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**Reporter's Verbatim Report of Proceedings, September 1, 2009,
Volume II--Session 1 of 4 [Pages 243-320] 07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR THE COUNTY OF KING

3 MATHEW AND STEPHANIE McCLEARY on)
 their own behalf and on behalf of)
 4 KELSEY and CARTER McCLEARY, their)
 two children in Washington's public)
 5 schools; ROBERT AND PATTY VENEMA,)
 on their own behalf and on behalf) SUPREME COURT
 6 of HALIE AND ROBBIE VENEMA, their)
 two children in Washington's public) NO. 84362-7
 7 schools; and NETWORK FOR EXCELLENCE)
 IN WASHINGTON SCHOOLS, ("NEWS"), a)
 8 state-wide coalition of community)
 groups, public school districts,)
 9 and education organizations,)
 PETITIONERS,) CASE NO.
 10)
 VERSUS) 07-2-02323-2SEA
 11)
 STATE OF WASHINGTON,)
 12 RESPONDENT.)

13 Proceedings Before Honorable JOHN P. ERLICK

14 KING COUNTY COURTHOUSE
15 SEATTLE, WASHINGTON

16 DATED: September 1, 2009
17 Volume II, Session 1 of 4

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

19 FOR THE PETITIONER:

20
21 BY: THOMAS F. AHEARNE, ESQ.,
CHRISTOPHER G. EMCH, ESQ.,
22 EDMUND ROBB, ESQ.

23 FOR THE RESPONDENT:

24 BY: WILLIAM G. CLARK, ESQ.,
CARRIE L. BASHAW, ESQ.
25

1 P R O C E E D I N G S

2

3 (Open court.)

4 THE BAILIFF: All rise. Court is in
5 session. The Honorable John P. Erlick presiding in
6 the Superior Court in the State of Washington in and
7 for King County.

8 THE COURT: Good morning. Please be
9 seated.

10 We are back on the record in the matter of
11 McCleary verss The State of Washington, King County
12 cause number 07-2-02323-2 SEA.

13 Are there any preliminary matters before we
14 continue with Mr. Blair?

15 MR. AHEARNE: I don't think, so, your Honor.
16 We worked out -- before you came on the bench -- the
17 process that we will use to file the transcripts.

18 THE COURT: Very good.

19 MR. AHEARNE: We anticipate filing the first
20 one this afternoon.

21 THE COURT: Very well. Thank you, counsel.

22 Anything further before we put Mr. Blair
23 back on the stand?

24 MR. CLARK: No, your Honor.

25 THE COURT: Mr. Blair, if you would please

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 retake the stand.

2 MICHAEL BLAIR,

3 Having been previously sworn,

4 Testified as follows:

5 THE COURT: You may be seated.

6 Mr. Blair, you remain under oath from

7 yesterday's testimony.

8 THE WITNESS: Good morning, your Honor.

9 Yes, I understand.

10 THE COURT: Thank you.

11 DIRECT EXAMINATION

12

13 BY MR. AHEARNE:

14 Q. (Continued.) Good morning. I would like to

15 pick up where we left off yesterday with the chart

16 that is here.

17 Where we left off, we were talking about the --

18 on the trial Exhibit 375, if you could put it in front

19 of you, please.

20 Where we left off we were looking at page 3, all

21 caps, "PAGE: 3," is the page number. At the top is

22 entitled statement of revenues, expenditures and

23 expenditures. Do you see that?

24 A. Yes, I do.

25 Q. Where we left off, we were talking about the

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 total State revenue. What is the line item number --
2 what is the income for the total state funding for
3 Chimacum?

4 A. The total State funding for Chimacum in terms
5 of revenue?

6 Q. Yes, sir.

7 A. 12 million --

8 Q. --the State funding?

9 A. The State funding 7 million 292,431.

10 Q. 7.3 million dollars figure that is on the
11 chart, giving the State the benefit of the doubt, that
12 is on the chart?

13 A. Yes.

14 Q. Is that 7.3 million in funding money that you
15 can rely on from year-to-year?

16 A. No, it is not.

17 The funding for things like grants, I-728, are
18 not reliable year-to-year.

19 Q. If I can then ask you to look at the line that
20 is for "federal revenue," do you see that?

21 A. Yes, I do.

22 Q. What is the total federal revenue Chimacum
23 received that is the 2007, 2008 school year?

24 A. 1,366,000.

25 Q. Rounding up again, I will give you 1.4, you are

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 then at about 8.7 in total funding from the State and
2 federal government; is that correct?

3 A. Yes.

4 Q. Is that total funding, funding in a level that
5 you can count on year-after-year?

6 A. No; it is not.

7 Q. Can you give me some examples of that?

8 A. Well, federal funds, basically, in the last
9 several years have been diminishing. We have written
10 some grants -- we called Title II D, grants like that
11 have diminished over the years.

12 They have been going down. So we can't rely on
13 that.

14 Q. What about this year, do you get an infusion of
15 additional federal funds with the stimulus package?

16 A. The stimulus package did bring in dollars.

17 The problem with that was that we did not --
18 that the State made cuts so that the over-all impact
19 was a decrease of funding.

20 Q. Did the federal funds have any sorts of strings
21 attached to them?

22 A. Yes. They have regulations and requirements
23 regarding how you can use those funds, particularly
24 you can't supplant -- so you can't use those dollars
25 to supplant what you were doing in the previous year.

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 That is one of the requirements.

2 Q. Who controls what you are able to do with the
3 federal dollars?

4 Is that the State government or the federal
5 government or you?

6 A. The State -- well, obviously I control it. But
7 the State audits that and helps determine whether I am
8 appropriately expending those dollars.

9 Q. Who determines, who sets the rules for what is
10 appropriate on spending federal dollars?

11 A. The State does that.

12 Q. The State does or the federal?

13 A. Well, the State writes the rules, the federal
14 government writes the rules. We have a lot of rules
15 that we have to follow.

16 But primarily the federal government has federal
17 laws. The State will help write the rules and make
18 interpretations of those federal rules.

19 Q. Now, if I ask you to look at the cover of your
20 most recent audited financial statement, which is
21 trial Exhibit 375 --

22 A. All right.

23 Q. -- under "Total Expenditures" on the far
24 right-hand side it says, "12,705,271.08." Do you see
25 that?

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 A. Yes.

2 Q. That is actually a total expenditures as 12.7
3 million; is that correct?

4 A. Yes.

5 Q. What is the difference, why does it say 12.7,
6 if we add up the activities codes and I know that
7 these are rounded -- but add up the activity codes
8 that we talked about yesterday, you get to 12.4?

9 A. Well, this total, that is not included in those
10 bar graphs that you have below.

11 Q. Just so that the record is clear, the total
12 12.4 that you are talking about?

13 A. Yes.

14 Q. What is not included in those?

15 A. The ASP Fund which is right around 200,000
16 dollars. The Capital Projects Fund which is in this
17 case, I think about 12,000 dollars. They are not
18 included in those original bar graphs.

19 Q. But the 12.7 figure that is on the cover of
20 your audited financial statement does the total
21 expenditures that the Chimacum School District
22 expenses; right?

23 A. Yes.

24 Q. Is that includes 200,000 of the APS fund that
25 we talked about yesterday; right?

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 A. Yes, the ASP fund that the students control.

2 Q. Where does that money come from?

3 A. That money comes from student effort, fund
4 raising, various clubs and organizations do fund
5 raising. They have ticket sales at athletic contests.
6 They might sell tickets to attend a play. Those are
7 student activities.

8 Q. The State doesn't provide any of that money;
9 correct?

10 A. No.

11 Q. No other government entity provides that money?

12 A. No.

13 Q. That is the students or the parents?

14 A. That is the student or the parent, right.

15 Q. The gap that is shown between the program
16 funding formula amount the 6.2 million for this year,
17 and your total expenditures in the School District, is
18 that an atypical gap?

19 A. No, that is fairly typical.

20 Q. From year-to-year?

21 A. Yes, from year-to-year.

22 Q. Here we go through the same exercise for the
23 year before or the audited financial finals come out
24 after that it would be similar to this?

25 A. Yes, it would be similar.

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 Q. Is there any trend, is the gap getting better
2 or worse -- not better or worse -- larger or smaller?

3 A. Well, the trend is trending, so that more local
4 dollars are needed to fill that gap. They are
5 scraping dollars together. That gap has fund raising
6 activities. It has auctions, those kinds of
7 activities.

8 We try to fill those as we go out and beg and go
9 to the community and see what they can do to help us
10 fill that gap.

11 Q. What kind of things fill the local money gap?

12 We have talked about, why don't you tell us --

13 A. You know, the typical PTA, for example, the
14 typical PTA fund-raiser, for example, in Mercer
15 Island, they may have a breakfast that will raise
16 500,000 dollars.

17 MR. CLARK: Objection, your Honor.

18 Mercer Island is not his testimony -- any
19 information that he can impart about that is hearsay.

20 I am sorry. It is not a question, I am
21 objecting to, but that portion of his answer I move to
22 be stricken.

23 MR. AHEARNE: Your Honor, I can go with it
24 piece-by-piece.

25 THE COURT: In terms --

1 MR. AHEARNE: What Chimacum does and in his
2 personal knowledge, how does that compare to other
3 districts.

4 THE COURT: I expect it may be anecdotal
5 evidence. I don't know that it is being offered.

6 I think that it is using more as an
7 exemplary than anything.

8 I will have counsel lay the foundation.

9 So, Mr. Ahearne, I will sustain the
10 objection on the lack of foundation.

11 BY MR. AHEARNE:

12 Q. Focusing solely right now on Chimacum, what
13 kinds of fund raisers is Chimacum able to do to try to
14 fill this gap?

15 A. There are individual classrooms that do fund
16 raisers, maybe put together a little poetry book, a
17 little CD and sell that to the parents.

18 PTA becomes involved in like auctions, where
19 they will go out and have baskets and local businesses
20 donate gift certificates and then they might do a
21 spaghetti feed, and the families come in and walk
22 around and bid on those auction items.

23 Sometimes, like I shared yesterday, with the
24 grandmother that provides the supplies for the
25 kindergarten kids, individuals step forward and

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 provide funds.

2 Q. In Chimacum, what -- can you give the Court an
3 idea of the level of the funds that you are able to
4 raise with local funds raisers or auctions or things
5 like that?

6 A. Well, an auction last year, our auction brought
7 in about 8,000 dollars.

8 Q. Is that a good year?

9 A. For the Elementary; it is growing.
10 We started out they started three or four years
11 ago. It was about four or five thousand. This last
12 year we felt pretty good at getting 8,000 dollars for
13 our School District, particularly the elementary
14 school, but that was a PTA fund-raiser.

15 Q. Do you belong to any organizations where you
16 confer and meet with other district superintendents
17 across the State?

18 A. We have regular meetings with our local
19 superintendents.

20 Q. Do you have any discussions with other
21 superintendents about the kinds of fund raising that
22 they do?

23 A. Yes, we do talk about that a little bit; we do.

24 Q. Do you have any understanding as to the kind of
25 the fund raising that is done in other districts?

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1 For example, you mentioned Mercer Island, or
2 districts outside of the Chimacum?

3 A. Firsthand experience, I have a granddaughter in
4 a Seattle elementary school. I was invited by her
5 parents, my son, to attend that fund raising activity.
6 I did attend that.

7 Q. What was the results of that fund raising
8 activity that you attended?

9 A. That was an elementary school over in West
10 Seattle.

11 They had the fund-raiser at the Sheraton, I
12 believe, that fund-raiser, we got the results that
13 night and that was about 73,000 dollars for that
14 elementary school.

15 Q. Can Chimacum raise 73,000 dollars with a
16 fund-raiser like that?

17 A. Speculating, I don't see how they could. They
18 don't have those kinds of dollars available to the
19 community.

20 Q. When you say "they," who you are referring to?

21 A. The community, the parents, grandparents, those
22 folks.

23 Q. When you had mentioned the half a million
24 dollar breakfast at Mercer Island, is that something
25 that you -- what do you base that on?

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 A. Well, you know, I remember when the cuts came
2 to the spring -- there were articles in the paper
3 about various organizations or School District --

4 MR. CLARK: Objection, your Honor.

5 MR. AHEARNE: May he finish his answer.

6 THE COURT: Let me hear the answer.

7 You can move to strike it, counsel, if it
8 is appropriate.

9 MR. CLARK: I want to strike the question,
10 too, because he loaded it up with the amounts and the
11 associated with Mercer Island. I don't think that the
12 question is appropriate either.

13 THE COURT: As leading, counsel? Would
14 that be your objection?

15 MR. CLARK: Yes, your Honor.

16 THE COURT: Sustained.

17 MR. AHEARNE: I will reask the question.

18 BY MR. AHEARNE:

19 Q. You mentioned a certain island in the area;
20 correct?

21 A. Originally I did mention Mercer Island.

22 Q. You mentioned a certain amount of dollars;
23 correct?

24 A. Yes.

25 Q. You mentioned a certain source of those

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 dollars; correct?

2 A. I don't remember mentioning the source.

3 Q. Where the dollars came from?

4 A. Yes, I think that I did. I don't remember
5 saying that, but perhaps I did.

6 Q. If you can cut to the chase, you talked about a
7 fund-raiser?

8 A. Yes, it was a fund-raiser.

9 Q. In that prior statement that you made, what
10 were you basing that on?

11 A. Well, as I indicated, I was basing that on in
12 the spring time that there were a lot of us looking
13 for fund raisers. So I read the paper.

14 MR. CLARK: Unresponsive to the question,
15 your Honor. There is going to be a hearsay objection.

16 THE COURT: You can -- let's --

17 MR. CLARK: Narrative response is not
18 responsive to the question.

19 THE WITNESS: I will be brief, your Honor.
20 I read it in the paper. I read about Mercer Island
21 250 thousand dollars or --

22 MR. CLARK: Your Honor, he read it in the
23 paper. That is hearsay.

24 THE WITNESS: That is where I did. That
25 is where I got it.

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1 THE COURT: Mr. Ahearne, hearsay?

2 MR. AHEARNE: I think that it is actually.

3 BY MR. AHEARNE:

4 Q. Was that the Seattle Times?

5 A. Yes, I believe that it was the Seattle Times.

6 THE COURT: Even if it is the Seattle
7 Times, it is still hearsay.

8 BY MR. AHEARNE:

9 Q. Other than reading about the half a million
10 dollar breakfast lunch in Mercer Island, do you have
11 any other basis --

12 MR. CLARK: Object to the question. If he
13 is going to keep loading up with the information that
14 he can't get in, because it is hearsay --

15 MR. AHEARNE: I don't think that I am
16 tricking the judge or anything with this.

17 BY MR. AHEARNE:

18 Q. You mentioned a number beforehand; right?

19 A. Yes.

20 Q. This thing that you talked about earlier, do
21 you have any basis for it other than the newspaper
22 article that you read?

23 A. No; I don't.

24 Q. All right --

25 MR. AHEARNE: Your Honor, at this time I

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 would like to move to admit Exhibit 375, the financial
2 statement for 2007, 2008.

3 MR. CLARK: No objection.

4 THE COURT: Exhibit 375 is admitted.

5 (Exhibit No. 375 received in evidence.)

6

7 MR. AHEARNE: Your Honor, at this time,
8 also, remember we had the discussion about Exhibit
9 678 -- whether it was Exhibits 6, 7, 8, or Exhibit
10 678, I am told that I neglected to ask to have it
11 actually admitted. That is the OSPI website page that
12 I would request that that would be admitted.

13 THE COURT: Exhibit 678 is offered.

14 MR. CLARK: I am sorry, I have to look at
15 it. I don't remember what it is.

16 THE COURT: Of course, Mr. Clark.

17 MR. CLARK: No objection, your Honor.

18 THE COURT: Exhibit 678 is admitted.

19 (Exhibit No. 678 received in evidence.)

20 MR. AHEARNE: I would like to put in front
21 of the witness Exhibit 144 and Exhibit 2.

22 May I proceed?

23 THE COURT: Please.

24 BY MR. AHEARNE:

25 Q. Looking at Trial Exhibit 144, do you have that

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 in front of you?

2 A. Yes.

3 Q. It refers to the EALRs at the top of the page?

4 A. Yes.

5 Q. That was the Essential Academic Learning that
6 we talked about yesterday?

7 A. Yes.

8 Q. Just so we have all of this at one spot, where
9 are those from, those four paragraphs?

10 A. House Bill 1209.

11 Q. You talked about them yesterday, about being
12 four substantive paragraphs in House Bill 1209?

13 A. Yes.

14 Q. I am going to ask you the question about the
15 level of the resources that this 12.4 million dollars
16 number provides.

17 A. All right.

18 Q. With this level of resources, the 12.4 million,
19 can your district equip all children residing in your
20 district with the knowledge and the skills that are
21 specified in the State essential learning
22 requirements?

23 MR. CLARK: Your HOnor, can I ask that
24 there is some foundation before he expresses his
25 opinion.

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 MR. AHEARNE: Your Honor, I think that the
2 foundation would be his testimony in the course of the
3 entire last day, where he has explained his work in
4 Chimacum School District, the superintendent the
5 Chimacum School District, his responsibilities as a
6 superintendent of the Chimacum School District.

7 I think that is sufficient knowledge to
8 know the answer to the question like that. I am
9 asking him for his perception of what he sees.

10 THE COURT: Mr. Clark, what is your
11 concern?

12 MR. CLARK: My concern is that there is
13 some personal knowledge associated with this, which I
14 think is required for the expression of the lay
15 opinions under the Evidence Rule 701.

16 There are also is an element in whether or
17 not the testimony is helpful to the trier of the fact.
18 I know that we don't have a jury here.

19 But first and foremost, I think there ought
20 to be a foundation laid that he is testifying on the
21 personal knowledge, rather than some things somebody
22 else is reporting to him.

23 MR. AHEARNE: I will limit my question
24 solely to his personal knowledge, based on his
25 experience at Chimacum as the superintendent; is that

1 acceptable?

2 THE COURT: It is to the Court. It is
3 acceptable to the Court.

4 MR. AHEARNE: Thank you, your Honor.

5 THE COURT: You may proceed. The objection
6 is overruled.

7 BY MR. AHEARNE:

8 Q. Mr. Blair, my series of questions here are
9 based on your personal knowledge as you perceived
10 things as the Chimacum superintendent of the Chimacum
11 School District; is that understood?

12 A. Yes.

13 Q. I would like to ask some questions about the
14 level of resources that the 12.4 million dollar figure
15 provides.

16 With that level of resources, can your district
17 equip all children residing within your district with
18 the knowledge and skills specified specified in the
19 State Academic Learning Requirements?

20 A. No.

21 Q. With that level of resources can your district
22 equip all children residing in your district with the
23 knowledge and the skills that are identified in those
24 four paragraphs of the House Bill 1209?

25 A. No.

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 Q. If I can ask you to look at the Trial Exhibit
2 2, please, that is the -- I will characterize it so I
3 won't draw an objection.

4 It is a paragraph; correct?

5 A. Yes.

6 Q. With the level of resources that the 12.4
7 million dollars provides, can your district equip all
8 children residing in your district with the knowledge
9 and the skills that are described in Exhibit 2?

10 A. No.

11 MR. CLARK: Your Honor, the exhibit was not
12 admitted. We reserved ruling on it yesterday. I
13 don't think that it is right that the witness would be
14 testifying based upon what is in this exhibit. It is
15 not admitted.

16 MR. AHEARNE: Your Honor, the exhibit that
17 paragraph 10 has content in it, which is in the
18 record, I can ask him to read the entire paragraph
19 again and then ask him a question with what it says.

20 I think that it is acceptable to ask a
21 question about an exhibit, even if you -- at this
22 point reserved your ruling on whether the exhibit
23 itself is going to be admitted.

24 THE COURT: The objection to the Exhibit 2
25 was that it was an incomplete document. That is the

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 objection yesterday. It is also a statement of the
2 law from the Supreme Court.

3 I think that this witness can opine whether
4 in his opinion the statements made in Exhibit 2 are
5 being met, or complied with, with the resources
6 available to Chimacum.

7 The objection is overruled.

8 MR. AHEARNE: Thank you, your Honor.

9 BY MR. AHEARNE:

10 Q. I will reask the question. With the level of
11 resources that the 12.4 million dollars provides, can
12 your district equip all children residing in your
13 district with the knowledge and the skills that are
14 described in Exhibit 2?

15 A. No.

16 Q. With the level of resources that that provides,
17 can your district provide all children residing in
18 your district a realistic or effective opportunity to
19 learn the knowledge and the skills that are in the
20 State's essential academic learning requirements?

21 A. No.

22 Q. With the level of the resources that the 12.4
23 million provides, can your district provide all
24 children with your residing in your district a
25 realistic or effective opportunity to learn the

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 knowledge and the skills identified in those four
2 paragraphs of House Bill 1209?

3 A. No.

4 Q. With that level of resources, can your district
5 provide all children residing within your district, a
6 realistic or an effective opportunity to learn the
7 basic knowledge and the skills described in Exhibit 2?

8 A. No.

9 Q. If I were to ask the same series of questions
10 with respect to the total 12.7 expenditure amount,
11 would the answer be the same?

12 A. Yes.

13 Q. If I were to ask the same series of questions
14 with respect to the 8.7 federal and State total
15 funding amount, would the answers be the same?

16 A. Yes.

17 Q. If I were to ask the same questions with
18 respect to the total State funding, 7.3 million
19 dollars, would the answer be the same?

20 A. Yes.

21 Q. I would like you to look at the Trial Exhibit
22 649, please.

23 I have some -- Exhibit 649 that is the exhibit
24 that we went through yesterday with respect to the 6.2
25 million dollar amount; correct?

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 A. Correct.

2 Q. Those, the total that is listed there is a
3 result of them would be called the Program Funding
4 Formulas?

5 A. Yes, Program Funding Formulas.

6 Q. Now, I have some questions now about the level
7 of resources that that 6.2 million dollars provides.

8 A. All right.

9 Q. With the level of resources that the 6.2
10 million dollars provides, can your district equip all
11 children residing in your district with the knowledge
12 and the skills specified in this State's Essential
13 Academic Learning Requirements?

14 A. No.

15 Q. With that level of resources, can you equip all
16 children residing with your district with the
17 knowledge and the skills identified in the four
18 paragraphs in House Bill 1209?

19 A. No.

20 Q. With that level of resources can you equip all
21 children residing within your district with the
22 knowledge and the skills that are described in Trial
23 Exhibit 2?

24 A. No.

25 Q. With that level of resources can your district

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 provide all children residing within your district a
2 realistic or effective opportunity to learn the
3 knowledge and the skills specified in the State's
4 Essential Academic Learning Requirements?

5 A. Absolutely not.

6 Q. With that level of resources can your district
7 provide all children residing within your district a
8 realistic or effective opportunity to learn the
9 knowledge and the skills identified in those four
10 paragraphs of House Bill 1209?

11 A. No.

12 Q. With that level of resources, can your district
13 provide all children residing within your district, a
14 realistic or effective opportunity to learn the
15 knowledge and the skills described in Trial Exhibit 2?

16 A. No.

17 Q. With that level of resources, can you operate
18 your School District?

19 A. The level in front of me here, the 6.2 million?

20 Q. Yes, sir.

21 A. No. That, that -- that would result in us
22 closing the doors, that type of funding.

23 Q. In your experience as a School District
24 Superintendent, are the State funding programs
25 correlating to what it actually costs to operate the

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 school districts?

2 A. No, it does not correlate.

3 Q. Why do you say that?

4 A. Well, the those are mathematical formulas. I
5 don't see any correlation to the need that we have to
6 develop the knowledge and the skills that are
7 necessary for our kids to participate in the
8 democratic society. There is just no correlation.

9 They are mathematical equations. I don't see
10 them as a correlation to those things that we have
11 been talking about for the last day and a half.

12 The knowledge and the skills, the ability to
13 participate in the democratic society, I don't see
14 where that equation is tied in.

15 Q. In your experience, are the State's Program
16 Funding Formulas correlated to what it would actually
17 cost to provide all kids with, residing within your
18 district with the knowledge and the skills that are
19 specified in either the Essential Academic Learning
20 Requirements, those four paragraphs, of the House Bill
21 1209, or Exhibit 2?

22 A. No. To my knowledge, it is a snapshot of 30
23 years ago.

24 Q. Based upon your experience, are the State's
25 Program Funding Formulas correlated to what it would

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1 actually cost to provide all children in your district
2 a realistic or effective opportunity to learn the
3 knowledge and skills in the State's Essential Academic
4 Learning Requirements?

5 A. No, I stated before, there is no correlation
6 there.

7 Q. Would it be the same answer with respect to the
8 knowledge and the skills identified in those four
9 pairs graphs in House Bill 1209?

10 A. Yes.

11 Q. Would it be the same answer with respect to the
12 knowledge and the skills described in Exhibit 2?

13 A. Yes.

14 Q. Does your district have to rely on local levies
15 to operate?

16 A. Yes, we do.

17 Q. Does it rely slightly -- what is the size of
18 the reliance?

19 A. Our reliance on local M&O levy is approximately
20 20 of our total budget.

21 Q. Does your district have to rely on local levies
22 for the teaching of the basic knowledge and the skills
23 identified in the Essential Academic Learning
24 Requirements?

25 A. Yes.

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1 Q. Would the answer be the same with respect to
2 the knowledge and the skills identified in those four
3 paragraphs House Bill 1209?

4 A. Yes.

5 Q. Would your answer be the same with respect to
6 the knowledge and the skills described in Exhibit 2?

7 A. Yes.

8 Q. Even with the local levies and other sources
9 that your district is able to put together, from
10 year-to-year, is your district equipping all children
11 residing within your district with the knowledge and
12 the skills that are specified in the State's Essential
13 Academic Learning Requirements?

14 A. With the money that we have been able to scrape
15 together, the 12.4 million --

16 Q. How about the 12.7 million?

17 A. -- the 12.7 million, we have been failing.

18 Our math scores, our drop-out rate -- you know
19 there is nine Essential Academic Learning
20 Requirements.

21 I fear what kind of a job we are doing, when it
22 comes to a State assessment in the civics, in
23 geography, in music, in art. They are not even
24 tested. I fear that our focus of -- certainly has
25 been on the reading and the writing. Those are tested

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1 and they are part of the graduation.

2 But, no, maybe I am being too long on this, but,
3 we are not doing the job that we need for those nine
4 Essential Academic Learning Requirements, nor to have
5 the knowledge and the skills.

6 The basic concepts of math and science and --
7 no. We are not doing that with our 12.4 million or
8 the 12.7 million. It is not getting done.

9 Q. Even with the local levies or other sources
10 that your district, the total funding that your
11 district is able to put together from year-to-year, is
12 your district able to equip all children residing
13 within your district with the knowledge and the skills
14 identified in those four paragraphs of House Bill
15 1209?

16 A. No.

17 Q. Would the answer be the same with respect to
18 the knowledge and the skills described in Exhibit 2?

19 A. Yes.

20 Q. Even with all of the resources that your school
21 district is able to put together from year-to-year,
22 are you able to provide all children residing within
23 your district a realistic or effective opportunity to
24 learn the knowledge and the skills that are specified
25 in the State's Essential Academic Learning

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 Requirements?

2 A. No, I stated before we are not.

3 Q. Would your answer be the same with respect to
4 the knowledge and the skills identified in those four
5 paragraphs of House Bill 1209?

6 A. No. The answer would be the same. We are not.

7 Q. Would your answer the same with respect to the
8 knowledge and the skills described in Trial Exhibit 2?

9 A. The answer would be the same.

10 MR. AHEARNE: Thank you. I am finished.

11 THE COURT: Thank you, counsel.

12 MR. CLARK: Your Honor, I would ask
13 permission to start out here at my seat, because I
14 have a computer screen then I will kind of rove a bit.

15 THE COURT: Absolutely, counsel. I don't
16 require examination from the podium.

17 MR. CLARK: Thank you, your Honor.

18 THE COURT: I only ask that we monitor that
19 madam court reporter let us know if there are any
20 issues.

21 MR. CLARK: Yes, please. Thank you.

22 THE COURT: All right. Very good.

23 CROSS EXAMINATION

24 BY MR. CLARK:

25 Q. Good morning, Mr. Blair.

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1 A. Good morning, Mr. Clark.

2 Q. We have met before.

3 A. We have.

4 Q. Could you pick up Exhibit 375?

5 Do you still have that available to you up
6 there?

7 I would like to go back to page 3, the statement
8 of revenues and exchanges and fund balances, the page
9 that you were discussing this morning with
10 Mr. Ahearne.

11 A. I am there.

12 MR. CLARK: Shall I proceed, your Honor?

13 THE COURT: Please.

14 BY MR. CLARK:

15 Q. As I look under the column of "general funds,"
16 on the left, the total revenues is in excess of -- can
17 you tell me what that figure is?

18 I am having trouble reading it on my computer
19 screen.

20 A. The total revenues including the local taxes.

21 Q. Sure.

22 A. State, federal and other?

23 Q. Yes.

24 A. Is 10,982,721.

25 Q. All right. If we continue down to the general

1 fund column, that is figure for a "Total
2 Expenditures"; is there not?

3 A. Yes. That figure for a "Total Expenditures" is
4 10,697,000 dollars for 344.

5 Q. Beneath that line it says "revenues over" and
6 in parens "under", the abbreviation EX, I assume that
7 means expenditures?

8 A. Yes, I would assume that is what it means also.

9 Q. The line that says "revenues over and
10 expenditures" indicates what surplusages that you have
11 in your general fund?

12 A. 285,376.

13 Q. Then if we look at the next column Association
14 of Student Body, or Associate Student Body, the ASP
15 Fund --

16 A. Yes.

17 Q. -- you testified that is a student driven fund
18 in terms of its revenues and expenditures?

19 A. Yes.

20 Q. I notice that the amount for total revenues in
21 that fund is a little over, what looks like 158,000
22 dollars?

23 A. Yes.

24 Q. Excuse me, is that 158 --

25 A. 158,000 dollars.

1 Q. The total expenditures for the student body
2 fund was 178,945 dollars and something; correct?

3 A. Correct.

4 Q. That left a deficit in the Student Body Fund of
5 some 32 or 38,827?

6 A. I believe that it says 20,820 dollars.

7 Q. 20,000, thank you.

8 The revenues over and under expenditures line,
9 when it goes to the right, accumulates a total amount
10 for revenues over expenditures that takes into account
11 all of these funds; does it not?

12 A. I believe so, yes.

13 Q. All right.

14 That would indicate that the revenues over
15 expenditures, in total, for the year-ending with the
16 financial statement was a little bit in excess of
17 90,000 dollars?

18 A. Yes, for all of those categories, yes, 90,000.

19 Q. That includes the deficit that was included in
20 the ASB Fund?

21 A. Yes.

22 Q. Now, the ASB Fund is not an account that is
23 funded by the State; is it?

24 A. No.

25 Q. It is not an account that the State makes

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1 expenditures against; is it?

2 A. No.

3 Q. But you do take it into account in the
4 financial statements, any way, in the determination of
5 whether you have an excess or an underage of revenues
6 over expenditures; correct?

7 A. Yes.

8 Q. So that the year that Exhibit 375 depicts,
9 indicates that when all was said and done, you
10 operated in the black that year; correct?

11 A. Yes.

12 Q. There is a reference in the documents to
13 changes in the fund balance, do you understand what a
14 fund balance is?

15 A. Yes.

16 Q. What is a fund balance?

17 A. The best way to describe a fund balance is the
18 balance, or reserve account, or the state sometimes
19 called it a Rainy Day Fund. But it is a -- an amount
20 of money that is available to the district. It is a
21 fund balance. It is a Rainy Day Fund. It is a
22 reserve.

23 Q. If I understand this correct, on the same page
24 here, page 3 of the Exhibit 375, down at the bottom of
25 the page, there is a calculation of "beginning total

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1 fund balance"?

2 A. Yes.

3 Q. And "end total fund balance"; is there not?

4 A. Correct.

5 Q. Correct me if I am wrong, but I believe that
6 your fund balance grew as a result of the operations
7 in this particular --

8 A. Yes, this year did.

9 Q. It left with you a total ending fund balance of
10 what; according to document?

11 A. Approximately 1.2 million dollars -- 1 million
12 two thousand, and then 492.

13 Q. That is just in the general fund?

14 A. Yes, that is the general fund.

15 That doesn't include the student body debt
16 service fund, capital project fund or the
17 transportation vehicle fund. That is just my general
18 fund -- funds available another reserve.

19 Q. The total fund balance, however, is actually
20 something in the excess of 2.3 million dollars that
21 year; is that correct?

22 A. If you include all of those categories, yes.

23 Q. That was a gross above the beginning total fund
24 balance that is reflected just above the end funding
25 balance figure; correct?

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1 A. Yes.

2 Q. Now, in your district, you have had a Rainy Day
3 Fund, or a fund balance of as high as 12 percent;
4 haven't you?

5 A. Yes.

6 Q. When we spoke earlier this year, I believe that
7 your fund balance was about 9 percent?

8 A. 9 to 10 percent, yes.

9 Q. Has that changed since we talked in March?

10 A. We think that it is going to end. We close our
11 books in November for this ending year, Mr. Clark.

12 We believe that it is right around -- we have
13 done a check on that. It is going to be right around
14 800 to 850,000. It is going to be a little less.

15 Q. A little less, all right.

16 A. Yes.

17 Q. What is the lowest fund balance that the
18 district has had in your experience?

19 A. Without looking, my best recollection would be
20 approximately 600,000.

21 Q. What percent would that be?

22 A. That would be about 6 percent, five percent.

23 Q. Historically, the fund balance for the Chimacum
24 School District, the Rainy Day Fund, as you call it,
25 has ranged between 6 percent and 12 percent?

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1 A. In my experience, at Chimacum, yes.

2 Q. Granted, we won't know what the year-end
3 results are for the most recently completed school
4 year until -- practically the end of this year.

5 A. Right.

6 Q. But it will still be in that 6 to 12 percent
7 range?

8 A. Yes, it will be. Now, the end of this -- did
9 you say the end of this year?

10 Q. This most recently completed school year.

11 A. Yes, it would be in that range, yes.

12 Q. You were asked a series of questions at the
13 close of Mr. Ahearne's examination about whether you
14 could supply all children in your district with an
15 education, or meaningful opportunity with regard to
16 the EALRs, with regard to the four goals that are
17 expressed in House Bill 1209, and with regard to the
18 excerpt in the Seattle School District versus the
19 State opinion.

20 If I heard you correctly, you were basically
21 saying that the total amount, whether it is 12.4
22 million or 12.7, is inadequate to provide the
23 education that is described in either of 1209 or the
24 School District; is that correct?

25 A. Yes, that is my personal opinion.

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 Q. That includes all of the State money that you
2 got for that year; correct?

3 A. Yes, that includes the 6.2 million.

4 Q. And that includes all of the federal money that
5 you got for that year?

6 A. Yes.

7 Q. That includes all of the local levy money that
8 you got for that year?

9 A. Yes.

10 Q. That includes all of the money that you got
11 that year, whatever the category?

12 A. Total, whatever the category, yes, the total,
13 yes, it does.

14 Q. I understand you to say then that even with
15 your local levy contribution -- which I think that you
16 said is up to 20 now -- you can't provide the
17 education, according to the standards for that total
18 amount?

19 A. Yes, I cannot do that for all of our children.

20 Q. What efforts, if any, have you undertaken to
21 determine what total amount that you would need to do
22 the job?

23 A. I have not taken an effort to determine the
24 total amount I would need.

25 Q. You haven't done any analysis or study of what

1 it would take, what monetary amount it would take to
2 bring all kids in your district up to standard?

3 A. No, I have not.

4 Q. But you -- apparently, you know it, when you
5 don't see it?

6 A. Yes, I know it, because I have been --

7 Q. You have it --

8 A. Yes, I am sorry. I do know because I have
9 analyzed the programs that we need and we don't have
10 it.

11 THE COURT: For the sake of the court
12 reporter, I understand that there is -- we are
13 communicating sometimes we speak, but it is very
14 important for the record and for the court reporter
15 that we have question, and then answer, and then the
16 next question, and we not talk over one another.

17 Thank you.

18 MR. CLARK: Thank you, for the cautionary
19 statement before the reporter clamped on us.

20 I will just say that when you get a former
21 pitcher for the Red Sox and a kid from Boston talking,
22 sometimes they can't help themselves.

23 BY MR. CLARK:

24 Q. Mr. Blair, you have a chief financial officer
25 in your School District; correct?

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 A. Yes, I do.

2 Q. In fact, he is sitting here today?

3 A. Yes, he is in the front row.

4 Q. Art Clark?

5 A. Art Clark.

6 Q. Has Mr. Clark ever studied or analyzed for you
7 what amount of money it would take in order to provide
8 the education that you want to provide to the kids in
9 your district?

10 A. No.

11 Q. Have you ever asked anybody to do that?

12 A. No.

13 Q. You are not curious at all to know what that
14 magic number might be?

15 A. No, because I haven't had it a feeling that I
16 can -- I can't generate any more revenues. I haven't
17 done that.

18 I have not been -- I have been curious. I know
19 what programs I would implemented, but I have not
20 costed those out, Mr. Clark.

21 Q. Wouldn't you agree that it is hard for the
22 State to know exactly what amount of state funding it
23 would take to provide the education that you want to
24 provide in your district, if you don't tell us?

25 A. No, I would disagree with that. I would

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1 totally disagree with that. I think that the State
2 knows.

3 Q. Do you base that on something that the State
4 has told you?

5 A. They have had many, many studies over a hundred
6 studies.

7 They have put together --

8 Q. Are you aware of any studies or analyses that
9 the State has done that identifies a specific amount
10 of State funding that would be necessary to bring all
11 kids in your districts up to the standard?

12 A. The only study that I would say that has an
13 amount attached to it, that talks about bringing all
14 kids across the State to standard --

15 Q. That wasn't my question.

16 A. All right. But that is the only study that I
17 am aware of, so I will share that, the last Joint Task
18 Force of 7 billion dollars for all children across the
19 State, I guess would include Chimacum, but I don't
20 have one.

21 There is no study that I am aware of for just
22 Chimacum.

23 Q. You are not aware of any study that the State
24 has done that identifies for Chimacum the exact amount
25 of money that the State believes that you need to

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 provide the education in your district?

2 A. No, I am sorry, no.

3 Q. You mentioned the Task Force Report. Have you
4 read it?

5 A. Not page-by-page, but have looked at it, yes.

6 Q. In fact, you did look over the prototype school
7 model?

8 A. Yes, I did look that that over.

9 Q. Apparently, you looked at the back of the
10 document where there was an estimate of expected
11 additional funding that would be required if the
12 reports recommendations were followed?

13 A. That was, I think the first thing that I looked
14 at, Mr. Clark.

15 Q. I am going to try to move to the podium, now.

16 THE COURT: Which Exhibit, counsel?

17 MR. CLARK: Exhibits 1025 and 1026, your
18 Honor. I have just located them.

19 MR. CLARK: May I approach?

20 THE COURT: You may, counsel.

21 BY MR. CLARK:

22 Q. First, I want to go to Exhibit 1025. This is a
23 series of interrogatories, questions that were
24 propounded by the State in the case to the petitioners
25 including petitioner NEWS.

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1 Have you seen these questions before?

2 A. Yes.

3 Q. If you turn to Exhibits 1026, in a separate
4 document, I believe that you will find the responses
5 to the questions that are in 1025; correct?

6 A. Yes.

7 Q. Now, did you review the responses to the
8 questions that are provided?

9 A. Yes.

10 Q. In Exhibit 1026?

11 A. Yes.

12 Q. Including the answer, that is provided, on what
13 I believe is the seventh page of Exhibit 1026 -- in
14 the upper right hand corner it says:

15 "RTRX 1026.000007, Response to Interrogatory,
16 number 4"?

17 A. Yes, I have found it.

18 Q. Would you read that answer for us, please?

19 A. Yes.

20 "Answer: Petitioner fundamental contention is
21 not that a specific RCW, or WAC provision is
22 unconstitutional under Article IX, Section I. But
23 rather, that the State has failed to take the action
24 required to fully comply with and fulfill its
25 paramount constitutional duty under Article IX,

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 Section I."

2 Q. Would you please turn to Exhibit 1025 on the
3 fifth page of the questions.

4 A. I am there.

5 Q. The answer that you just read is responsive to
6 the interrogatory number 4 which asks:

7 "Identify each Washington statute or regulation
8 that you contend is unconstitutional under Article
9 IX of the Washington State constitution."

10 Is that correct?

11 A. That is correct, yes.

12 Q. Is the answer provided on page 7 of the Exhibit
13 1026 true and correct?

14 A. Yes.

15 Q. Do you recall signing what we call a
16 verification page, a page that says that you have
17 reviewed the responses to these interrogatories --

18 A. Yes.

19 Q. -- and the discovery requests and are verifying
20 that they are true and correct to the best of your
21 knowledge, information and belief?

22 A. Yes.

23 Q. That remains your testimony here today?

24 A. Yes.

25 MR. CLARK: We would offer Exhibits 1025

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1 and 1026.

2 THE COURT: Any objection?

3 MR. AHEARNE: No objection.

4 THE COURT: Exhibit 1025 and Exhibit 1026
5 are both admitted.

6 (Exhibit Nos. 1025 and 1026 received in evidence.)

7

8 Q. Mr. Blair, you are the current president of
9 NEWS?

10 A. Yes, I am.

11 Q. You have been since its formation in 2005?

12 A. Yes.

13 Q. One of the reasons NEWS was formed was to
14 initiate litigation against the State; correct?

15 A. One of the reasons was to consider litigation;
16 yes.

17 Q. It did initiate the litigation that we are here
18 over today?

19 A. Yes.

20 Q. You have been the superintendent of Chimacum
21 since 2003; is that correct?

22 A. Yes.

23 Q. I think that one of the organizations --
24 perhaps the only State organization that you
25 identified that you are a member of was WASA?

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1 A. Yes.

2 Q. And that stands for what?

3 A. Washington Association of School
4 Administrators.

5 Q. Now, you mentioned House Bill 2261 and what you
6 thought of it yesterday; correct?

7 A. Yes.

8 Q. Do you recall that?

9 A. Yes, I do.

10 Q. Isn't it through WASA, the organization that
11 you belong to has endorsed House Bill 2261?

12 A. I will be honest with you, I don't know.

13 Q. Now, in Mr. Ahearne's mathematical calculations
14 here, which indicate an excess of your expenditures of
15 operation over the revenues that you received from the
16 State and the federal government, is that a correct
17 encapsulation of the general capsulation of what this
18 is?

19 MR. AHEARNE: Your Honor, I would like to
20 object to his characterization of what this is.

21 I tried to change my questions to respect
22 his loaded objections. I would make the same
23 objection to his question.

24 THE COURT: It is referenced to your, it
25 being your --

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 MR. AHEARNE: Mathematical calculations, et
2 cetera.

3 MR. CLARK: Your Honor, that is how he
4 keeps referring to the funding formulas of the State.

5 THE COURT: I think that the objection is
6 that it is the witness' numbers, not Mr. Ahearne's.

7 MR. CLARK: That is what the nature of it
8 is?

9 THE COURT: I believe that is the nature.

10 MR. CLARK: I misunderstood. Let me reask
11 the question.

12 BY MR. CLARK:

13 Q. The arithmetics that you did over here, the
14 mathematics that you did in response to Mr. Ahearne's
15 questions, indicates an excess of your expenditures of
16 that year over your revenues; correct?

17 A. Yes.

18 Q. Is it your position, as a superintendent of
19 Chimacum school, that the State's obligation to fund
20 education in your district is to whatever extent it is
21 that you spend money in any given year?

22 A. Could I go back and answer your first question?

23 Because I can't spend more than I have. So
24 there is not an excess. The amount of money spent,
25 basically, is the money that is on the left, including

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 the levies.

2 So when you say excess, what do you mean,
3 Mr. Clark?

4 Q. Well, in the mathematical calculations that
5 were accomplished on this illustrative exhibit here --

6 A. Yes.

7 Q. -- okay, it has a total expenditures of 12.4
8 million dollars; correct?

9 A. Yes.

10 Q. Against what total of revenues?

11 A. On the left including the local would be
12 approximately 12.4 million. Again, with the Rainy Day
13 Fund, or a reserve that is left over. That is what is
14 dicey up there.

15 Q. So there is no excess of expenditures over
16 revenue, when all is said and done?

17 A. No, other than the reserve.

18 Q. Let me go back to my other questions here,
19 Mr. Blair.

20 A. All right.

21 Q. Is it your position as the superintendent of
22 Chimacum School District, that the State is obligated
23 to fund whatever it is that you expend on education in
24 any given year?

25 A. No.

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 Q. There is some room for local funding in your
2 operation every year, is there not?

3 A. What do you mean by "room for"?

4 Q. In other words you anticipate getting local
5 funding and you anticipate that it is appropriate to
6 use it and frame the expenditures incurred by your
7 School District?

8 A. I am hopeful of getting local funding, yes.

9 I have been in the district where we didn't. I
10 am hopeful that we will continue to get local funding,
11 yes.

12 Q. Every year you expect that you would use the
13 local funds provided to help to fray the costs of
14 operations in the Chimacum School District; do you
15 not?

16 A. Yes.

17 Q. So you do not believe, then, as the
18 superintendent the Chimacum School District, that the
19 State is obligated to provide funding for whatever you
20 spend in a given year?

21 A. No.

22 Q. Now, we talked a little bit yesterday and some
23 more today about House Bill 1209 and the Essential
24 Academic Learning Requirements; correct?

25 A. Yes.

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1 Q. You believe, do you not, that the substance of
2 basic education is, in fact, the standards -- as you
3 call them in House Bill 1209 and the EALRs -- correct?

4 A. Yes.

5 Q. You believe that the State's definition of
6 basic education, in statute is both appropriate and a
7 present movement in developing strong standards; do
8 you not?

9 A. I am confused. Could you ask me again on that
10 one, Bill?

11 Q. Sure.

12 Do you believe that the State statutory
13 definition of basic education is both appropriate and
14 a tremendous movement in developing strong standards;
15 do you not?

16 A. House Bill 1209, yes; I do.

17 Q. You believe those standard and that definition
18 is sufficient; correct?

19 A. Yes.

20 I should add along with, I think the Supreme
21 Court ruling, I thought that that started it. It was
22 clear there also and then the standards that were
23 developed in the House Bill 1209, yes.

24 Q. Whatever you believe are the anchors, as it
25 were, for State's definition of basic education, you

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1 are not challenging the adequacy of that; are you?

2 A. No.

3 Q. That is true as president of NEWS; is it not?

4 A. That is correct.

5 Q. Yesterday you were asked about paramount and
6 what it means to you. You don't believe that a
7 paramount duty is the only duty; do you?

8 A. No, it is first and foremost, first and
9 foremost.

10 Q. But it is not to the exclusion of all other
11 duties; is it?

12 A. No, it is not.

13 Q. You know that the State funds a number of
14 programs other than education; do you not?

15 A. Yes.

16 Q. Do you believe that the State should take money
17 from those other programs in order to provide it for
18 education?

19 A. I believe that the State should meet its
20 constitutional duty to provide ample funding for
21 education.

22 Q. I know that you believe that, but do you
23 believe that the State should make cuts to other
24 social programs in order to fund education?

25 A. I believe that the State should meet its

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 constitutional duty and fully fund education, however
2 that is accomplished.

3 That is a State determination. They need to do
4 their paramount duty fully fund education, provide
5 ample provisions for all children. I don't know how
6 they do that, but that is their constitutional duty;
7 that is what I believe.

8 Q. You are not advocating that the State cut other
9 social programs in order to fund education?

10 A. I guess I could say it again.

11 I am advocating that they meet their paramount
12 duty and fully fund education, yes.

13 Q. Are you or are you not advocating that the
14 State cut other social programs in order to fund
15 education?

16 MR. AHEARNE: I believe that he has
17 answered the question several times already.

18 MR. CLARK: I don't believe that he has
19 provided an answer to that question, though I agree
20 that he has provided different answers.

21 A. Ask the question again, Mr. Clark.

22 Q. Do you or do you not believe, Mr. Blair, that
23 the State should cut other social programs funding in
24 order to fund education?

25 A. If it -- in order to meet their constitutional

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1 duty, if it results in a reduction in other programs,
2 just like, as I tried to meet my paramount duty, yes.

3 Q. Now, enrollment in the Chimacum School District
4 has steadily declining over the last five years; has
5 it not?

6 A. Yes.

7 Q. Can you give us an indication, by percentage or
8 round numbers, how much student enrollment has
9 declined in your district over the last five years?

10 A. Approximately 20, right around there, maybe 300
11 kids in the last six or seven years.

12 Q. Do you know offhand what the State's basic
13 education funding per student has been in your
14 district over the last five years?

15 A. The round number of what it has been?

16 Q. Yes.

17 MR. AHEARNE: Your Honor, can I ask a
18 clarification what he means by a basic education
19 funding.

20 BY MR. CLARK:

21 Q. Do you understand what I mean?

22 A. I assume that you have the program funding
23 formula that is allocated that is used by the State to
24 allocate the --

25 Q. The general allocation?

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1 A. Generally 5,000 dollars.

2 Q. So 5,000 dollars per student times 300
3 students, is a considerable revenue loss for your
4 operation; is it not?

5 A. It is.

6 In fact, one year we lost 60 students. That is
7 a considerable loss. That is why you have a Rainy Day
8 Fund, absolutely.

9 Q. If you lose students, you don't get the Basic
10 Education allocation, or the general allocation amount
11 for them; do you?

12 A. You do not.

13 Q. If you lose even 300 students over a course of
14 five years, do your overhead costs of operating your
15 schools go down?

16 A. Generally speaking, they don't go down.

17 Q. So what we have here, in a loss of students,
18 declining enrollment by as much of 20 over the last
19 five years, is a considerable diminution in your
20 revenues from the State; correct?

21 A. Correct.

22 Q. It doesn't lessen the overhead expenditures
23 that you experience at the district; does it?

24 A. Operationally, when you are talking about
25 heating buildings, whether it is five kids on the bus

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 or 20 kids on a bus I still have to go out to Shine;
2 that cost is the same.

3 The only reduction in costs are the adjustment
4 that you would make in the staffing. So if you, we
5 try to reduce one teacher for every 20 students that
6 we lose -- that way we are adjusting our staffing
7 ratio to the number of students that we have.

8 Over all, whether you looked, you know, six
9 years ago, Mr. Clark, or you looked today about 80
10 percent of our budget is staffing. We make those
11 adjustments.

12 Q. How many teachers have you laid off in the face
13 of the declining enrollment in the last five years?

14 A. We have laid off several and reduced some
15 through retirement and leaving the district. We have
16 reduced, I couldn't tell you how many it has been in
17 the last four or five years.

18 Q. You haven't closed any schools; have you?

19 A. We have not closed any schools.

20 We have closed pods. We have, as I described in
21 the pictures that were presented -- we have pods where
22 our kids are in school. We have closed those as
23 opposed to closing our primary building, correct.

24 Q. You still have the same number of classrooms in
25 your schools; correct?

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1 A. Yes.

2 Q. Even though that your enrollment has declined?

3 A. Same number of classrooms, some of them are
4 empty, yes.

5 Q. How many schools do you have in total?

6 A. We have five in total.

7 Q. One high school?

8 A. One high school.

9 Q. One Alternative High school?

10 A. One alternative.

11 Q. A middle school?

12 A. A middle school, Elementary school and primary
13 school.

14 Q. Thank you, that is five.

15 You don't have a need in Chimacum for two high
16 schools; do you?

17 A. No.

18 Q. You do have alternate school, though, because
19 you believe that based upon your experience over the
20 years, that that is a valuable asset that your
21 district should have?

22 A. Yes.

23 Q. That alternative school, this is as a result of
24 your prior experience and your beliefs based upon that
25 and because Chimacum has chosen to have an alternate

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1 school; correct?

2 A. Yes.

3 Working with my school board and their beliefs
4 and my beliefs and our staff, yes, we determine that
5 we needed another option.

6 Q. If I understood your testimony correctly about
7 the alternative school yesterday, that was the
8 renovations of that building were funded entirely with
9 the local funds?

10 A. Yes.

11 Q. Wouldn't you agree that it is entirely
12 appropriate for School District to lose -- to use
13 local funds on a project that is driven purely by
14 local choice?

15 A. It is appropriate.

16 Q. The loss of student enrollment over the last
17 five years has caused financial problems for your
18 district; hasn't it?

19 A. Yes.

20 Q. You regard the teachers in your district as
21 competent; do you not?

22 A. Yes.

23 Q. You do regard your teachers as professionals;
24 do you not?

25 A. Yes.

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1 Q. With the exception of an old phone system, the
2 HVAC units on the top of the building that are 50
3 years old, and the unkept grounds and lawns, with the
4 exception of those conditions you believe that your
5 school buildings are in decent condition; do you not?

6 A. There is a few other exceptions I have a
7 concern about.

8 You mentioned HVAC in the high school, but our
9 elementary heating system is very antiquated. So I
10 have a concern over there.

11 Our sewer system is a problem, the area city is
12 looking into sit putting a city sewer. I don't know
13 if it is reach us, but that is an ongoing problem.

14 Q. When you say an area city is putting a city
15 sewer, what city is that?

16 A. Port Hadlock.

17 Q. That is going to be undertaken by a local or a
18 County authority?

19 A. Yes.

20 Q. It is not something that the School District
21 has to provide?

22 A. No.

23 Q. It is not something that the State provides
24 either?

25 A. No.

1 Then I was going to say that we have a -- you
2 didn't mention the bus, remember I talked about the
3 bus. Our bus facility is needing repair, needing
4 upgrades, needing a new roof.

5 We have, I think, that some boilers that need
6 upgrades. There is some other things that would
7 probably be added to the list that you had, Mr. Clark,
8 that I have to think about a little bit.

9 Q. All right. Otherwise, that the school
10 buildings are in decent condition?

11 A. Yes.

12 Q. You testified yesterday about some photographs
13 that were taken by a consultant retained by the State
14 to visit your district; correct?

15 A. Yes.

16 Q. Do you recall the person's name, the
17 consultant's name who visited?

18 A. I believe that it was Dr. Murphy.

19 Q. Dr. Murphy.

20 Did you accompany Dr. Murphy and in his tour of
21 your schools and grounds?

22 A. Part of the day, yes.

23 Q. Did you point out to him any of the issues that
24 you have been outlining with regard to your grounds or
25 facilities?

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1 A. I just visited the classrooms with Dr. Murphy.
2 I didn't do a tour of the facilities.

3 Q. You didn't point out to him, for example, that
4 the HVAC units are 50 years old?

5 A. No.

6 Q. You didn't point out to him that there are
7 weeds or unkept grounds on the premise that hurt or
8 deprive the school?

9 A. I think that I did talk about the weeds.

10 Q. Did you talk about the conditions of the bus
11 barn?

12 A. No.

13 Q. Do you recall Dr. Murphy asked you to point out
14 to him any specific issues of problems that you had in
15 your district?

16 A. No.

17 Q. You don't recall that?

18 A. No, he didn't ask me.

19 Q. Now, during your tenure no schools have closed?

20 A. None have closed.

21 Q. Full-day kindergarten is offered in your
22 district?

23 A. To parents pay, yes.

24 Q. Schools are roomy and spacious enough for the
25 students in your district?

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1 A. Yes.

2 Q. You don't have any plans to build any more
3 schools?

4 A. No.

5 Q. In the year 2008 there was a WASL passing
6 requirement for students to graduate; correct?

7 A. Yes.

8 Q. How many of your students, Mr. Blair, failed to
9 graduate because they didn't pass the WASL that they
10 had to pass in order to graduate?

11 A. One.

12 Q. Out of how many?

13 A. 80.

14 Q. 80; is that was your high school senior class
15 in 2008?

16 A. Yes, right around there, I believe.

17 Q. In 2009, the same WASL requirement was in
18 effect; correct?

19 A. Yes.

20 Q. Then by "in effect," I mean the same passage of
21 the WASL requirement in order to graduate?

22 A. Yes.

23 Q. I am going to have to slow my questions down
24 too, I think.

25 In 2009, how many of your seniors failed to

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1 graduate because they did not pass the WASL that they
2 needed to pass?

3 A. None.

4 Q. So in the two-year history of the WASL, as a
5 graduation requirement, you have had one student fail?

6 A. Yes.

7 Q. Out of a total of how many in the two classes?

8 A. 150.

9 Q. Now, have you kept track of that students to
10 see how that student is fairing in the aftermath of
11 this experience?

12 A. Yes.

13 Q. Has that student retaken the exam?

14 A. He didn't retake the WASL. He passed as a
15 result of taking the SAT.

16 Q. That one student, who failed to graduate due to
17 not passing the WASL, ended up graduating because of
18 an alternative assessment mechanism?

19 A. Yes.

20 Q. There are alternative assessment mechanisms to
21 passing the WASL; are there not?

22 A. Yes.

23 Q. Do you encourage your students and their
24 families that those alternative assessments would be
25 taken advantage in the event of the failure on the

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1 WASL?

2 A. Through the guidance counselor and the building
3 principal, that is done, yes.

4 Q. All right, does the book that you took for
5 Exhibits 1026 and 1027 also have Exhibit 1028?

6 A. Yes.

7 Q. Lets look at Exhibit 1028, please.

8 A. I am there.

9 Q. Can you identify what Exhibit 1028 is?

10 A. Yes.

11 It is our Minimum Basic Education Requirements
12 Compliance Form that the State requires would be
13 signed annually by the superintendent.

14 Q. All right.

15 The document is entitled "Minimum Basic
16 Education Requirement Compliance." Is it not?

17 A. Yes.

18 Q. It is submitted in this case by the Chimacum
19 School District every year to the State Board of
20 Education?

21 A. Correct.

22 Q. Could you turn to page 3 of this document,
23 please.

24 A. I am there.

25 Q. All right. Actually, Exhibit 1028 is a series

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1 of forms applicable to a series of years for the
2 Chimacum School District; correct?

3 A. Correct.

4 Q. The one on page 3, for example, is Chimacum's
5 minimum basic education requirement compliance form
6 for the 2006-2007 school year?

7 A. Yes.

8 Q. That page bears your signature under the
9 Certificate of Compliance?

10 A. Yes.

11 Q. It is dated, October 25, 2006?

12 A. Yes.

13 Q. There is signature that appears below yours, is
14 there not?

15 A. Yes.

16 Q. Do you recognize it?

17 A. I don't recognize the signature. I can't read
18 it.

19 Q. All right.

20 The signature line indicates that it is the
21 board president, or chair. Does that help you to
22 identify the signature, or is it still --

23 A. I can't read the signature, but that is, it
24 says that is what that signature is.

25 Q. Do you have any reason to doubt that it is

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1 representative of the board?

2 A. No.

3 Q. Now, the Certification of Compliance reads as
4 follows:

5 "We hereby certify that the board of directors
6 has been apprised, and that the Chimacum School
7 District meets all of the requirements relating to
8 the minimum requirements of State basic education
9 programs, and that all of the deviations from these
10 rules and regulations of the State, Washington State
11 Board of Education are reported."

12 Is that part of what you certified on this
13 document?

14 A. Yes.

15 Q. Turning to the next page in Exhibit 1028, this
16 is the Minimum Basic Education Requirements Compliance
17 Form for Chimacum in the 2007-2008 school year;
18 correct?

19 A. Correct.

20 Q. It contains an identical certification of
21 compliance by you on behalf of the Chimacum District
22 that is dated, October 24, 2007; correct?

23 A. Yes.

24 Q. Do you recognize the signature below yours on
25 this page?

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1 A. I still can't determine what that is.

2 Q. Above the Certification of Compliance, there is
3 a box called "State High School Graduation Minimum
4 Requirements." Do you see that?

5 A. Yes.

6 Q. It is checked as in compliance; is it not?

7 A. It is checked as in compliance, yes.

8 Q. You were aware of that, when you signed the
9 document?

10 A. Yes.

11 Q. That box for State High School Graduation
12 Minimum Requirements states:

13 "Minimum State credits, 19, in all subject areas
14 are aligned with the high school standards at a
15 minimum to grades 9/10 grade level expectations, or
16 State Essential Academic Learning Requirements at
17 benchmark 3 high schools."

18 Is that what it says?

19 A. Yes. We have aligned our curriculum to those
20 standards.

21 Q. Including the State's Essential Academic
22 Learning Requirements; correct?

23 A. Yes.

24 Q. It also states: "District high schools meet
25 all State minimum graduation requirements"; does it

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1 not?

2 A. Yes. There are three or four that we have to
3 meet.

4 MR. CLARK: We offer Exhibit 1028, your
5 Honor.

6 THE COURT: Any objection to Exhibit 1028?

7 MR. EMCH: Petitioners have no objection to
8 this exhibit.

9 THE COURT: Exhibit 1028 is admitted.

10 (Exhibit No. 1028 received in evidence.)

11

12 BY MR. CLARK:

13 Q. I am sorry, Mr. Blair, I am going to ask you to
14 to go to Exhibit 1029. I will try to be quicker so
15 that you don't have to get up and down all of the
16 time.

17 A. It is all right.

18 Q. All right.

19 Can you identify Exhibit 1029 for us, please?

20 A. I believe that it is a one of the pages on our
21 website.

22 Q. The cover page of Exhibit 1029 has a xerox
23 photograph of something of Chimacum High School, I
24 believe; correct?

25 A. Correct. It may be the high school website.

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1 Q. From the information that is contained on the
2 cover page, is there any doubt in your mind that these
3 materials were, in fact, taken from the Chimacum
4 School District or the Chimacum High School website?

5 A. No.

6 Q. Could you turn to the fourth page of Exhibit
7 1029?

8 MR. CLARK: Your Honor, we would offer
9 Exhibit 1029 into evidence, before I ask him any more
10 questions about it.

11 THE COURT: Any objection to Exhibit 1029?

12 MR. EMCH: No objection, your Honor.

13 THE COURT: Exhibit 1029 is admitted.

14 (Exhibit No. 1029 received in evidence.)

15

16 Q. Turning to page 4, the item that describes
17 Chimacum High School with the number 400 next to it --

18 A. Yes.

19 Q. -- what does 400 signify?

20 A. Approximate enrollment.

21 Q. Number of the students?

22 A. Right.

23 Q. At least of the time of this particular website
24 page?

25 A. Yes.

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1 Q. It indicates in the first paragraph under
2 Chimacum High School, second sentence:

3 "The high school is recognized for promoting and
4 maintaining a well-balanced education program and
5 for meeting, or exceeding, standards considered
6 essential for a quality education."

7 It says that; does it not?

8 A. Yes.

9 Q. As the superintendent of Chimacum, you are
10 comfortable making that representation on the School
11 District or High School website; correct?

12 A. Yes.

13 Q. The next paragraph under Chimacum High School
14 states: "Up to 85 percent of graduating seniors are
15 continuing their education."

16 Is that a true statement?

17 A. That seems high to me, but it could be true.

18 Q. When it says "continuing their education," what
19 does that mean?

20 A. That would -- in a website like this, in an
21 information to the public, it would mean that they are
22 going to a four-year school, a two-year school, or a
23 trade school, something like that.

24 Q. The next paragraph states: "The high school
25 has completed an evaluation of the career and

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1 technology program to meet the needs of students, as
2 they enter the work world."

3 Was that a true statement?

4 A. Yes.

5 Q. What career and technology program does
6 Chimacum have?

7 A. We have courses in wood shop, business
8 accounting, home economics, horticulture. I think
9 that is about it that we have. Those are CTE
10 programs.

11 Q. CTE standing for?

12 A. Career Technical Education.

13 Q. You mentioned yesterday, I think that it was
14 one of the Dr. Murphy's photographs, of the greenhouse
15 or an area that was used in horticulture?

16 A. Yes.

17 Q. That is part of your Career and Technical
18 Education Program that is provided at the district?

19 A. Correct.

20 Q. That is provided as a program to assist
21 students, who may not be contemplating a career, that
22 involves going on to a two- or a four-year college,
23 correct?

24 A. No, I don't think that is correct.

25 Q. What is incorrect about what I just stated?

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1 A. I don't think that it -- it is set up as a
2 program for children, who might be interested in
3 horticulture. I don't think that it is a lot to do
4 with whether they go to a two- or a four-year school.

5 I think most of those kids do, so I think that
6 that is correct.

7 Q. All right. Thank you for the clarification.

8 Going back to the Mr. Ahearne's penmanship and
9 your calculations --

10 A. Are we through with the book? I am sorry.

11 Q. Yes, let me take it from you.

12 A. It is awkward up here.

13 Q. We will take turns here you are kind of a tall
14 gentleman to be sitting behind that little stand
15 there.

16 But if we go back to the calculation, how much
17 of the calculations involves the expense of your
18 instructional staff?

19 A. How much of it?

20 Q. Ah-hum.

21 A. I believe that it is over five million.

22 Q. Is it the 5.7 million dollar figure that I
23 think that Mrs. O'Connor should be proud of?

24 A. Yes, I believe that it is.

25 Q. Now, that includes the money in base salary

1 that the State provides to your district; does it not?

2 A. Yes.

3 Q. It also provides the money that the local
4 district provides to its teachers in the form of
5 supplemental compensation; correct?

6 A. Yes.

7 Q. Every teacher in your district gets
8 supplemental pay provided by local funds; correct?

9 A. Yes.

10 Q. That is done pursuant to the collective
11 bargaining agreements; correct?

12 A. Correct.

13 Q. The collective bargaining agreements are arms'
14 lengths negotiations that occur between your district
15 and the local union affiliate for the represented
16 employees; correct?

17 A. Yes.

18 Q. So for the teachers, you have a Chimacum
19 Education Association; correct?

20 A. Yes.

21 Q. Do you also have collective bargaining
22 agreements with regard to staff that are not teachers?

23 A. Yes.

24 Q. Those would be classified staff?

25 A. Yes.

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1 Q. The teachers are called certificated staff;
2 correct?

3 A. Correct.

4 Q. What is the difference between certificated and
5 classified staff, as you understand it?

6 A. As I understand it, classified you can consider
7 this person paid on an hourly basis.

8 Q. Whereas the certificated person is actually has
9 a teaching certificate, a nursing certificate, or some
10 sort of certificate that attested to the professional
11 qualifications?

12 A. Yes.

13 Q. In addition to teachers, what other
14 certificated employees are covered by your collective
15 bargaining agreements?

16 A. By the agreements would be your, the health
17 portion that is up there on that graph.

18 So that your education folks that work in
19 occupational therapy, physical therapy, speech and
20 language, the librarian would be in there. Counselors
21 would be in that group. We have three counselors.
22 They would also be in that association.

23 Q. Anyone else, that you can think of?

24 A. It might be, but that is what I can think of,
25 Mr. Clark, at this point.

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1 Q. Of all those folks, the teachers and all of the
2 occupations that you just described, contained in the
3 5.7 million dollar figure?

4 A. No. The ones that I described as occupational
5 therapists, physical therapists, I believe that are up
6 above where it is talking about, is there a health --

7 Q. Non-classroom support?

8 A. Non-classroom support, I believe that those are
9 in there. There is four or five in there, I believe.

10 Q. So day, if we are talking about the
11 certificated employees that get supplemented
12 compensation, pursuant to the collective bargaining
13 agreements, you need to combine the 5.7 million for
14 teaching and the 1 million for non-class support?

15 A. There would be some in that 1 million, yes, not
16 many.

17 Q. Enough to make it around 6 million dollars?

18 A. Let's see, 5.7 -- we might be around that, yes.
19 Let's say that that is close.

20 Q. Let's say 6 million is close enough.

21 Again, as to that 6 million dollar total, it
22 includes the money that the State gives you for base
23 salary compensation for those employees; correct?

24 A. Yes, according to the State salary schedule;
25 yes.

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1 Q. It includes the supplemental compensation that
2 you provide all of those employees pursuant to your
3 locally bargained collective bargaining agreements;
4 correct?

5 A. Yes.

6 Q. Of the 6 million dollars, which is roughly half
7 of your total costs, how much of the 6 million dollars
8 is due to the collective bargaining agreements? Do
9 you know?

10 A. Can I think it out? I can probably get pretty
11 close. In our district we offer are what called
12 TRI-Days.

13 Q. What does TRI stand for?

14 A. Teacher Responsibility Incentive, each teacher
15 in our district gets six of those. Every day for our
16 staff is about 20,000. So those six days would be
17 about 120,000 dollars of the six million.

18 We also offer an opportunity for our teachers to
19 participate in the professional developments. Those
20 days are called M-Days on our contract. There are six
21 of those.

22 Again, a day for all staff is about 20,000 that
23 would be another 120,000, but not all teachers
24 participate in it. It is an option. It is not
25 something that they have to do or choose to do.

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1 So that is probably around 100,000, of the 6
2 million, we are at 220,000 dollars.

3 Q. All right.

4 A. Then we have a supplemental contracts for our
5 teachers in the, what I call the academic competition,
6 Mr. Clark.

7 If we have a music teacher and that music
8 teacher is taking their band to compete, we give that
9 teacher a supplemental contract.

10 If we have a knowledgeable advisor that is
11 certificated, we give that person a supplemented
12 contract.

13 The same would be true of science Olympiad,
14 anything that is kind of related to the academic area.

15 So it does not include the supplemental
16 contracts that our coaches receive for sports. That
17 would be up in category 28, extra curricular. That
18 takes us from 120, another 100, 220, those advisors
19 positions. We could say close to 230 or 240 of the 6
20 million, I would say that the supplemental contracts
21 that we give to our teachers would be about a quarter
22 million dollars.

23 THE COURT: Mr. Clark, maybe this is a good
24 place for us to take our morning recess?

25 Is that all right?

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1 MR. CLARK: Yes, your Honor. That is fine.

2 THE COURT: Very good. We will recess for
3 15 minutes and then you can continue with the cross
4 examination of Mr. Blair.

5 The Court is in recess.

6 THE CLERK: All rise.

7

8 (Court was recessed.)

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1 I N D E X

2

3 W I T N E S S E S

4 MICHAEL BLAIR

5 DIRECT EXAMINATION BY MR. AHEARNE 245

6

7 CROSS EXAMINATION BY MR. CLARK 271

8

9 E X H I B I T S

10 Exhibit No. 375 received in evidence 258

11 Exhibit No. 678 received in evidence 258

12 Exhibit Nos. 1025 and 1026 received in 286

13 evidence

14 Exhibit No. 1028 received in evidence 308

15 Exhibit No. 1029 received in evidence 309

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Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 C E R T I F I C A T E

2 REPORTER'S CERTIFICATE

3 STATE OF WASHINGTON)

4 SS:

5 COUNTY OF KING)

6

7 I, DOLORES A. RAWLINS, an official reporter of
 8 the State of Washington, was appointed an official
 9 court reporter in the Superior Court of the State of
 10 Washington, County of King, on January 15, 1987, do
 11 hereby certify that the foregoing proceedings were
 12 reported by me in stenotype at the time and place
 13 herein set forth and were thereafter transcribed by
 14 computer-aided transcription under my supervision and
 15 that the same is a true and correct transcription of
 16 my stenotype notes so taken.

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

21 Dated: September 1, 2009

22

23 -----

24 DOLORES A. RAWLINS, RPR, CRR, CCR

25 King County Superior Court, Seattle, WA

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,