11 because they're read into the record. So that's how  
12 they become part of the record with a jury.

13 With a bench trial, I think what Theresa  
14 is saying is we don't need to have it as an exhibit but  
15 it becomes part of the record if it's a pleading. If  
16 you're making it a pleading, it automatically becomes  
17 part of the record. You just need to file this with  
18 the clerk. So it doesn't have to be an exhibit.

19 MS. BASHAW: We thought it would be easier  
20 just to make it a trial exhibit which would also be  
21 filed as well at the end.

22 MR. CLARK: Your Honor, if I could be heard  
23 very briefly.

24 This is a direct result of what happened  
25 to us in another education funding case down in

1 Thurston County.

2 THE COURT: Okay.

3 MR. CLARK: We didn't have people getting up  
4 and playing the part of the deponent.

5 THE COURT: Right.

6 MR. CLARK: And we submitted these, and we  
7 made nice copies for the judge, both sides submitted  
8 them to the court, and then they ended up not being in  
9 the record, so when the case was appealed, opposing  
10 counsel and I, once he alerted me to the issue, we had  
11 to stipulate that as part of the appellate record.

12 THE COURT: Right.

13 MR. CLARK: And so we're trying to make up  
14 for that circumstance by using this vehicle to make  
15 sure that -- and there's going to be a lot of this  
16 deposition testimony -- actually gets part of the  
17 record at the trial court level in case, you know, in  
18 the event that there is further activity.

19 THE COURT: Well, I fully expect that there  
20 will be in this case.

21 (A discussion was had between the court and  
22 the clerk.)

23 THE COURT: Let me confer with the clerk on  
24 this. I don't know what happened in Thurston County,  
25 and I don't know if you filed it as a pleading like

1 this.

2 MR. CLARK: We did not, Your Honor. We  
3 simply submitted them to the judge and then they never  
4 made it to the file room or into the record.

5 THE COURT: That's the problem. I think if  
6 you file it like a pleading like this, it simply goes  
7 into the court file. It becomes part of the court  
8 file. It does not need to be an exhibit.

9 But that begs the question of how I'm  
10 going to deal with it in terms of my rulings because  
11 I'm just thinking that you want my rulings as part of  
12 the record. If you give this to me, then I suppose  
13 what I can do is I could mark up the copy and then give  
14 it to Theresa for filing.

15 MS. BASHAW: And I can bring -- it's not a  
16 long reference, it is a brief reference in one of the  
17 Taglund, and Workman (phonetic) I believe is the author  
18 on civil procedures for the State of Washington and  
19 that's where I got the reference to their  
20 recommendation that they be admitted as exhibits.

21 So I can bring that in for Your Honor to  
22 review.

23 THE COURT: Well, I think either way. I have  
24 to defer here to the clerk because it's her  
25 procedures. She knows how the clerk's office works,



1 and I understand your concern. But if it's filed as an  
2 exhibit, it's part of the official record.

3 MS. BASHAW: Right.

4 THE COURT: It would go up.

5 MR. CLARK: You mean if it's filed as a  
6 pleading?

7 THE COURT: Filed as a pleading. This is a  
8 pleading. Even though it says Trial Exhibit 694, I  
9 think it should probably not be designated as trial  
10 exhibit.

11 MS. BASHAW: We could take it out of a  
12 pleading format as well and call it Trial Exhibit 694.

13 THE COURT: Well, again, I'm going to defer  
14 to the clerk as to how she thinks it's best to handle  
15 this.

16 MR. AHEARNE: I think we're all on the same  
17 concept.

18 THE COURT: It's part of the record.

19 MR. AHEARNE: As long as it's part of the  
20 record, whatever the clerk's office says we should do,  
21 we'll do it.

22 THE COURT: What I recommend, if you want  
23 some more guidance, is -- let me just check my calendar  
24 tomorrow. We do not have an 8:30 tomorrow. So I'd  
25 recommend you come in a little earlier, confer with

1 Theresa, and she'll explain the clerk's procedure all  
2 to you to all of our satisfaction.

3 MS. BASHAW: All right. Thank you, Your  
4 Honor.

5 THE COURT: You're welcome, counsel.

6 All right. Anything further before we  
7 adjourn for the day?

8 MR. AHEARNE: Not from the petitioners, Your  
9 Honor.

10 THE COURT: Okay. So for tomorrow you've  
11 discuss who the witnesses are?

12 MR. AHEARNE: Yes, Your Honor.

13 THE COURT: Okay.

14 MR. AHEARNE: We anticipate finishing up -- I  
15 don't have very much more with Mr. Blair.

16 THE COURT: Okay.

17 MR. AHEARNE: Mr. Clark will then cross. I  
18 don't know if I'll have -- how much redirect I'll  
19 have. Ms. McCleary then will be going next.

20 THE COURT: Okay.

21 MR. AHEARNE: What we would like to do is the  
22 superintendent from Colville is going to be in Seattle  
23 on Wednesday so we wanted to put him up Wednesday  
24 morning and I've already talked to Mr. Clark about  
25 this. If that means we have to interrupt somebody to

1 put him on, that's not objectionable to the state.

2 THE COURT: All right. Remember our schedule  
3 in terms --

4 MR. AHEARNE: Yes.

5 THE COURT: We shouldn't be losing any trial  
6 time. That's why I've adjusted it like that.

7 MR. CLARK: That will be fine.

8 THE COURT: All right. And then I don't know  
9 how counsel's handled questions from the bench or not  
10 after each witness. I don't know that I will be asking  
11 questions, but sometimes I do.

12 MR. AHEARNE: I was, frankly, just assuming  
13 that whenever you would go in to ask a question, you  
14 were going to do it and I had nothing to say about it.

15 THE COURT: Well, I usually don't like to  
16 interrupt counsel and ask questions unless I need  
17 clarification. But if I have substantive questions I  
18 usually wait until the entire witness's testimony is  
19 over, the same way that a jury would ask questions as  
20 the finder of fact.

21 Very good. Please be here -- I'd  
22 suggest you come in somewhere around 8:45, 8:50, get  
23 set up, confer with Theresa, and we'll get the  
24 deposition testimony issue resolved.

25 MR. AHEARNE: Thank you, Your Honor.

1           THE COURT: Very good. Have a good evening.  
2 We'll see you tomorrow morning.

3           Court is adjourned.

4           (Proceedings adjourned until Tuesday,  
5 September 1, 2009 at 9:00 a.m.)

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## 1 REPORTER'S CERTIFICATE

2

3 STATE OF WASHINGTON)  
4 COUNTY OF KING ) SS:

5

6 I, CYNTHIA A. KENNEDY, an official reporter of  
7 the State of Washington, was appointed an official  
8 court reporter in the Superior Court of the State of  
9 Washington, County of King, on April 17, 2006, do  
10 hereby certify that the foregoing proceedings were  
11 reported by me in stenotype at the time and place  
12 herein set forth and were thereafter transcribed by  
13 computer-aided transcription under my supervision and  
14 that the same is a true and correct transcription of my  
15 stenotype notes so taken.

16 I further certify that I am not employed by,  
17 related to, nor of counsel for any of the parties named  
18 herein, nor otherwise interested in the outcome of this  
19 action.

20

21 Dated: \_\_\_\_\_

22

23

24

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