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**Reporter's Verbatim Report of Proceedigns, September 9, 2009,
Volume VI, Session 1 of 4 [Pages 1194-1266] 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 9, 2009
17 Volume VI, 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 (Open court.)

3

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

11 THE WITNESS: Thank you, your Honor, sorry.

12 THE COURT: We are back on the record in
13 the matter of McCleary versus The State of Washington,
14 King County 07-2-02323-2 SEA.

15 Counsel, any preliminary matters before we
16 continue with the Representative Priest's testimony?

17 MR. AHEARNE: Not that I know of, your
18 Honor.

19 MR. CLARK: Just to request that we get an
20 update on the time consumption.

21 THE COURT: I am sorry, I am working on
22 that.

23 MR. CLARK: I hate to be a gadfly about it,
24 but if I don't bring it up, I will never know.

25 THE COURT: I will let counsel know, but at

1 this point I don't see any concerns.

2 I am committing to making sure that counsel
3 have sufficient time for each side to put on their
4 case. So I will give an update. I have been working
5 on it.

6 I have been a little overwhelmed playing
7 catch up.

8 MR. CLARK: We are still bound and
9 determined to wrap this thing up on October 15th on
10 account of your schedule.

11 THE COURT: That is the plan. That is
12 correct.

13 We have a three-day hiatus in there with
14 judicial conference, which I also have to go to.

15 All right. I will give counsel an update
16 at my earliest possible time.

17 Mr. Ahearne.

18 MR. AHEARNE: Thank you, your Honor.

19 THE COURT: Representative Priest, you
20 remain under oath from your testimony yesterday.

21 SKIP PRIEST,

22 Having been previously sworn,

23 Testified as follows:

24

25

1 DIRECT EXAMINATION

2

3 BY MR. AHEARNE:

4 Q. (Continued.) I would like to jump in and pick
5 up where we left yesterday, which is Trial Exhibit
6 206, to speed things up, I put on the ledge in front
7 of you?

8 A. Thank you. Yes.

9 Q. Where we left off yesterday, I was asking
10 questions -- talking about the part of your
11 presentation that was talking about the illogical
12 distribution of funds between the districts.

13 Do you recall that is where we left off?

14 A. Yes.

15 Q. I would like to move to the next part, where
16 your presentation to the public says: "Structural
17 Problems With Teachers Salaries."

18 Do you see that?

19 A. I do.

20 Q. Would you summarize what you are referring to
21 there?

22 A. There are a number of issues. One we discussed
23 at in fairly large measure yesterday. That is the
24 fact that we have inequalities and an allocation
25 formula that is not reflective of almost anything;

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1 that is, as we talked about in every teacher with the
2 same amount of the experience, same amount of
3 educational experience, who on the LAEP grid gets a
4 higher allocation from the State than does a teacher
5 in Federal Way, for example.

6 We also see that in the other areas of the
7 administrative and classified staff. But when it
8 comes to, for example, an attracting quality teachers
9 you literally may have competition right next door
10 between school districts right next door, where the
11 State allocation is much higher, because of
12 grandfathering that has occurred over the last 20
13 years, than a district literally across the street.

14 So as a result of that, you find yourself not
15 only with an irrational basis, as far as the teacher's
16 salaries and structure and allocation is concerned,
17 but then you further exacerbate the problems on the
18 ground for the local school districts, who find
19 themselves in almost a competitive situation, just
20 because of the State allocation. It makes no sense
21 whatsoever.

22 Q. When you are referring to the State allocation,
23 that is the number that is calculated by the Program
24 Funding Formulas?

25 A. It is.

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1 Q. The next bullet in your presentation talks
2 about the results commensurate with our demographics,
3 but not any better; do you see that?

4 A. I do.

5 Q. What is that?

6 What is your point there?

7 A. The point that I think we are making here is
8 the fact that, unfortunately, we find low income areas
9 there is an expectation that there would not be
10 performance, and fortunately, there is not.

11 We find in more middle-class suburban areas, for
12 example, there are higher expectations and the
13 achievement gap, in fact, occurs.

14 So as a result of that, we find ourselves in the
15 position where, unfortunately, one expects is what one
16 gets. That is not our role as educators and leaders
17 of education.

18 Our role is to have every one up to the extent
19 that we can as opposed to what is reflected in terms
20 of the achievement gap.

21 Q. What relationship or bearing, if any, does that
22 point have on the proposal that you were making in
23 this presentation?

24 A. We were -- as part of the Basic Education and
25 Finance Task Force committed to the concept and the

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1 belief that all means all.

2 Every student should have the opportunity to be
3 successful. Unfortunately, reality reflects the fact
4 that that is not occurring. We believe that as part
5 of the Basic Education's Finance Task Force it is
6 responsibility to meet the constitutional
7 responsibility of ample and uniform -- ample by
8 definition means where additional resources are
9 necessary to help students, who come from the low
10 income, in particular, that those resources should be
11 available.

12 Unfortunately, they are not.

13 Q. If I can ask you to go to the next slide,
14 please, I have a very short question on the first
15 bullet, that says:

16 "Constitutional requirement is paramount duty of
17 the State to make ample provision for the
18 education of all children residing within its
19 borders, without distinction of its preference,
20 on account of race, color, cast or sect."

21 Does that mean sex; is that a typo?

22 A. I believe it is sect. I don't think it is a
23 typo.

24 Q. What bearing, if any, does that quote have on
25 the model that was in your proposal?

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1 A. As I just stated, we really believe that it all
2 means all. In effect, the framers ironically were
3 probably much more thoughtful than you would think,
4 and more impressed than you would think.

5 Because probably an argument could be made, in
6 those days, that the idea of saying that all means
7 all, when it comes to, for example, sex, you would
8 have thought, "my goodness why would we educate
9 women?"

10 Yet the framers understood that, in fact, all
11 truly meant all in the 1880s. They basically
12 understood the basic underlying concept that is so
13 important to us today.

14 Q. You made reference to -- when you are talking
15 about the all of the Declaration of Independence could
16 you explain what, if any, relationship it has there to
17 you in the proposal?

18 A. Yes.

19 In a speech that I made on the house floor,
20 during the consideration of the House Bill 1776 --
21 which we may or may not get into -- I said that the
22 framers, in the Declaration of Independence -- the
23 statement is clear that all men are created equal.

24 I believe that our framers of our constitution
25 in Article IX recognized that the only way that men

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1 and women would reach equality was to have the
2 opportunity to attend or participate in an educational
3 system that was amply and uniformly -- by uniformly, I
4 think that we also mean equitably funded.

5 For many of us that is what this is all about.
6 It comes literally from the Declaration of
7 Independence.

8 And then we move to our own constitution, that I
9 believe -- quite rightfully -- recognized that you
10 wouldn't allow people to be equal -- or people would
11 not have the opportunity to be equal, unless there was
12 an effective school system to give the people the
13 opportunity to achieve that goal.

14 Q. Throughout your testimony, when you say
15 opportunity, do you mean a realistic or effective
16 opportunity?

17 A. Yes.

18 We know that some students may not be
19 successful. But, having said that, we also know, in
20 fact, I heard a discussion yesterday with the prior
21 discussion, with former Superintendent Billings, about
22 what is opportunity mean.

23 It is our responsibility to provide everybody
24 with a reasonable expectation of the chance to be
25 successful.

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1 I believe, personally, that we are not doing
2 that.

3 I believe that it is fundamental to the Article
4 IX that is quoted here in this particular
5 presentation.

6 Q. If I can ask you to turn ahead to what is
7 numbered at the bottom lesser digits 113, please.

8 A. All right.

9 Q. It says "five components of the number one
10 program of the basic education," do you see that?

11 A. I do.

12 Q. Then if you look at the last page there is a --
13 page is entitled "prototype high school"; do you see
14 that?

15 A. I do.

16 Q. Is the program of basic education that you are
17 proposing -- at least in this presentation -- would be
18 the model school approach of which that last page is
19 an example?

20 A. There are two issues in terms of the program of
21 basic education. One is the graduation requirements.

22 As we discussed before, the graduation currently
23 is 19 courses. The State Board of Education has
24 recommended, because of the changing requirements
25 1209, the fact that we now -- to meet the goals of

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1 1209, we actually -- it will take more in terms of
2 preparation for all of our students.

3 They have argued that we should, in fact,
4 require 24 classes with additional emphasis on math
5 and science.

6 So when you talk about the program of Basic
7 Education, you are talking about the fact that we are
8 now going to be as a State this proposal recommended
9 -- and ultimately House Bill 2261 also recommends --
10 that the program of education would be more than it is
11 today. That it would be more than the 19 required
12 courses, but it should move to 24.

13 The second part of the program of education is
14 how do we accomplish that. Currently, we, basically
15 fund five and a half periods or about a thousand hours
16 for 180 days.

17 Q. That is the Program Funding Formulas?

18 A. Today, yes. When you talking about the
19 allocation model, which is very complicated.

20 The bottom line is if you go going to to a Core
21 24, then your going to have to recognize that we have
22 to do a better job of funding, because at the very
23 least, you are then talking about funding at least six
24 periods a day, which -- or 1,080 hours, in terms of as
25 far as high schools are concerned, in order to give

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1 the student the opportunity to be successful.

2 I would argue, in fact, others have argued that
3 you may have to increase that funding to 7 periods a
4 day, because the fact again is for the kids that we
5 worry about the most, where they are required to take
6 remediation courses, where they have not passed a
7 particular course and in their freshman year, for
8 example -- we have to understand if we are going to
9 require 24 hours that, in fact, some students may not
10 pass every course every time and as a result of that
11 they may be remediation requirements.

12 That has to be made up some way. Part of the
13 debate was not only what, in fact, is going to be
14 necessary to achieve our outcome, based approach under
15 1209 and those four categories.

16 But also what is our argument with the State to
17 realistically provide that opportunity, that we are
18 talking about, for students to achieve that greater
19 program.

20 Q. Just so we are clear, when you say the four
21 categories under the 1209, are you referring to these
22 four paragraphs that you have reading comprehension
23 and apply four concepts of math, science, civics, et
24 cetera?

25 A. I am. One point of 1209, we tend to focus,

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1 because of the WASL on reading, writing, math and
2 science. But in fact, 1209 is much broader than that.
3 It talks about finance and art.

4 It also talks about the importance of providing
5 education to students so that they can understand
6 exactly how the education that they receive in the
7 public school system will help them in terms of their
8 future.

9 So when we talked about program of education, we
10 talked more than just about reading, writing, math and
11 science, which tends to get the headlines, because of
12 No-Child Left Behind Requirements, as well as our own
13 WASL and other testing.

14 We recognize, then, as we recognize today, that
15 1209 also talks about the fact that there are other
16 career pathways, that there are other approaches in
17 order to be successful. But that the student should
18 have the opportunity to understand just exactly how
19 this applies to their future life.

20 Q. If I can ask you to turn to Exhibit 197,
21 please. Actually, before we move on to that --

22 MR. AHEARNE: Your Honor, I would move to
23 admit Exhibit 206.

24 THE COURT: Exhibit 206 is offered.

25 MS. BASHAW: Just a moment, your Honor. No

1 objection.

2 THE COURT: Exhibit 206 is admitted.

3 (Exhibit No. 206 received in evidence.)

4

5 THE COURT: Was it previously admitted?

6 MR. AHEARNE: Yes, my mistake, your Honor.

7 I am sorry. Moving on to Exhibit 197.

8 BY MR. AHEARNE:

9 Q. Is Trial Exhibit 197 a summary that was
10 distributed to explain your proposal?

11 A. It is.

12 MR. AHEARNE: Your Honor, I would move to
13 admit Trial Exhibit 197.

14 THE WITNESS: By way of background, when
15 you talk about --

16 MR. AHEARNE: Actually, you need to --

17 THE WITNESS: I am sorry.

18 THE COURT: We have a pending offer on
19 Exhibit 197 --

20 MS. BASHAW: One moment. No objection.

21 THE COURT: Exhibit 197 is admitted.

22 (Exhibit No. 197 received in evidence.)

23

24 BY MR. AHEARNE:

25 Q. If I could ask you to please turn to the second

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1 page of Exhibit 197, please. The upper top right
2 talks about "the achievement gap and being one of the
3 most pernicious failings in the education."

4 Do you see that part?

5 A. I do.

6 Q. How does that, if it does, bear on the proposal
7 that you were making?

8 A. Again, based on our philosophy -- by the way,
9 and I apologize, but this proposal is the proposal by,
10 as we discussed before, yesterday's sixth
11 representatives, five State representatives and one
12 senator who worked on the independent basis during the
13 consideration of the Basic Education Finance Task
14 Force.

15 We met once a week with staff to talk about the
16 issues and this proposal was a result of those
17 discussions.

18 Q. If I could interrupt, so that the
19 representatives were talking about, those are the ones
20 that are identified on the cover of that PowerPoint
21 presentation?

22 A. Yes.

23 Q. When you say that you met with staff, what
24 staff were you meeting with?

25 A. The Office of Professional Responsibility

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1 staff.

2 Not the caucus staff, not the Democratic or the
3 Republican staff, but the Office of Professional
4 Responsibility staff, who were also assisting the
5 Basic Education Finance Task Force.

6 Q. It is OPR?

7 A. OPR.

8 Q. Actually the Office of Program Research?

9 A. Yes, right.

10 Q. You are letting your lawyer, or professional
11 responsibility thing interfere with your acronyms
12 things?

13 A. If I go with OPR, then I am corrected if I
14 go -- so you are exactly right, thank you.

15 Q. Just that is the saying that OPR that we talked
16 about earlier and what they do?

17 A. Yes.

18 Q. So, going back, though, to my question about
19 the achievement gap, and where your proposal states --
20 I realize that the group proposal, the achievement gap
21 is one of the pernicious failings in the education,
22 what, if any, bearings did that have on your proposal?

23 A. One of our highest priorities from the
24 standpoint that income as the Washington State
25 Institute of Public Policy and other research groups

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1 has shown is, unfortunately, an indicator, in terms of
2 success in schools and whether or not students will be
3 able to meet the goals of 1209.

4 As a result of that, it became a basis of a
5 significant portion of the plan that was proposed, not
6 only by the six legislators, but ultimately the Basic
7 Education Finance Task Force.

8 The example of that was the recommendation, both
9 by this group, as well as the Basic Education Finance
10 Task Force, that Early Learning for At-Risk Kids
11 confirmed by research by the Washington State
12 Institute of Public Policy was absolutely critical,
13 that we had, as a State, in order to meet our goal of
14 providing high quality education of the opportunity to
15 be successful, or to meet the goals of 1209, required
16 that early learning for At-Risk Kids to be included in
17 the Basic Education.

18 In addition, we also believed that it was
19 absolutely important to confirm the importance of
20 kindergarten, as well as smaller class sizes in grades
21 1 through 4.

22 The research shows clearly that if you can get a
23 student by the 4th Grade to be at a 4th grade level,
24 then you have a very good chance -- or more
25 importantly they have a very good chance to be

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1 successful.

2 If you do not, then your costs of remediation,
3 then your costs of drop-out prevention, then
4 ultimately your costs of drop-out retrieval are, in
5 fact, not retrieving them at all, become significant;
6 that approach was confirmed by the Washington State
7 Institute of Public Policy.

8 So when we talked about the achievement gap, a
9 lot of focus of the work that we did not only as a
10 group of legislator and the Basic Education Finance
11 Task Force, was to recognize and understand the
12 research and then create a program that responded to
13 the research as oppose to the anecdote.

14 Q. All right. At the bottom of that same column
15 describing your proposal, it states "to attract top
16 quality recruits to the teaching profession, we boost
17 starting salaries." Do you see that?

18 A. I do.

19 Q. What kind of boost were you proposing?

20 A. The issue in terms of why one starts or
21 provides greater compensation is, again, reflected in
22 the research.

23 As I spoke yesterday about the McKinsey Study,
24 as they looked at internationally successful school
25 systems. The bottom line is that these school systems

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1 create an absolute level of respect that is deserved
2 for teachers.

3 In our particular approach to life is as a
4 society, at least in part, the issue of respect is
5 defined in terms of compensation.

6 In addition to that, one of the greatest
7 problems that we face, is the fact that by having low
8 starting salaries for teachers -- this, again is
9 confirmed by the international studies -- by having
10 low starting salaries for teachers, we tend to lose
11 those teachers during the first five years.

12 The cost of the educational school system, then,
13 in losing the teachers, having to recruit and having
14 retrain --

15 MS. BASHAW: I apologize. I have to object
16 at this point, we are getting into an extremely long
17 narrative answer.

18 Again, this witness is not an expert. He
19 doesn't have the foundation to be rendering these
20 types of opinions.

21 THE COURT: All right. This witness was
22 one of the, I believe, one of the authors involved
23 with this document.

24 He is explaining, in response to the
25 question of why boosting starting salaries would

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1 effectuate the goals of improving the education. I
2 think that it is responsive.

3 It is a bit of a narrative, but I think
4 that it is appropriate. I am giving counsel some
5 leeway. One reason is that it is for efficiency
6 purposes; two, is it is a bench trial.

7 MR. AHEARNE: I am fully anticipating, your
8 Honor, that you will disregard what you believe should
9 be disregarded and give all evidence the weight, if
10 any, that you believe that it should be afforded.

11 THE COURT: I am hopeful that I can achieve
12 that.

13 Representative Priest, you may proceed.

14 A. (Continuing) My apologies for the long
15 narrative, your Honor.

16 At the same time education finance and education
17 policies is extraordinarily -- it is not a yes or no
18 answer, when you have a million kids, 55,000 teachers.
19 It is something that we have to work on very
20 diligently.

21 So in summary, the fact is the that the
22 international studies confirmed by our other studies
23 showed that starting salaries in particular, salaries
24 in general, are extremely important to getting the
25 high quality teachers that are necessary for a

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1 successful system.

2 There is no debate about the importance of high
3 quality teachers in terms of the success of your
4 public school system.

5 Q. At the bottom of that same column, under the
6 heading "Fixing Stupid Problems" -- do you see that?

7 A. Yes.

8 Q. -- there are three bullets. The first bullet
9 on "Grandfathering Salaries Differences With Respect
10 to the Teachers." We talked about that earlier,
11 correct?

12 A. It is.

13 Q. The last bullet about the differential rates
14 for administrative and classified staff, that is,
15 let's see, based on a practice of over a quarter
16 century ago; do you see that?

17 A. We have also discussed that.

18 Q. Then so my question is on the middle bullet,
19 the "Different Levy Lids," can you explain how that
20 fits into your proposal and what impact that has on
21 it?

22 A. It was more a reflection on the reality. The
23 fact is that, unfortunately, as I discussed yesterday,
24 school districts are forced to rely on levies.

25 The bottom line is that, these levies are

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1 generated by a percentage, a statute percentage of
2 your State and Federal dollars.

3 So, for example, most school districts can levy
4 up to 24 percent of their Federal and State dollars.
5 That is a levy lid limit.

6 Unfortunately, or fortunately, if you happen to
7 be in a rich school district, which has a higher levy
8 lid and they go up to -- I believe 34 percent -- there
9 are a number of school districts that, in fact,
10 because of, again, grandfathering from a long time
11 ago, they actually -- again, these districts are
12 side-by-side -- have the ability to ask their citizens
13 for a higher levy, arbitrarily, with no rationale
14 basis.

15 Q. Just so that I understand, when you say ask for
16 a higher levy in the 24 percent example, if you get
17 two school districts that get the exact same amount,
18 they both get \$100,000 -- and I know that this is
19 horribly low -- \$100,000 in State and Federal money.
20 You have one district with a 24 percent lid?

21 A. They could ask for \$24,000 of their citizens.

22 Q. From a local levy?

23 A. From a local levy.

24 Q. Against a state law, to ask for or get 25 or 26
25 percent?

1 A. For those districts.

2 Q. The district right next door, same 100,000, if
3 they have the 34 percent levy lid, they can ask their
4 voters for \$34,000?

5 A. Yes. Maybe 35, but it is about a 10 percent
6 differentiation.

7 Q. Is that another part that of the grandfathering
8 of the lids or the levies that were different back
9 when this was set --

10 A. Yes.

11 Q. -- several decades ago?

12 A. Yes.

13 Q. Next page under resources --

14 A. Yes.

15 Q. -- it says: "This proposal will require
16 significant new resources." Do you see that?

17 A. Yes.

18 Q. Why does your proposal require significant new
19 resources?

20 A. Well, the issue is, first of all, how many
21 dollars are necessary to meet the goals articulated in
22 1209.

23 We discussed yesterday a number of proposals
24 that would, I believe, are necessary in order to
25 achieve 1209.

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1 Some are very clear, in terms of that dollar
2 amount, at least I would argue.

3 If the proposal, as expressed, and ultimately
4 was in the Basic Education and Finance Task Force and
5 the modified version was in House Bill 2261, if you
6 base the assumption on four areas of necessary
7 additional involvement by the State, and that is
8 increasing teachers' salary to make them competitive,
9 so that we have high quality teachers in the
10 classroom, over the longer term; number two, that you
11 need additional dollars for professional development;
12 number 3, that you need early intervention; number
13 four, that you need to do what I call fund the
14 fundamentals. Then additional resources are
15 necessary.

16 Looking at the most concrete, which is funding
17 the fundamentals, as I mentioned yesterday, the Office
18 of the Superintendent of Public Instruction, has
19 provided an analysis that shows that levies are
20 currently providing about \$1.3 million of what they
21 say, and I believe -- based on my independent
22 confirmation with the Federal Way School District --
23 that levies are now funding that amount of \$1.3
24 billion a year for Basic Education.

25 Now, that is the first piece.

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1 The second piece is At-Risk Early Learning.
2 That also would require, again, based on my personal
3 experience, a significant amount of additional dollars
4 to insure that through whatever mechanism that we use,
5 whether it is Head Start, which the federal program,
6 E-Cap, which is the State program or a different
7 delivery system, this there would be additional
8 dollars necessary to meet that goal.

9 There is the continuation of expenditures for --
10 of professional development. Quite frankly, we have
11 gone over the last several years in exactly the
12 opposite direction, when it comes to the professional
13 development.

14 If every study shows that the professional
15 development is critical, ironically, we cut the
16 so-called learning improvement days from one day to
17 two days under this year's budget.

18 So additional dollars if you, in fact, agree
19 with every major study that the professional
20 development is important, that the State is going to
21 have to provide additional dollars in that area.

22 I can't tell you, our recommendation was 10
23 days, which is consistent with other proposals. I
24 can't personally and honestly say the difference
25 between nine days or 11 days. Those are big dollars.

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1 But, it is clearly more than one day for professional
2 development.

3 Then when you start talking about the issue of
4 funding the fundamentals, higher teacher salary,
5 professional development and early intervention, the
6 fact is that we need additional resources in order to
7 achieve that goal.

8 Some are very concrete. Some I can make
9 researched driven guesses. Some are more difficult.
10 But the bottom line is that you are starting at \$1.3
11 billion a year.

12 The early court cases are very clear, they say
13 that you should not rely on levies, because they are
14 not dependable for Basic Education. Yet, we are doing
15 that today.

16 Q. If I could ask you to turn to the last page --

17 A. Sorry --

18 Q. -- of Trial Exhibit 197. There is a chart with
19 a variety of, says models, "summary per student school
20 allocation." Do you see that?

21 A. Yes.

22 Q. Is this another just example of the prototype
23 school model that you are talking about?

24 A. It is.

25 Q. When it refers to the Picus-Odden Report, is

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

1 that the Picus and Odden Study that we went through
2 earlier with the Washington Learns?

3 A. Yes.

4 Q. If I could ask you to look at Exhibit 216,
5 please. Do you have it in front of you?

6 A. I do.

7 Q. Could you identify what Trial Exhibit 216 is?

8 A. Exhibit 216 is a working paper that I sent and
9 to the members of the Basic Education Finance Task
10 Force.

11 It was the first step that was used by the Task
12 Force in the development of its ultimate
13 recommendation.

14 Q. Now, I have -- so what role did this working
15 paper play in Basic Education Finance Task Force's
16 ultimate product, if any?

17 A. I think that if you look at this memorandum,
18 and then my second memorandum, they became the basis
19 for the recommendations by the six members that we
20 have gone over.

21 Then, ultimately, the final decision by the
22 basic, and recommendation by the Basic Education
23 Finance Task Force.

24 The discussion at the Task Force in its initial
25 weeks to a very large extent followed or tried to

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1 answer the questions, which were raised in this
2 document.

3 Q. All right.

4 MR. AHEARNE: Your Honor, I would move to
5 admit Exhibit 216.

6 MS. BASHAW: No objection.

7 THE COURT: Exhibit 216 is admitted.

8 (Exhibit No. 216 received in evidence.)

9

10 Q. I have questions only on one part of this
11 exhibit. If I could ask you to turn to the next page
12 under "The Key Assumption," the first "key assumption"
13 there. Do you see that?

14 A. Yes.

15 Q. It says:

16 "Number one: Aspects of the definition of Basic
17 Education need adjustment. In general, the Basic
18 Education goals are relatively sound."

19 Later on in the paragraph it says: "Essential
20 knowledge and skills," it refers to "the essential
21 knowledge and skills outlined in the Basic Education
22 goals." Do you see that?

23 A. Yes.

24 Q. Are the, what you are referring to there is the
25 Basic Education goals, are those those four paragraphs

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

1 in 1209 that we have --

2 A. They are.

3 Q. Did the Task Force end up concluding that the
4 knowledge and the skills in those four paragraphs of
5 1209 were too high for Washington students or --

6 A. I think that the Task Force felt that the goals
7 were sound, but, in fact, what was necessary to
8 achieve the goals was higher.

9 Q. Except then that the program that the Task
10 Force recommended --

11 A. Yes.

12 As the most blatant example -- I will make this
13 very brief -- when 1209 was passed, if you wanted to
14 provide a person with a high quality education to fix
15 cars, they had a very simple manual. And they, we
16 showed them how to use wrenches and other things.

17 So then if your goal was to -- as part of it --
18 was to have a student under that fourth goal
19 understand what they were doing and how it would lead
20 to career path, then your career in technical
21 education would have to be fairly simple in terms of,
22 in addition, to the reading, writing arithmetic and
23 science and other knowledge. That portion of your
24 knowledge could be relative ly simple.

25 Today, in order to work in the back of a shop in

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1 Auburn, you need a NATEFC, or Native Automated
2 Technology Education Foundation Certificate. You
3 can't use just a wrench any more. You have to know
4 how to use a computer.

5 So while the goals were sound, there is an
6 evolutionary nature, which is requiring even more of
7 our students to meet those goals: That is the same,
8 by the way, if you are a doctor too.

9 A doctor, 20 years ago, ultimately had a certain
10 level of skills. Now those skills are much higher.
11 So that the goals remain the same, but it was -- our
12 judgment what was necessary for the kids to meet those
13 goals was much higher than it was, when 1209 was
14 passed in 1993 or 1994.

15 Q. Then the second sentence, that first key
16 assumption says, "In question are the programs and the
17 policies designed to meet them?"

18 Is the "them," the knowledge and the skills in
19 1209?

20 A. Yes.

21 Q. Then are the programs and the policies, is that
22 then the program that ultimately became the Task Force
23 Recommendation Program?

24 A. Yes.

25 Q. The current program is the Program Funding

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

1 Formulas that we have talked about?

2 A. Yes.

3 Q. If I could ask you to look at Trial Exhibit
4 239, please. Handing you Exhibit 239, do you
5 recognize this as a copy of House Bill 2261?

6 A. I do.

7 Q. As actually signed by the governor, because
8 there is different versions -- one is one with the
9 veto message at the end. So there is Exhibit 239, the
10 one that was version actually signed by the governor?

11 A. Without reading the entire document, it appears
12 to be House Bill 2261, because at the top it says:
13 "Partial Veto."

14 So I assume that this document is the document
15 that you -- is the final bill.

16 Q. It shows at that, the bottom right the name
17 Christine Gregoire under governor, where it is
18 actually put once the governor actually signs the
19 bill?

20 A. I don't know. Yes. No. I don't know.

21 Q. If you don't know that, that is fine?

22 A. Sorry.

23 MR. AHEARNE: Your Honor, I would move to
24 admit Exhibit 239, as part of the joint statement no
25 objection to it.

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1 MS. BASHAW: No objection.

2 THE COURT: Exhibit 239 is admitted.

3 (Exhibit No. 239 received in evidence.)

4

5 Q. As signed by the governor, is House Bill 2261
6 the Task Force's recommendations?

7 A. No.

8 Q. Are there any significant differences between
9 2261 and the Task Force recommendation?

10 A. Yes.

11 Q. Would you identify what some of those are?

12 A. The first one is -- it is reflected in the
13 partial veto, is that the Task Force believed that the
14 Early Learning for At-Risk Kids should be part of the
15 Basic Education.

16 The provision of 2261 reflected that
17 recommendation by the Task Force and that provision
18 was vetoed by the governor.

19 That also reflects back on the questions that
20 you just asked about the very first document that I
21 wrote in terms of what are some of the issues that we
22 have to recognize the importance. That is number one.

23 Number two, 2261 is a much more general document
24 than the Basic Education Finance Task Force. In the
25 Basic Education Finance Task Force the so-called

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1 transparent model of schools with the numbers were
2 actually filled in, in terms of what should be
3 appropriate class size, what should be dollars and
4 cents for NERCS, or non-employee related costs and
5 other things.

6 2261 agreed with the concept that we needed to
7 create transparency, but actually when it finally came
8 through and signed by the governor, it didn't have
9 those boxes filled out.

10 Q. Does 2261 provide any funding to the school
11 districts?

12 A. No.

13 Q. As a member of the State Basic Education
14 Finance Task Force, do you believe that the 2261
15 resolves the shortcomings that were found by the Task
16 Force?

17 A. No.

18 Q. I have noticed that you have made comments
19 about something along the lines of policy without
20 money, and promises without commitment, or something
21 like that?

22 A. Yes.

23 Q. Did that apply to 2261?

24 A. Yes.

25 Q. How so?

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1 A. Well, first of all, let me say that the
2 Representative Sullivan and I were the authors of 2261
3 that passed the house.

4 We had, prior to that, introduced House Bill
5 1410, which was, in fact, reflective of the
6 recommendations of the Basic Education Finance Task
7 Force.

8 Q. If I can interrupt you for a second, it is your
9 understanding that House Bill 1410 was intended to be
10 the mirror image of Senate Bill 5444?

11 There was a companion bill to the 1410 in the
12 senate; correct?

13 A. Yes, but I don't know the number.

14 Q. If that companion bill was 5444, was the intent
15 that that companion Senate Bill, basically, mirror
16 what 1410 did?

17 A. Yes.

18 MS. BASHAW: I am going to object.

19 Representative Priest is not a senator. So
20 he can't speak to what the intent of the senate was
21 and whatever bill number it was that they were
22 introducing.

23 MR. AHEARNE: That is fair. I will rephrase
24 my question.

25

1 BY MR. AHEARNE:

2 Q. You are the author of, you were one of the
3 house bills, of House Bill 1410?

4 A. Yes.

5 Q. Did you have an understanding as to whether
6 there was a companion bill in the senate?

7 A. Yes.

8 Q. Your understanding of that companion bill in
9 the senate, was it to reflect the same types of Task
10 Force recommendations as in 1410?

11 A. Yes. It was not an identical bill.

12 In some cases in the legislature, they were
13 actually identical bills. In this case it is my
14 understanding there were some differences.

15 But in general, they were both supposed to
16 reflect the Basic Education Finance Task Force
17 recommendations.

18 Q. It is just sitting here today you don't recall
19 whether the number of the Senate Bill was 544 or
20 something else?

21 A. I don't know.

22 Q. I am sorry, I interrupted you. You were saying
23 that originally you were involved with 1410.

24 A. Right.

25 The House Bill 1410 was reflective of the Task

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1 Force recommendations. House Bill 2261 passed by the
2 House had some of the definite characteristics of
3 House Bill 1410.

4 By the time that it got through the senate, we
5 saw more intent and less action, when the final bill
6 was passed.

7 Q. Again, but how does that relate to the Policy
8 without Money-Promises Without Commitment comment that
9 you made; if it does?

10 A. The issue with 2261, as passed, is that I
11 believe that it has value as a plan, because it
12 discusses the importance of early learning, before the
13 governor's veto.

14 It discussed some of the importance of
15 addressing and providing a transparent school system,
16 in terms of the approach to the funding.

17 It had some value from the standpoint of
18 recognized, although, again, in three or four years
19 that we should spend more money on the transportation
20 that we owe today by every study. That we, in fact,
21 make kindergarten all day. That we should in fact,
22 have additional hours, 1,080 instead of a thousand, we
23 should have more -- to meet the goals of the Core 24
24 recommended by the State Board of Education.

25 Unfortunately, like 1209, 20 years later we look

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1 back and we say "there were good goals but did we do
2 anything about today to address the problem about
3 today?"

4 The answer is in 2261 we did not. It became a
5 planning document, as opposed to an implementation
6 document that the Basic Education Finance Task Force
7 was designed to do, as well as the original 1410.

8 As a specific example of that, in the House Bill
9 2261, that was passed we said, "nothing in this bill
10 will be changed, unless for educational reasons."

11 That sentence was taken out of the final version
12 of 2261.

13 Q. What, if any, significance does that have to
14 you as a Task Force member?

15 A. It means that the concept is "Show Me the
16 Money" was walked away from. In other words, we don't
17 have the resources, then we won't do it.

18 Well, given what happened in this budget cycle,
19 to some of the kids that I worry about the most, the
20 real world dictates that 2261 does not have the value
21 that it had in terms of the Basic Education Finance
22 Task Force recommendation that said "we will fund and
23 address these issues."

24 Q. All right.

25 If I can ask you to look at Trial Exhibits 591

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

1 and 592, please. Unfortunately, the way that they are
2 in the notebooks, 591 is the last one in this
3 notebook --

4 A. All right.

5 Q. -- and Exhibit 592 is the first one in this
6 notebook.

7 A. All right.

8 Q. Pointing to Trial Exhibit 591, it is a timeline
9 on the bottom left-hand corner of where it says "House
10 Education Committee/OPR." Do you see that?

11 A. I do.

12 Q. Is that the Office of Program Research that we
13 were talking about earlier?

14 A. Yes.

15 MR. AHEARNE: Your Honor, I would move to
16 admit both Exhibit 591 and Exhibit 592. According to
17 the joint statement, there is no objection.

18 MS. BASHAW: No objection.

19 THE COURT: Exhibit 591 and Exhibit 592 are
20 admitted.

21 (Exhibit Nos. 591 and 592 received in evidence.)

22

23 Q. Are you on the Quality Education Council?

24 A. I am.

25 Q. If you look at Exhibit 591, one of the boxes,

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1 second column from the left, the first big box is
2 called "The Education Council" with a bunch of bullets
3 under it?

4 A. Yes.

5 Q. If I can actually ask you to turn to Exhibit
6 592, which with old eyes like mine, blows up the boxes
7 on the timeline and ask you to turn to page 6, please.

8 Do you have that in front of you?

9 A. I do.

10 Q. It is the box that says: "Quality Education
11 Council, January 1"?

12 A. Yes.

13 Q. The Quality Education Council has met already;
14 correct?

15 A. We have.

16 Q. Then on the first bullet when it says
17 "Recommendations For Resolving Issues," do you see
18 that?

19 A. I do.

20 Q. Could you explain to the Court what that bullet
21 is about and what the Quality Education Council is
22 doing there?

23 A. No.

24 Q. The second bullet we are talking about, "The
25 Schedule For Phasing in Program Funding With Full

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

1 Implementation By 2018"; do you see that?

2 A. I do.

3 Q. Can you explain what kind of a schedule for
4 phasing in the Quality Education Council is supposed
5 to be doing for implementation by 2018?

6 A. No.

7 Under the original 2261 that was passed, the
8 phase in would begin immediately, or soon after the
9 legislation was passed, I believe in 2010 or 2011, so
10 that there was a requirement in that legislation that
11 reflected a sense of urgency by many of us, who were
12 involved in this issue.

13 This merely says that we would phase in program
14 funding by 2018, meaning we could start in 2017, if we
15 wanted to.

16 Q. Is there any -- as you understand it, is there
17 any requirement that full program implementation
18 actually would be accomplished by 2018?

19 A. No.

20 Q. The next bullet where it talks about the
21 schedule for phasing in transportation funding,
22 beginning no later than 2013-14, do you see that?

23 A. Yes.

24 Q. Is that the pupil transportation funding that
25 you referred to earlier?

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1 A. The \$125 million annual shortfall that was
2 identified by the office of the Superintendent of
3 Public Instruction and confirmed by the two studies;
4 yes.

5 Q. With respect to the Quality Education Council,
6 would you explain what its doing with respect to the
7 scheduling of the phase-in?

8 A. We did not address the issue in the first
9 Quality Education Council meeting.

10 Q. Do you have an understanding as to what the
11 Quality Education Council is going to be doing,
12 though, in the upcoming months for their -- this
13 January 2010 milestone?

14 A. I assume what we will do is look at the report
15 that was recently done that indicated that, addressed
16 some of the transportation funding issues.

17 There were issues that were specific to local
18 school districts. For example, we were funding a one
19 mile radius as the crow flies. In Eastern Washington
20 a bus may have to go three miles this way, across the
21 bridge and come down. So it is really six miles very
22 technical work.

23 A committee reviewed those issues, made a
24 recommendation and now, apparently, for the next two
25 years, we will look at that recommendation that was

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1 confirmed, basically, the joint legislative audit
2 review committee and at 2013 we will likely implement
3 those recommendations.

4 Q. Is there any you requirement that those
5 recommendations would be implemented?

6 MS. BASHAW: Your Honor, I will object at
7 this point. This is calling for a legal conclusion.

8 The bill will say what it says. It will
9 say "shall." It will say "may." This witness should
10 not be rendering conclusions.

11 MR. AHEARNE: That is fine. I will rephrase
12 my question.

13 THE COURT: All right.

14 BY MR. AHEARNE:

15 Q. As a member of the Quality Education Council,
16 do you have any understanding as to whether
17 implementation of the transportation funding beginning
18 in 2013 is required?

19 A. I believe that it is required in 2013 and 2014.
20 I believe that the bigger issue is why aren't we doing
21 today, given the fact under the Dorn decisions, and
22 others, it is the Basic Education.

23 We have identified the amount of money that we
24 are required that we are short of \$125 million by
25 delaying for two years we, as a State, save \$250

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1 million, but we do not meet our constitutional
2 responsibility.

3 Q. When you say you believe that it is required to
4 begin implementation in the 2013-2014 school year, is
5 it your understanding that that is legally 2261 as
6 currently enacted requires that?

7 MS. BASHAW: Again, your Honor, calling for
8 legal conclusions.

9 MR. AHEARNE: Actually, he said that he
10 believed that it was required. I am asking the basis
11 for him making that statement.

12 THE COURT: He did state what his
13 understanding is as opposed to what the document
14 itself states. There is a difference.

15 Objection is overruled.

16 A. Maybe I should say I hope that is what it
17 means.

18 Because perfectly honestly, when you look at
19 2261 legislation, throughout the legislation, and as
20 you can see by the amount and length of the bill, in
21 many cases, we moved from "shall" to "intend."

22 Q. Does the -- you have served in the legislature
23 seven sessions?

24 Is it your understanding that bill passed by one
25 legislature binds future legislatures?

1 Do you have an understanding one way or the
2 other?

3 A. Legislation can be changed.

4 It is a gray area, I believe, in the -- where
5 you are dealing with the definition or key components
6 of the definition of Basic Education.

7 That is why, for years, we spend a lot of money
8 on the programs, and then we don't call them Basic
9 Education.

10 So that went there is a budget crisis, you are
11 able to say, "oh, it is not Basic Education."

12 So the caveat that I raised not, as an attorney,
13 obviously, when it comes to this specific issue of
14 transportation funding, given my belief that it is
15 within the area of Basic Education, that we would have
16 to do that.

17 Q. All right.

18 A. But as I said, to be perfectly honest with you,
19 my frustration was that it was that we weren't doing
20 it today, because once you find out that something is
21 Basic Education, then what is your excuse for not
22 implementing it?

23 Q. If I can ask you to please turn to Exhibit 211,
24 please, hopefully, moving to my last line of
25 questions, here.

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1 Could you identify what Exhibit 211 is?

2 A. Exhibit 211 is a briefing book, January 2009
3 about the Washington State operating budget.

4 Q. This was prepared by the Office of Program
5 Research?

6 A. Yes.

7 MR. AHEARNE: Your Honor, I would move to
8 admit Exhibit 211.

9 MS. BASHAW: No objection.

10 THE COURT: Exhibit 211 is admitted.

11 (Exhibit No. 211 received in evidence.)

12

13 Q. If I could ask you to turn to page 5, number on
14 the bottom of the page -- bottom of the middle of the
15 page, the House and Ways and Means Committee roster?

16 A. Yes.

17 Q. You are listed there as one of the House and
18 Ways and Means Committee members?

19 A. I am.

20 Q. Turn to the page 6 under House Education
21 Appropriation Committee, that there are issues you as
22 the ranking member under the House Appropriation
23 Committee -- is that correct?

24 A. I am.

25 Q. Turning to the page 39 on the beginning of the

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1 section of K-12 public schools -- is that correct?

2 A. Yes.

3 Q. -- then if you go to page 40, there is an
4 introduction and then there is a line that says --
5 Heading Basic Education programs, do you see that?

6 A. Yes.

7 Q. Above that, it says "State funding is
8 distributed to local school districts through a
9 variety of formulas and grants. State funding
10 supplemented with federal and local funding."

11 Do you see that?

12 A. I do.

13 Q. With respect to the Basic Education Programs,
14 then starting in the middle of the page there is a
15 bullets, one says general apportionment, next bullet
16 is special education, next bullet is transportation
17 and next page there is a bullet for other, which
18 includes the Learning Assistance Program, transitional
19 bilingual program and institutions.

20 Do you see that?

21 A. I do.

22 Q. The Learning Assistance Program that what is
23 often referred to as LAP?

24 A. Yes.

25 Q. The transitional bilingual is that called ELL?

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1 A. It is.

2 Q. With respect to the general apportionment, the
3 special education, transportation, LAP, and ELL, are
4 those the five Program Funding Formulas that the State
5 uses to fund the school districts today?

6 A. And NERCS, non-employee related costs.

7 Q. So that is part of the formulas that are used?

8 A. Yes.

9 Q. Just real briefly on the institutions --

10 A. -- correctional institutions.

11 Q. -- that is the education to kids that are in
12 correctional institutions?

13 A. And I believe that the institutions includes
14 the school for the blind, but not --

15 Q. Institutions run by the State, as opposed to
16 the School District?

17 A. Yes.

18 Q. If I can ask you to turn then to page 43, there
19 is a chart and the first part of the chart says "Basic
20 Education Programs." Do you see that?

21 A. Yes.

22 Q. The general apportionment, Special Ed, et
23 cetera, those are the funding amounts produced by
24 those Program Funding Formulas that we talked about?

25 A. Yes.

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1 Q. The total at least for the 2007-20090 biennium
2 was the \$11,037,000,000 amount that is shown there?

3 A. Yes.

4 Q. Later, the second part of the chart says
5 "Non-Basic Education programs." Do you see that?

6 A. Yes.

7 Q. Those other programs total 2.595, or \$2.6
8 billion?

9 A. Yes.

10 Q. Though are those the other programs that you
11 just referred to as the legislation doesn't call them
12 Basic Ed, so they that they could cut it?

13 A. Yes.

14 Q. At the bottom of the chart it shows at least
15 for the 2007-2009 biennium, the total and the State
16 education funding was 13.6 -- over \$13.6 billion?

17 A. Yes.

18 Q. If I could ask you to -- a little
19 complicated -- you have that exhibit there is another
20 exhibit that is Exhibits 615 and 617.

21 Handing you Exhibit -- putting before you
22 Exhibit 615, which is a State's answer to one of our
23 interrogatories and then that refers to an attachment
24 DD, bates number ATTDD 0000001.

25 Then Exhibit 617, which is that bates number

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1 document -- first?

2 MR. AHEARNE: Your Honor, I would like to
3 move to admit Exhibits 615 and 617.

4 THE COURT: Exhibits 615 and 617 are
5 offered.

6 MS. BASHAW: Your Honor, I believe that we
7 have an objection to the particular exhibits, because
8 they were amended and these are not the amended
9 answers to that discovery.

10 MR. AHEARNE: That is, I may be misreading
11 things, but my understanding of the joint statement
12 was that there was no objection to Exhibit 617. The
13 fact, is that there is --

14 THE COURT: Counsel, Ms. Bashaw --

15 MS. BASHAW: I apologize, your Honor, I am
16 mistaken about that. It is a different set.

17 MR. AHEARNE: All right. You had me worried
18 there that I had messed something up.

19 THE COURT: Are there no objections?

20 MS. BASHAW: No objection, your Honor.

21 THE COURT: Exhibit 615 and Exhibit 617 are
22 admitted.

23 (Exhibit Nos. 615 and 617 received in evidence.)

24

25 Q. On Exhibit 615, page 2, interrogatory number

1 12, refers to the page 43 of the deposition Exhibit
2 396, which is now Trial Exhibit 211.

3 There is a chart of figures in the State's
4 2007-2009 budget. "Please state the corresponding
5 figures for the 2009-2011 document."

6 Then it refers to the bates number document; do
7 you see?

8 A. That I am sorry, would you please go over that
9 again.

10 Q. Sure, I am sorry.

11 Looking at Exhibit 615, right?

12 A. I have Exhibit 615.

13 Q. Second page, "interrogatory number 12," it
14 says, "page 43 of deposition Exhibit 396 in this
15 chart, a figure of the chart of the figures of the
16 2007-2009 budget. Please state the corresponding
17 figures for the 2009-2011 budget."

18 Do you see that?

19 MR. AHEARNE: Your Honor, may I point to
20 the witness the --

21 THE COURT: Certainly.

22 A. Thank you.

23 Yes, I was looking down below. All right.

24 Q. If I can ask you to look at the Trial Exhibit
25 617, please.

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1 A. Sorry. Thank you.

2 Q. Then I am going to have to ask you a few
3 questions comparing Exhibit 617, which is the
4 2009-2011 version of, then, page 43 of 211 which is
5 the 2007-2009 version; all right?

6 A. All right.

7 Q. So I am looking at the Trial Exhibit 617, that
8 is headed at the top, it says "2009-2011 Basic
9 Education Programs." Do you see that?

10 A. I do.

11 Q. For the total of the Basic Education in that
12 books, the Basic Education Programs, it shows a
13 \$12,211,000,000 amount?

14 A. 218 million, yes.

15 Q. Is that -- if I compare that then to the prior
16 biennium of 11 billion, that is an increase in
17 dollars; correct?

18 A. It is.

19 Q. Is that an increase in programs, or is that the
20 maintenance level?

21 A. When one compares the -- I am not sure that one
22 would even be able to argue that it is a maintenance
23 level.

24 The increase is in the general apportionment,
25 which can occur, because you have, for example, an

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1 aging teacher force, because we allocated according to
2 the experience -- when I say aging, in terms of
3 experience.

4 As you can see, the general apportionment has
5 increased. But bilingual, according to this, I
6 guess -- I guess as -- I am sorry, I read this wrong.

7 The answer is yes, and this would be the basic.

8 Q. Just so we can run through based on your work
9 on the Appropriations Committee.

10 A. Yes.

11 Q. The budget is created, for example, the
12 2007-20090 biennium; correct?

13 A. Yes.

14 Q. The maintenance level is if you continue the
15 programs that you had in the 2007-2009, what would
16 those programs cost in 2009-2011?

17 A. Yes.

18 Q. So that the increase between the \$11 billion
19 amount for 2007-2009, under the Basic Education
20 Programs, and the \$12.2 billion for 2009-2011 Basic
21 Education Programs, is that the same maintenance level
22 amount, or keeping the same programs that you had
23 before?

24 A. It may or may not be.

25 Q. Why do you say that?

1 A. In other words, if I increase transportation by
2 the \$250 million, that we previously discussed, that
3 might meet our constitutional responsibility be an
4 increase and actually provide more bus service. It
5 would be found in the top column.

6 So it is primarily maintenance level. But at
7 the same time, these reflect -- this is Basic
8 Education dollars.

9 As a result of that, it is primarily maintenance
10 level. But if I did provide additional dollars for
11 transportation, it would show in the top line here.

12 If it was for Basic Education purposes, not more
13 dollars for the school districts could haul their
14 football teams from one game to another -- that is not
15 considered Basic Education.

16 So in general, this is traditionally
17 maintenance, but there could be exception if there was
18 a decision by the legislature to increase funding for
19 transportation, for example.

20 Q. I understand your point that you believe that
21 the transportation should be increased.

22 A. What? No.

23 My point was that if we decided, if for example,
24 we said that we are going to do transportation
25 currently with a one-mile radius plus exceptions for

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1 safety for kids.

2 We, as a legislature said, no, we will provide
3 dollars, school districts you must provide buses from
4 a half a mile radius, for example, which would be a
5 significant additional cost and we put that money into
6 the budget, it would be reflected in this
7 transportation line here.

8 So while this is basic maintenance level, there
9 could be a situation where this number could be
10 increased because of a policy changed, as far as one
11 of these categories is concerned.

12 Q. So if there is a change in the Program Funding
13 Formula from one biennium to another, it would be a
14 change then in the resulting number; correct?

15 A. Yes.

16 You may see that in the Special Ed, for example,
17 in the recent Supreme Court case, that they indicate
18 that the parents can --

19 MS. BASHAW: Your Honor, I am going to be
20 this is now non-responsive to the question.

21 THE COURT: I think that it is a
22 continuation of the question. The questions was with
23 respect to whether or not this reflects maintenance.
24 The Representative Priest was explaining the various
25 programs.

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1 I think that he was identifying one of the
2 specific programs under Basic Education, Special
3 Education based upon a Court decision.

4 I think that it is responsive. I will
5 overrule.

6 THE WITNESS: What I was going to point out
7 was the recent Supreme Court decision said that the
8 State is going to have to reimburse for parents, who
9 have made independent decisions to send their children
10 to private schools, for example, if we get an estimate
11 of what that is, in the 2011-2013 budget, that might
12 be reflected in these top lines.

13 THE COURT: Yes.

14 MS. BASHAW: Again, to the extent that the
15 witness is attempting to render legal opinions about
16 what some case said, I object to this witness
17 addressing whether it is a statute or a Court case,
18 attempting to render a legal opinion.

19 THE COURT: My understanding of the
20 witness' testimony was not what the opinion said, but
21 what the potential legislative response to a Court
22 decision was, which is different.

23 MS. BASHAW: But it necessarily includes his
24 opinion as to what that Supreme Court decision said.
25 I mean, in order to --

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1 THE COURT: The that is not -- that is sort
2 of irrelevant, what the Supreme Court -- what the
3 decision said. He is talking about the legislative
4 response to the Supreme Court decision.

5 I am not taking his -- what the decision
6 says, the decision says.

7 The response is a factual issue that this
8 witness may testify about.

9 BY MR. AHEARNE:

10 Q. If I can go, we have got the two charts, one
11 for the 2009-2011 biennium and one for the 2007-2009
12 biennium, correct?

13 A. Correct.

14 Q. The chart for the 2009-2011 biennium, I am
15 focusing on what is titled in the State document,
16 Basic Education Programs. Are you with me so far?

17 A. I am.

18 Q. For the 2007-2009 the Basic Education Programs,
19 the Program Funding Formulas spin out a dollar amount
20 of \$11.037,000,000; correct?

21 A. Yes.

22 Q. Were those Basic Education, those Program
23 Funding Formulas changed from the 2007-2009 biennium
24 to the 2009-2011 biennium?

25 A. I do not believe so.

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1 Q. If you are correct, that the Program Funding
2 Formulas were not changed, is then --

3 A. I believe that is the case.

4 Q. If that is the case, then the 12.2 billion that
5 is produced by the Program Funding Formulas for the
6 2009-2011 biennium, is a maintenance of the same
7 programs.

8 But when the variables that are the factors in
9 those equations change, it changes the end result
10 number; correct?

11 A. Yes.

12 Q. All right.

13 If I could then ask you to look at the parts of
14 the two charts, under where the State titles as
15 "Non-Basic Education Programs."

16 Do you see that?

17 A. I do.

18 Q. From the 2007-2009 biennium, if you add that
19 all up that is the 2.595 or \$2.6 billion amount?

20 A. Yes.

21 Q. If you look at the same chart on the 2009-2011
22 biennium, it is \$1,094,000,000; is that correct?

23 A. It is.

24 Q. Sitting on the Education Appropriation
25 Committee and the Education and The Ways and The Means

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1 Committee, could you give me a summary of the reason
2 for the cut in the -- what is titled non-Basic
3 Education program amount?

4 A. Budget negotiations and the current economy.

5 Q. Then if you look at the total State funding of
6 education in 2007-2009 was 13.6 -- over \$13.6 billion;
7 correct?

8 A. Yes.

9 Q. The total State education funding for 2009-2011
10 was \$13.3 billion; correct?

11 A. Yes.

12 Q. Now, I would like to ask you some questions if
13 you would go back to the chart that is part of the
14 211, the 2009-2011 biennium, under what the State
15 document calls the Non-Basic Education Programs -- do
16 you see that?

17 A. I do.

18 Q. The student achievement fund, I-728, could you
19 briefly say what that funds?

20 A. I-728 was initiative passed by the people. It
21 funds allowable uses of the funds are in six
22 categories: Primarily, reduction of the class size in
23 K through 4, collected class sizes reduction in grades
24 5 through 12, also, professional development, also
25 dollars to be used for capital projects -- I believe

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1 that relate to class size reduction.

2 But there is six specific categories that are
3 identified.

4 Q. In the 2007-2009 biennium, that amount was
5 approximately \$868 million; is that correct?

6 A. Yes.

7 Q. If you look at the 2009-2011, that was cut to
8 \$204 million; is that correct?

9 A. Yes.

10 Q. Going back to the 2007-2009 biennium chart, the
11 second line is "Initiative 732 COLA and other comp
12 increases"; do you see that?

13 A. Yes.

14 Q. Is that the cost of living adjustment that you
15 were talking about earlier with the 732?

16 A. Yes.

17 Q. In the amount in the 2007-2009 was half a
18 billion dollars; is that correct?

19 A. Yes.

20 Q. What is the amount in 2009-2011?

21 A. Zero.

22 Q. If I could ask you to turn to the next line on
23 the 2009-2011 biennium levy equation assistance, LEA;
24 do you see that?

25 A. Yes.

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1 Q. Could you briefly say what that does?

2 A. Local efforts assistance, or levy equalization,
3 was a program put in the place by the legislature in
4 recognition of the fact that, if you were going to
5 allow certain school districts to certain property
6 school districts to have levies that will assist in
7 providing services in the school districts.

8 Other non-property rich districts would need
9 assistance, because, as we discussed yesterday, the
10 cost of the homeowner is so much higher in Washtucna
11 versus Bellevue.

12 As a result the program was put in place was a
13 very complicated program that recognizes that fact and
14 directs dollars to the property poor school districts,
15 to help them make up for the property rich school
16 districts.

17 Q. In the 2007-2009 biennium, the amount was over
18 423 million; is that correct?

19 A. Yes.

20 Q. Then the 2009-2011 biennium, was that cut to
21 252 -- almost 253 million?

22 A. According to this chart.

23 Q. First answer the question that I asked and then
24 I will ask the follow up. According to this chart, is
25 the answer is yes?

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1 A. According to this chart it is yes.

2 Q. You have a furrow in your brow. What is your
3 concern, comment, question?

4 A. In order to implement -- again, in order to
5 implement a budget, you have to pass legislation that
6 -- where policy legislation that allows the budget
7 decision.

8 I believe that the \$16 million of this amount
9 was anticipated to be cut under House Bill 1776, a
10 bill that passed the senate -- a bill that, because of
11 -- for want of a better term -- last day filibuster by
12 the House Republicans, who are fighting to the local
13 effort assistance, I believe that the policy was not
14 cut. In other words, the policy was not agreed to
15 that was assumed by this budget.

16 So I actually believe that this number of levy
17 -- Local Effort Assistance, would be actually under
18 actually 310, as opposed to 250.

19 Q. All right.

20 A. I don't know if this budget document that you
21 provided to me reflects that policy debate or the
22 failure by the legislature to pass the policy
23 legislation necessary to do the budget. I believe
24 that it does not.

25 Q. All right.

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1 Going back to the 2007-2009 biennium, about
2 halfway down on the bottom box, it says "two learning
3 improvement days." Do you see that?

4 A. Yes.

5 Q. The State funds a little over 64 million; do
6 you see that?

7 A. Yes.

8 Q. Then going to the 2009-2011 biennium, it says
9 "one learning improvement day cut to 35.7 million," do
10 you see that?

11 A. Yes.

12 Q. Are you aware of any education related reasons
13 for cutting the learning improvement days from two to
14 one?

15 A. No.

16 Q. Moving on again on the 2007-2009 biennium,
17 there is a highly capable number; do you see that?

18 A. Yes.

19 Q. Briefly, what is the highly capable for?

20 A. It is a recognition by the legislature that
21 sometimes additional dollars are necessary for
22 programs that are directed to so-called highly capable
23 students.

24 In many cases, those courses have to be a
25 smaller class sizes, than what the funding allocation

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1 formula anticipates.

2 As a result of that, for example, in AP class in
3 Okanogan, or International Baccalaureate Class may
4 only have 12 or 14 students, because those are the
5 only people who are interested or qualified.

6 As a result of that, the legislature understands
7 that, and said, yes, we are setting for Basic
8 Education allocation at 18.8 for K through 4, and 21.7
9 one teacher total -- one certificated staff for 21.7
10 for middle school and high school.

11 But, oh, by the way, certain classes may be
12 smaller or take additional resources and so there is a
13 recognition of that through the highly capable
14 appropriation.

15 Q. You were one of the reports that you were a
16 Steering Committee member for was that Building
17 Bridges --

18 A. Yes.

19 Q. -- dealing with the dropouts; correct?

20 A. Ah-hum. Sorry, yes.

21 Q. A highly capable programs have anything to do
22 with the drop-out rates?

23 A. The answer surprisingly is yes.

24 Highly Capable is as I just said is often
25 thought of AP or international baccalaureate or some

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1 classes that are necessary or directed towards
2 identified high achievement students.

3 Interestingly enough, when you look at the drop-
4 out, it is many times what I called the Bill Gates
5 Syndrome.

6 Bill Gates is situation -- don't finish college,
7 because they are looking at living in a different
8 world -- have identified their own priorities. So
9 ironically, highly capable, it is not only the cliché
10 in my first answer of international baccalaureate and
11 AP and other programs.

12 It is often targeted to, or we are recognizing
13 more that a lot of the times that the very bright
14 students, who are ahead of their 2nd grade class, just
15 bored to death, suddenly, where they are looking at
16 things from a different perspective suddenly need
17 additional attention in the school system.

18 Q. If they don't get it, what happens?

19 A. Many of them will drop out.

20 Q. Moving on to the 2007-2009 chart that then
21 there is something called Promoting Academic Success?

22 A. Yes.

23 Q. Is that what is called the PAS -- PAS Program?

24 A. Yes.

25 Q. At least in 2007 and 2009 is \$17 million, do

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1 you see that?

2 A. Yes.

3 Q. How much is it 2009-2011?

4 A. Zero.

5 Q. Last one I want to ask you about, there is a
6 line summer other skill centers and Voch Equipment.

7 Do you see that?

8 A. Yes.

9 Q. Could you briefly say what that program is for?

10 A. As part of our current technical education
11 program in the State, we have skill centers or centers
12 that often cater to more than one School District and
13 are focused on current technical education.

14 They have summer programs where students who --
15 sometimes get into the skill centers is challenging,
16 because you have to take a bus. You have to be there
17 for three hours.

18 And so there are students who, maybe, are
19 interested in current technical education, are
20 involved in other programs and so we have attempted to
21 offer in the summer opportunities for those students
22 to take advantage of the current technical education.

23 It also makes sense from an institutional
24 standpoints, because much occurred in the technical
25 education has a heavy investment as far as the capital

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1 is concerned.

2 Like any other business, the more that you can
3 use the computers, the more that you can use the auto
4 repair shop at the skills center, the more that you
5 can use these fairly capital intensive investments by
6 the State -- the greater return on investment is.

7 When it says summer, those are summer classes,
8 also talks about the skills centers in the second
9 portion of that, as well as the capital equipment that
10 I also talked about necessary to have effective
11 current technical education program.

12 Again current technical education, as you know,
13 is the example that I used on the auto mechanics is
14 also very evolving and you need to update your
15 equipment, whether it is radiation technology, whether
16 or not it is auto technology, whether or not it is
17 computer technology.

18 If that capital is not upgraded, then you are
19 training people for machines that when they get out to
20 the work place, they can't use. They haven't gotten
21 the skills of today's requirements.

22 Q. I have understand this correctly that for the
23 2007-2009 biennium the amount for what you just
24 described was a little over \$15 million; is that
25 correct?

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1 A. Yes.

2 Q. For 2009-2011 it was cut to 5.7 million; is
3 that correct?

4 A. Yes.

5 MR. AHEARNE: Your Honor, I think that I
6 have like five more minutes.

7 May I finish up before the break, or do you
8 want to take the break now?

9 THE COURT: No, we can let you finish; that
10 is fine.

11 MR. AHEARNE: Thank you, your Honor.

12 BY MR. AHEARNE:

13 Q. Representative Priest, you were an active
14 member of the State's Basic Education Finance Task
15 Force; correct?

16 A. Yes.

17 Q. You also served on the K-12 Advisory Committee
18 for the State Washington Learns Study?

19 A. Yes.

20 Q. You served on the Committee for the Building
21 Bridges Report, the High School Drop-out Report that
22 you talked about?

23 A. Yes.

24 Q. You also worked with the Federal Way School
25 District, including serving on the Construction

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1 Oversight Committee; correct?

2 A. Yes.

3 Q. You served on The Board Research Arm,
4 Washington State for Public Policy; correct?

5 A. Yes.

6 Q. You served on the board for the State LAEP, an
7 entity that creates the salary schedule matrix
8 document for the funding formulas?

9 A. Yes.

10 Q. Also, you have served on seven sessions for the
11 legislature, including now being the ranking member of
12 the Education Committee -- ranking member of the
13 Education Appropriation Committee and the member of
14 the over-All Ways and Means Committee; correct?

15 A. Yes.

16 Q. Now, in the course of all of your education
17 related work, have you seen any correlation between
18 the State's Program Funding Formulas and the actual
19 costs today of operating the State's public schools?

20 A. No.

21 Q. In the course of all of that work, have you
22 seen any correlation between the State's Program
23 Funding Formulas, and the level of resources that it
24 would take to equip public school children in our
25 State with the knowledge and the skills that are

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1 talked about in 1209, or the State Essential Academic
2 Learning Requirements?

3 A. The analysis that I have seen says that we are
4 not doing it.

5 Q. Would that same analysis that you have seen in
6 the course of all of that work, lead you -- let me --
7 strike that.

8 Have you seen in the course of that work any
9 correlation between the State Program Funding
10 Formulas, and the level of resources that it would
11 take to provide public school students in our State
12 with a realistic or effective opportunity to learn the
13 knowledge and the skills and House Bill 1209 or the
14 Essential Academic Learning Requirements?

15 A. The research that I have seen shows that we are
16 not.

17 Q. Now, in the course of all of your educational
18 related work have you become aware of anything that
19 indicates that the State's fund Program Funding
20 Formulas provide school districts the level of
21 resources that they need to operate?

22 A. In fact, the information that I have seen is 9
23 opposite.

24 Q. In course of all of your education related
25 work, have you become aware of anything that indicates

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1 the State funding formulas provide School District the
2 level of resources that they need to provide an
3 effective, or realistic opportunity to our students to
4 learn the knowledge and the skills and House Bill
5 1209, or the Essential Academic Learning Requirements?

6 A. The research that I have seen shows the
7 opposite.

8 Q. If I could ask you to look at the Trial Exhibit
9 124 please -- Trial Exhibit 124 is the final report of
10 the Joint Task Force on Basic Education and Finance?

11 A. It is.

12 Q. If I can ask you to please turn to the third
13 page, that is -- the says "Statement from the Joint
14 Task Force on the Basic Education Finance "; do you
15 see that?

16 A. Yes.

17 THE COURT: I am sorry, is this Roman
18 numeral one?

19 MR. AHEARNE: I am counting, 1, 2, 3, not a
20 number.

21 THE COURT: I have it, thank you.

22 BY MR. AHEARNE:

23 Q. In that statement there is a statement that
24 says -- did you vote in favor of the adopting?

25 A. I did.

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1 Q. When there is a statement:
2 "We are aware of the State's financial
3 circumstances and the difficult choices facing
4 State leaders. However, the Task Force believes
5 that the all current K-12 funding should be
6 retained" -- do you see that?

7 A. Yes, I do.

8 Q. Was it retained?

9 A. No.

10 Q. Why did the State Task Force say that it should
11 be?

12 A. It was our -- we believed that based on the
13 research, as well as our own long-time experience, our
14 own long-time personal experience, that education was
15 under-funded and that at the very least the dollars
16 that are currently allocated should be retained.

17 MR. AHEARNE: Thank you. That is all I
18 have.

19 THE COURT: Thank you, Mr. Ahearne.

20 We will take our morning recess at this
21 time for 15 minutes and resume at 10:50.

22 The Court is in recess.

23 THE CLERK: All rise.

24

25 (Court was recessed.)

1 I N D E x

2

3 W I T N E S S E S

4

5

6

7 SKIP PRIEST

8

9

10 DIRECT EXAMINATION BY MR. AHEARNE 1197

11

12 E X H I B I T S

13

14

15 Exhibit No. 206 received in evidence 1207

16 Exhibit No. 197 received in evidence 1207

17 Exhibit No. 216 received in evidence 1221

18 Exhibit No. 239 received in evidence 1225

19 Exhibit Nos. 591 and 592 received in 1231

20 evidence

21 Exhibit No. 211 received in evidence 1238

22 Exhibit Nos. 615 and 617 received in 1242

23 evidence

24

25

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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 9, 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,