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**Reporter's Verbatim Report of Proceedings, Wednesday,
September 9, 2009, Volume VI--Sessions 2 and 3 of 4 [Pages
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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR KING COUNTY

3

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

16

17 REPORTER'S VERBATIM REPORT OF PROCEEDINGS

18 --oOo--

19 WEDNESDAY, SEPTEMBER 9, 2009
 20 VOLUME VI - Sessions 2 and 3 of 4

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22 --oOo--

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

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

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

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

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1 CHRONOLOGICAL INDEX

2 --oOo--

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4 WEDNESDAY, SEPTEMBER 9, 2009 - Morning Session
(Resumed)

5

SKIP PRIEST (Resumed)

6

Cross by Ms. Bashaw

1272

7

8 Noon recess

1310

9 AFTERNOON SESSION

10 Cross (Resumed) by Ms. Bashaw

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11 Recess - change in court reporters

1357

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1 SEATTLE, WASHINGTON
2 WEDNESDAY, SEPTEMBER 9, 2009
3 MORNING SESSION RESUMED - 11:00 A.M.

4 --oOo--

5 THE COURT: Please be seated.

6 Ms. Bashaw.

7 MS. BASHAW: Thank you, Your Honor.

8 BY MS. BASHAW:

9 Q. Representative Priest, I'd like to start
10 where we stopped last and have you look at Exhibit 211
11 again. The purpose of Exhibit 211 is basically a
12 briefing book for new legislators as well as those who
13 have been in the legislature for a while, correct?

14 A. Yes.

15 Q. And as part of --

16 A. And citizens. I mean, it's a public
17 document.

18 Q. And courts.

19 A. And courts.

20 Q. All right. If you could turn to page 17 --
21 actually, I apologize. If you'd turn to page 13 under
22 the background section.

23 A. Yes.

24 Q. Do you see that?

25 Washington typically adopts three

1 budgets, and operating budget, capital budget, and a
2 transportation budget, correct?

3 A. Yes.

4 Q. And most of the funding for basic education
5 comes out of the operating budget.

6 A. Yes.

7 Q. Some of the funds, however, for school
8 districts, say, for example, in construction comes out
9 of the capital budget.

10 A. Correct.

11 Q. And there's also some dollars within the
12 transportation budget which is typically for our roads
13 and highways, right?

14 A. Right.

15 Q. But there's also some funds for school
16 districts that come out of the transportation budget as
17 well.

18 A. It has not been something that I have looked
19 at.

20 Q. All right. And the operating budget, as we
21 notice here on the bottom of page 13, is primarily made
22 up of taxes. I mean, the revenue for that budget comes
23 from the various taxes that the state imposes.

24 A. Yes.

25 Q. And when you're faced with an \$8 or \$9

1 billion shortfall -- that's what you were faced with
2 this past session, correct, in your revenues?

3 A. If you would -- I don't know if you would
4 like to get into a discussion about shortfall in terms
5 of expectation versus reality. That's the subject of a
6 fairly large debate as far as whether we faced an \$8
7 billion shortfall or a \$4 billion shortfall. There was
8 a shortfall.

9 Q. So there were less revenues to cover the
10 existing operating budget that had been put into place
11 in the previous session.

12 A. No.

13 Q. Less revenues, tax revenues, to cover the
14 expenditure that the legislature had appropriated in
15 the previous biannual budget.

16 A. And that was addressed in the supplemental
17 budget. When it comes to a budget shortfall, when
18 they're going through Budget 101, the fact is the
19 revenues were very close this year for the prior
20 budget. What may change is caseload, promises made,
21 other things. And so if you actually look at the
22 revenues of the budget, I think they're very close.

23 The final budget that was appropriated
24 was very close to the budget that we had in terms of
25 revenues. The shortfall becomes a question of -- for

1 example, if you have a caseload factor where you say
2 we're going to help certain individuals with certain
3 issues, and you have three in one year and you have
4 five the next, the law says that you would cover the
5 five unless it is changed. But that doesn't mean you
6 have less revenues. You may have additional impact
7 because of caseload and other things.

8 If, for example, I had -- instead of the
9 million students, I suddenly had 1.1 million students,
10 then that would make it a difference, but you'd still
11 have the same amount of revenue, which we had this
12 year.

13 Q. But you're talking about bow-wave salaries.

14 A. I am.

15 THE COURT: I'm sorry. I didn't get the
16 word.

17 MS. BASHAW: The bow-wave.

18 BY MS. BASHAW:

19 Q. Could you explain to the --

20 THE COURT: You used the bow-wave?

21 MS. BASHAW: B-O-W.

22 THE WITNESS: It's called bow-wave, and
23 it's -- what it basically says that, if a certain -- if
24 we start a program and 10 people either are eligible or
25 understand its availability in the year that it is

1 implemented, the next year there might be 12 or 15
2 people who either understand or take advantage of it.
3 And then in some cases, the law will say people who are
4 at poverty level for these two years will be able to
5 take it the next year after that at the poverty level
6 plus 10 percent.

7 So the bow-wave is often created where
8 you create expectations and then have to pay for them
9 even though they have the same amount of revenues.

10 Does that --

11 BY MS. BASHAW:

12 Q. Yes. That's part of what the legislature was
13 trying to address in this past session was the bow-wave
14 affect, varying programs that had been put in place
15 prior to this session.

16 A. Yes.

17 Q. All right. So when the legislature is trying
18 to address it's various budgetary dilemmas, if you
19 will, there are certain programs that are pretty much
20 exempt from reduction.

21 A. I guess I would call it constitutionally
22 protected in the case of education.

23 Q. All right. So let's look on page 17 of
24 Exhibit 211. And this document refers to it as
25 mandatory funding obligations, right, on page 17 at the

1 top?

2 A. Yes.

3 Q. All right. And one of those is that in the
4 areas of the budget, in that second sentence there, the
5 areas of the budget with little or no funding
6 discretion includes K-12 basic education --

7 A. True.

8 Q. -- right? Debt service and pension
9 contractual obligations, right?

10 A. That's what it says.

11 Q. All right. And those programs, the K-12
12 basic education program, if you go to page 43 of
13 Exhibit 211, those are the basic education programs
14 that are in the top box of this document on page 43,
15 correct?

16 A. Yes.

17 Q. And, in fact, those numbers -- sorry about
18 that.

19 A. No, I'm getting good at this.

20 THE COURT: Which is this?

21 MS. BASHAW: 615.

22 THE COURT: 615.

23 BY MS. BASHAW:

24 Q. So looking at the last page of Exhibit 615,
25 under those basic education programs in the '09-'11

1 budget, the only program that was actually reduced was
2 the institutions, correct, from the '07-'09 period?

3 A. Correct.

4 Q. And those are the state-run facilities,
5 right?

6 A. Correct.

7 Q. So if we flip back to page 17 of Exhibit
8 211. One of the other mandatory funding obligations,
9 in the last sentence of that top paragraph, is also
10 that the state has to house prisoners and juveniles who
11 are within the juvenile rehabilitation administration
12 or a system run by DSHS.

13 A. Yes.

14 Q. And then that paragraph also mentions that
15 even though the legislature is not mandating to fund
16 under the constitutional or contractual requirements,
17 the state has historically allocated a significant
18 portion of the operating budget to higher education.

19 Do you see that?

20 A. Yes. I don't, but I've -- but I -- I
21 understand.

22 Q. So let me take one of those binders back from
23 you since you have your hands full.

24 A. Which one would you like?

25 Q. 615.

1 A. Okay.

2 Q. So if you could flip to page 20 of Exhibit
3 211, do you see that this diagram identifies what
4 percent of the budget each of the various programs are
5 funded under the operating budget?

6 A. Yes.

7 Q. Do you see that?

8 A. Uh-huh.

9 Q. And, in fact, higher education in public
10 schools take up 51 percent of the budget.

11 A. Uh-huh.

12 Q. Higher than any other program that is funded
13 out of the operating budget.

14 A. Yes.

15 Q. And if we look at page 21 of Exhibit 211,
16 there's a reference there at the top of that page to
17 something called the Near General Fund. Do you see
18 that?

19 A. Yes.

20 Q. What is that?

21 A. That is a -- the Near General Fund is the
22 specific operating budget. Other categories have been
23 created by the legislature over the years, particularly
24 recently, which are not in your General Fund but may,
25 in fact, provide dollars into a particular area. It is

1 an issue of great debate because of the fact that it is
2 not assisted as far as clarify is concerned, but this,
3 I would say, is the base budget.

4 Q. All right. And on page 21 of Exhibit 211 it
5 demonstrates, in terms of the actual dollar amounts
6 that are going into the various programs on the chart
7 on page 20, that public schools are --

8 A. I'm sorry. The General Fund of the state is
9 the one that is the base budget. The Near General Fund
10 includes those. That's why I get confused. The Near
11 General Fund includes some of these other categories.

12 Q. All right. Thank you for that
13 clarification.

14 So on page 21 of Exhibit 11, it shows
15 the actual dollar amounts that these various programs
16 get, right?

17 A. Okay.

18 Q. And public schools -- that's the K through
19 12, right?

20 A. Right.

21 Q. Okay. It's more than three times the amount
22 of funding that goes to public schools compared to the
23 next program in the list, which is DSHS medical. Do
24 you see that?

25 A. Uh-huh. Yes.

1 Q. And DSHS medical is primarily -- there are a
2 number of programs, but primarily Medicaid.

3 A. Uh-huh.

4 Q. Is that right?

5 A. It is. Certainly part of it is Medicaid.

6 Q. And the next highest dollar amount program
7 after DSHS Medicaid is higher education.

8 A. Yes.

9 Q. If you could turn to page 26.

10 A. Do we have numbers?

11 THE COURT: Yeah, I think.

12 THE WITNESS: Is that NGFS Functional Area
13 History?

14 BY MS. BASHAW:

15 Q. Yes.

16 A. Okay. It's unnumbered on our -- at least on
17 my copy. 24 is numbered, but -- so I'm assuming it's
18 this?

19 MS. BASHAW: May I approach, Your Honor?

20 THE COURT: You may, yes.

21 MR. AHEARNE: Your Honor, may I approach,
22 too, because I'm confused.

23 THE WITNESS: Is that what you --

24 MS. BASHAW: Boy is that small print.

25 THE WITNESS: This 20 -- oh, this is 25. Oh,

1 there's 26. I'm sorry.

2 MS. BASHAW: Okay.

3 THE WITNESS: They changed it from the bottom
4 to the side.

5 BY MS. BASHAW:

6 Q. Got it. I'll have you actually do some more
7 comparisons like --

8 A. Okay.

9 Q. -- Mr. Ahearne asked you to do.

10 And Exhibit 1376, page 20.

11 A. Page 20.

12 Q. Do you recall answering questions yesterday
13 about page 20?

14 A. Is this the page? No, is page 20 here the --

15 Q. You should have a Bate stamp number at the
16 top right-hand corner of that says RTrEx1376.

17 A. 00020?

18 Q. Right.

19 A. I do not remember anybody asking a question.

20 I don't -- but I may have. I'm glad to refresh my
21 memory.

22 Q. Exhibit 1376 was a final report to the
23 legislature for 1995 --

24 A. Okay.

25 Q. -- on K-12 finance; is that right?

1 A. It is.

2 Q. Okay. And so on page 20, it would indicate
3 that the basic education programs for the period of
4 time that this is reflecting is \$7.9 billion, right?

5 A. Yes.

6 Q. And the total budget was 8.3 billion.

7 A. Yes. This was during the deposition, that
8 was last time. I answered questions, I believe, on
9 this chart during the deposition, not yesterday, but --

10 MS. BASHAW: Has 1376 been offered?

11 MR. AHEARNE: I think it was part of
12 Billings. That's where your confusion is from.

13 MS. BASHAW: All right. I apologize.

14 THE WITNESS: No, that's fine. Thank you.

15 THE CLERK: It's already admitted, counsel.

16 MS. BASHAW: Thank you.

17 BY MS. BASHAW:

18 Q. And if we were to surmise what the time-frame
19 is for that budget for those budget figures, would that
20 seem to you to be, like, the '93 to '95 --

21 A. Yes.

22 Q. -- period? And so then looking at Exhibit
23 211 on page 26, that gives us --

24 A. Okay.

25 Q. And if you see there, under the sort of the

1 bottom middle part of the page, where it says NGFS
2 Functional Area History.

3 A. Yes, uh-huh.

4 Q. Do you see that? And it gives us the amount
5 of funding that's been attributed to various programs
6 including public schools from 1997 to 2009 period.

7 A. Yes.

8 Q. All right. And in 1997, the public school's
9 budget was 8.7, almost \$8.8 billion --

10 A. Uh-huh.

11 Q. -- right? And since then it's grown to, at
12 least that year, \$13.6 billion?

13 A. Uh-huh.

14 Q. Is that yes? You have to actually --

15 A. I'm sorry, yes, it has.

16 Q. Thank you. And then based on Exhibit 615 --

17 A. I don't have 615. I'm sorry.

18 Q. And according to 615, this particular
19 biennium has been the only biennium in which there's
20 been a reduction in funding for public schools; isn't
21 that true?

22 A. Yes.

23 Q. And the reduction came out of the non-basic
24 education programs and the institutions.

25 A. Yes. Although I would argue about that in

1 terms of what is basic education and what is not. But
2 in terms of this chart, that is true.

3 Q. All right. If you would look at page 28 of
4 Exhibit 211. Are you able to --

5 A. Okay.

6 Q. The total budget functional area history,
7 what does that mean?

8 A. That is a chart which devised the budget into
9 what appears to be five categories, including human
10 services, public schools, higher ed, general
11 government, other, and natural resources, and then
12 provides a comparison -- although I do not believe that
13 it is inflation adjusted -- comparison for those
14 categories from 1997 to 2007 or approximately 10 years.

15 Q. So in the public schools row, do you know
16 what the '07-'09 figure representing the 15.1 billion
17 actually refers to compared to page 26? It shows the
18 Near General Fund amount of 13.6, why there's that 2 --
19 almost -- a little less than \$2 billion difference
20 there?

21 A. A significant portion of that is federal
22 stimulus dollars, which are one-time monies as well as
23 additional federal dollars.

24 Q. All right. So in the '07-'09 biennium, there
25 was additional federal money that came in, and it's

1 reflected here in this \$15.1 billion figure.

2 A. I believe that is true.

3 The other categories may also -- I -- I
4 have a notebook -- if it would be helpful, I have a
5 notebook that shows specifically where the \$15.1
6 billion comes from, which I have a graph in my -- I
7 have a graph which shows that off the legislative
8 website. It shows exactly where that \$15.1 billion
9 comes from, which either I could refresh my memory or
10 would be glad to share with the court.

11 Q. It might also be capital projects?

12 A. I do not believe so, but if I walk over
13 there, I can show you specifically where the 15.1
14 billion comes from. That would be up to you or the
15 court.

16 Q. I'm sorry. Where are you telling me you can
17 walk to?

18 A. Right near Mr. Clark is a notebook underneath
19 the -- which I have the specific breakdown of where
20 that \$15.1 billion comes from provided by a legislative
21 resource.

22 MS. BASHAW: I don't have any particular
23 objection to this witness refreshing his memory from
24 that. It's up to Mr. Ahearne.

25 MR. AHEARNE: I have no objection.

1 THE COURT: Representative Priest, you may
2 retrieve your --

3 THE WITNESS: I'm trying to be helpful here.

4 MS. BASHAW: Would it be easier for us to
5 bring it to you?

6 THE WITNESS: It probably would.

7 Now, if my memory is wrong, Your Honor,
8 and it doesn't reflect it, then I'm sorry. I'll
9 apologize in advance, but --

10 THE COURT: Let's see what information you
11 can get.

12 THE WITNESS: (Reviewing.)

13 MS. BASHAW: We have a drumroll for you,
14 Representative Priest.

15 THE WITNESS: (Reviewing.) It is actually
16 15.6 according to this.

17 BY MS. BASHAW:

18 Q. Does that tell you what it is?

19 A. Yes.

20 Q. What is it?

21 A. It is a combination of \$13.3 billion of the
22 budget and \$2.1 billion of federal funds.

23 Q. All right.

24 A. Some of which are one-time money and some of
25 which are not. There is a problem, in general, with

1 education finance and it's a little hard to compare
2 apples and oranges sometimes.

3 Q. If we could turn back to page 43 of Exhibit
4 211.

5 A. 43. Okay.

6 Q. And you still have 615 in your lap there?

7 A. I do.

8 Q. Great. So looking at Exhibit 615, it appears
9 that the education reform figure was increased. The
10 funding for education reform was increased.

11 A. Yes.

12 Q. And does that include things like
13 implementing 2269?

14 A. A small amount, and I can't give you the
15 specific figure.

16 Q. All right. The levy equalization that you
17 were referring to -- and I believe that you mentioned
18 that there was some disconnect, if you will, from the
19 policy and that that had not changed but the Budget Act
20 didn't address the policy decisions --

21 A. Yes.

22 Q. -- behind levies?

23 A. Yes.

24 Q. All right. And that's one of the things that
25 you have to fix, as a legislative body, next session;

1 is that not right?

2 A. I think we fixed it this legislative
3 session. There are others who believe that we should
4 rely more on levies and less on state funding, who
5 believe a fix is necessary. Personally, I think that's
6 contrary to the Constitution so I do not believe it
7 needs to be fixed.

8 Q. So whatever the problem was, the legislature
9 resolved it as it relates to the Appropriations Act and
10 the policy behind it this past session.

11 A. As of -- as of the last day of session, the
12 issue was resolved to protect local school districts.
13 All I could tell you is there have been numerous
14 accounts in the newspapers indicating that there are
15 members of the legislature who want to bring that up,
16 either in October during special session, if a special
17 session is called, or next year.

18 Personally, since we protected local
19 school districts that rely on local effort assistance
20 for their basic education needs, I think we fixed it.

21 Q. And Exhibit 615 is for the upcoming -- or
22 actually we're in it now, the new biennium 2009 to
23 2011.

24 A. Yes.

25 Q. So let me take those from you. You can work

1 on the other one and I'll work on this one.

2 A. Okay.

3 Q. If you could you look at Exhibit 215. I'd
4 like to go over some of the testimony that you gave
5 yesterday around the dropout --

6 A. Yes.

7 Q. Do you recall that?

8 A. I do.

9 Q. Now, I believe that you referenced -- or that
10 this report, the Building Bridges, this was the work
11 group that you were on.

12 A. Yes.

13 Q. And on page one in the Executive Summary
14 section. You -- the report indicates that there were
15 20,122 dropouts in Washington --

16 A. Yes.

17 Q. -- for the '06-'07 period.

18 A. Yes.

19 Q. And I believe you testified that the figure
20 that you got for this to incorporate into the report
21 came from OSPI?

22 A. I'm not sure I said that. I would assume it
23 came from OSPI because it was staffed by the OSPI
24 staff.

25 Q. All right. So what I'd like to do --

1 THE COURT: Which exhibit, counsel?

2 MS. BASHAW: 1630.

3 THE COURT: 1630.

4 BY MS. BASHAW:

5 Q. Do you have Exhibit 1630, Representative
6 Priest?

7 A. I do.

8 Q. And, actually, if you could look at 1630, 31,
9 32, 33, and 34. Do you see all those reports?

10 A. Yes.

11 Q. And let's just add one more to the mix. If
12 you look at 471.

13 A. Yes.

14 Q. Do you recognize 471, 1630 through 1634 as
15 the OSPI reports on graduation and dropout statistics
16 for Washington?

17 A. Yes.

18 Q. And these were some of the reports that, as
19 part of the Building Bridges work group, you would have
20 reviewed and taken into account in writing your report,
21 correct?

22 A. I think the answer is yes. There are a
23 number of work groups because, as you noticed and I
24 explained in testimony yesterday, that the work group
25 was, in fact, not just a couple of legislators. It was

1 experts and people involved in it to the tune, I think,
2 20 or 25 people and there were specific working
3 groups. So my guess is that these were used for
4 similar studies in terms of the final report.

5 MS. BASHAW: Your Honor, we would offer
6 Exhibit 471, 1630, 1631, 1632, 1633 and 1634.

7 THE COURT: Any objections?

8 MR. EMCH: Your Honor, originally we had some
9 objections on the basis of lack of foundation. I think
10 in light of the representative's testimony, we'll
11 withdraw any objection in the Joint Statement of
12 Evidence. However, we also had some objections on the
13 basis that these documents were incomplete. For
14 example, 1631 references to appendices, and none of
15 those appendices are attached to the document.

16 And we know in the course of litigation
17 that sometimes portions of documents are submitted so
18 we don't have an objection strictly on that point, but
19 perhaps we could reserve and see if the appendices
20 become an issue in the testimony.

21 THE COURT: All right. I have cover sheets
22 for appendices but not the actual materials that
23 apparently were attached to the appendices, for
24 example, Appendix D, and then it lists sets of data
25 attached to Appendix D that are not there.

1 So I will conditionally admit the
2 exhibits. 471 is admitted, and I will conditionally
3 admit 1630, 1631, 1632, 1633, and 1634 subject to
4 either supplementation or substitution if requested by
5 petitioners for completion purposes.

6 EXHIBITS ADMITTED

7 MS. BASHAW: That's fine, Your Honor.

8 THE COURT: All right.

9 MR. EMCH: Thank you.

10 BY MS. BASHAW:

11 Q. So I'd like to look first at Exhibit 1630.

12 A. Okay.

13 Q. And 1630 is reporting on the graduation
14 dropout rates for '06-'07.

15 A. Yes.

16 Q. And if you turn to page 14 -- and I'm looking
17 at the real page 14 at the bottom as opposed to the
18 Bate stamp.

19 A. Yes, uh-huh.

20 Q. All right?

21 A. Where it says annual dropout rate by student
22 group?

23 Q. Right. And in table three, that identifies
24 the dropout rates for grades 9 through 12, correct?

25 A. Yes.

1 Q. And do you know in your Building Bridges
2 report in your figure of 20,122 dropouts, what grades
3 that pertains to?

4 A. No.

5 Q. In any event, in Exhibit 1630, for the grades
6 9 through 12, the total dropout figure is 18,044,
7 correct?

8 A. Yes.

9 Q. And then it goes -- to the right of that
10 column, there's a reference to confirmed dropouts,
11 location unknown, and then GED completers.

12 Do you see that?

13 A. I'm sorry. I've lost the -- I went back to
14 that one now.

15 Q. All right.

16 A. What page was it? I'm sorry.

17 Q. Real page 14.

18 A. Okay. Yes.

19 Q. What's the difference between a confirmed
20 dropout and location unknown; do you know?

21 A. It may -- I don't know how OSPI defines
22 location unknown. It may be that a transcript was not
23 requested, but I'm not sure. Hopefully they're not in
24 prison and we wouldn't know what the location was.

25 Q. Because I can find it easily, if you look at

1 Exhibit 1631 --

2 A. Okay.

3 Q. -- and go to real page six. Do you see under
4 the definition section there?

5 A. Yes.

6 Q. It says that "students fall into three broad
7 enrollment categories. Dropouts are students who drop
8 out of school for any reason finishing their schooling
9 without a regular diploma or whose status is unknown
10 because they are no longer enrolled but are not
11 confirmed transfers or dropouts."

12 A. Right.

13 Q. Do you see that? So we really don't know
14 who, as it relates to Exhibit 1630, these 9,589
15 students are and why they're not in school.

16 A. We have a fairly clear understanding given
17 the fact that the standard policy, even between states,
18 is the request for -- or between school districts, a
19 request for your grades and other -- that if there's
20 been no request, the person is not in school. But --

21 Q. That's not a -- I mean, that would be a
22 confirmed transfer if there's a request for records
23 from one school to another, you would know --

24 A. They would not be on the dropout list.

25 Q. So some of the unknowns could simply be even

1 kids who's names have changed because of divorces or
2 situations like that, or parents actually just taking
3 their kids out of school and not asking for a transfer
4 of record or any of that kind of thing.

5 A. I guess.

6 Q. We just don't know, right?

7 A. We know that -- we know that by both national
8 research as well as by our local studies that a
9 significant group of students are dropping out.

10 Q. Sure.

11 A. Whether it's 18,000 or 19,000 becomes
12 academic as opposed to the real world that I live in.
13 Whether it 20,000 versus 17,000, whatever that number
14 is, it is unacceptable.

15 Q. But there's a significant portion of this
16 17,000 or 18,000 that we don't really know why they're
17 not in school.

18 A. I don't know that.

19 Q. Well, that's what --

20 A. What you indicated to me was that this number
21 was a number that some might be unknown and some might
22 not be --

23 Q. In any --

24 A. -- but I just don't know.

25 Q. If you -- looking at Exhibit 1630 again,

1 under the --

2 A. Uh-huh.

3 Q. -- for the '06-'07 period, the total dropout
4 figure is about 5.5 percent. Would you agree with me,
5 or would you like to --

6 A. That is an annual figure.

7 Q. Right. The 18,044 is about 5.5 percent,
8 right?

9 A. That's what they tell me.

10 Q. And so a confirmed dropout is about 2.3
11 percent.

12 A. So -- okay.

13 Q. Under the confirmed columns, does that look
14 right to you? Page 14.

15 A. Page 14 again. Okay. Great.

16 Q. Does that seem right to you about 2.3
17 percent?

18 A. I'm trying to -- (reviewing.) I'm sorry. I
19 don't see that percentage.

20 Q. I'm doing the math.

21 A. Oh, you're doing the math for me then.

22 Q. Yes.

23 A. I'll trust your judgment on the math then.

24 Q. I did bring a calculator if you want to
25 double check it.

1 But that looks like about 2.3 percent.

2 A. Okay.

3 Q. And if you look at Exhibit 1634 --

4 A. Okay.

5 Q. -- for all of the -- on page nine of 1634.

6 A. Okay.

7 Q. And this is for the '02-'03 period.

8 A. Okay.

9 Q. On page nine, real page nine.

10 A. Okay.

11 Q. For all students, the dropout rate in that
12 period was 6.7 percent. Do you see that?

13 A. I do.

14 Q. And if you go back to 1630, the dropout rate,
15 taking into account these unknown students as well, was
16 at 5.5 percent.

17 A. Right.

18 Q. So the trend is going down.

19 A. Now, just, for the record, since we're being
20 very technical here, this does not reflect dropouts
21 that occur in grades 1 through 8 then; is that
22 correct? Since you're providing me with information,
23 we know that dropouts occur in grades 1 through 8 as
24 well, particularly in the 6th, 7th and 8th grades, and
25 so I don't -- and I apologize, I don't have those

1 numbers handy. But maybe if you -- maybe that would
2 help. Because, again, we want to make sure if we're
3 focusing on dropouts, we're not just focusing on grades
4 9 through 12 because, again, the research suggests that
5 decisions are made in grades 6, 7, and 8. If decisions
6 are made in grades 6, 7, and 8 as far as dropouts are
7 concerned, at least some number -- and I'm sorry -- I'm
8 really sorry I don't know what that number is. But at
9 least some dropouts occur in the 7th and 8th grade as
10 well.

11 So we might want to, in this discussion,
12 have someone do some research at OSPI in terms of
13 whether there are any numbers in that, because you're
14 getting very technical with me, and I just want to make
15 sure if we're comparing apples to apples when we talk
16 about dropouts, that we recognize that this is only a
17 four-year calculation. And, so, according to this, at
18 least, we're talking about a minimum of 40,000 students
19 dropping out over the four-year period, because these
20 are one-year totals, based on your 2.3 percent or
21 whatever it is, and then there could be more that are
22 unconfirmed, so it would be more than 40,000. And then
23 this doesn't include 6th, 7th, and 8th that I'm aware
24 of, and that drop out, we also know occurs, although
25 I'm not as knowledgeable about it.

1 Is that kind of where we are on this if
2 we add these numbers up?

3 Q. Well, I appreciate what you're providing --

4 A. I'm just trying to help here in terms of --

5 Q. -- information to the court, but --

6 A. Oh.

7 Q. -- I'm focusing on grades 9 through 12, at
8 least as reported by OSPI?

9 A. As an education layman, I'm merely saying
10 that those of us involved in education on a day-by-day
11 basis, who visit schools on an on-going basis, we also
12 are concerned about dropouts in the 6th, 7th, and 8th
13 grade, know they occur and are trying our best to
14 prevent them from happening. So I'm just trying to --
15 so we're on the same page on this.

16 I just want to make sure this court
17 understands that this is a broader issue than just the
18 numbers. You're talking about -- although the numbers
19 you've listed at 40,000 is frightening -- so I'm just
20 trying to help. I'm sorry.

21 MS. BASHAW: Your Honor, I would move to
22 strike the witness's narrative response to what was a
23 very simple question, which was identifying, based on
24 these reports, the trend going down for grades 9
25 through 12 as it relates to the annual dropout rate.

1 THE COURT: Mr. Ahearne?

2 MR. AHEARNE: Your Honor, she asked him to
3 compare and he answered the question. I think it was
4 responsive.

5 MS. BASHAW: Well, it was a narrative
6 answer. He could have -- if he wanted to point out
7 that he's not sure whether it states lower grades,
8 that's fine. I can stipulate to that. But the rest of
9 it was nonresponsive and I move to strike.

10 THE COURT: Well, I think it was not directly
11 responsive to the question. The question was limited
12 to grades 9 through 12 for the period of '02-'03 to
13 '06-'07, so I will grant the motion to strike. If
14 you'd like to raise this issue in redirect, you may,
15 Mr. Ahearne.

16 The motion to strike is granted.

17 THE WITNESS: I'll try to do better, Your
18 Honor.

19 BY MS. BASHAW:

20 Q. So, Representative Priest, just focusing on
21 grades 9 through 12 that are reported here in OSPI's
22 reports from the '02-'03 period, the trend for the
23 annual dropout rate for those grades has been going
24 down.

25 A. Yes.

1 Q. All right. Now, if we could go back to
2 Exhibit 215.

3 A. Okay.

4 Q. And, again, back on page one. Do you see a
5 reference there in the second paragraph to the
6 legislature directing the Building Bridges work group
7 out of House Bill 1573?

8 A. Yes.

9 Q. All right. Do you have exhibit -- okay. So
10 if you could you turn, I apologize, to Exhibit 1521.

11 A. Okay. Okay.

12 Q. So looking at Exhibit 1521, this was the
13 enacting legislation for House Bill 1573. 1573 then
14 led to the Building Bridges report.

15 A. Right. Sponsored by Representative Sullivan
16 and myself.

17 Q. You were one of the prime sponsors.

18 A. Along with Representative Sullivan.

19 MS. BASHAW: Your Honor, we would offer 1521
20 if it's not been offered already.

21 THE COURT: Exhibit 1521 has been offered.

22 MR. EMCH: No objection.

23 THE COURT: 1521 is admitted.

24 EXHIBIT ADMITTED

25 BY MS. BASHAW:

1 Q. If you could turn to page one of Exhibit
2 1521.

3 A. Okay.

4 Q. Down under the -- essentially starting at
5 line 15.

6 A. Okay.

7 Q. "The legislature further finds that helping
8 all students be successful in school requires active
9 participation in coordinating services from schools,
10 parents, and other stakeholders and agencies in the
11 local community."

12 Do you see that?

13 A. Yes, uh-huh.

14 Q. It goes on to say, "The legislature finds
15 that existing resources to vulnerable youth are used
16 more efficiently and effectively when there is
17 significant coordination across local and state
18 entities."

19 Do you see that?

20 A. Yes.

21 Q. And if you go back to Exhibit 215 --

22 A. Okay.

23 Q. -- at the bottom of page one.

24 A. Okay.

25 Q. It states, "The Building Bridges report

1 recognized that policy makers need to identify the
2 dropout issue as a priority by establishing a goal for
3 stated agencies and local communities to work towards."

4 Do you see that?

5 A. Okay. Uh-huh.

6 Q. It also goes on to say, "Partnerships across
7 separately-funded systems are needed to counter the
8 multiple factors that cause students to drop out of
9 school and to engage and educate students who dropped
10 out."

11 Do you see that?

12 A. Yes.

13 Q. All right. So separately-funded systems,
14 that would be programs funded by the state other than K
15 through 12, right?

16 A. Particularly --

17 Q. That would include those?

18 A. The answer is yes. It's particularly
19 important in the area of dropout retrieval, because
20 many times those students, once they've left school,
21 have other needs, whether it's clothing, whether it's
22 medical, and other things.

23 Q. All right.

24 A. And so once you've lost them, we have found
25 that the cost is extraordinarily -- it's much higher

1 than recapturing them. Once you've lost them, it's
2 much higher to recapture because it's, as you suggest
3 in this language, that there's multiple services that
4 are necessary than it is to keep them in school in the
5 first place.

6 Q. If you would go on to page two of Exhibit
7 215. The last paragraph there states, "Effective
8 dropout prevention and retrieval efforts must be part
9 of a sustained, well-planned system in each local
10 school district and community."

11 Do you see that?

12 A. I do.

13 Q. It goes on to list the types of services that
14 would be necessary to help affect the dropout rate,
15 right?

16 A. Yes.

17 Q. Okay. And this is consistent with Exhibit
18 1521, the bill, that also acknowledges that addressing
19 the dropout rate problem takes into account other state
20 agencies in addition to K-12.

21 A. Yes.

22 Q. And, in fact, in Exhibit 215, you list some
23 of those other state agencies starting on page 27.

24 A. Yes.

25 Q. So these are some of the other state programs

1 that provide support for at-risk youth who may -- who
2 are at risk for dropping out.

3 A. Yes, although it's unclear whether or not the
4 amounts spent there are specifically for the purpose of
5 either dropout prevention or retrieval.

6 For example, it says Child Protective
7 Services, \$84.5 million. I assume that that is the
8 entire Child Protective Services budget, which some may
9 be allocated -- which I do not know -- to that. But I
10 assume that that dollar amount and the dollar amount of
11 all the rest of these dollar amounts are used partially
12 for one purpose and partially for another depending on
13 the mandates of legislation on responsibilities on
14 those departments.

15 Q. Sure. And I appreciate the clarification.
16 We're not looking here for the particular dollar
17 amount. But, in any event, these other programs are
18 also important and need funding in order to help
19 address a dropout issue besides just K through 12
20 funding, correct?

21 A. Yes. I think that's why the Basic Education
22 Finance Task Force focused on dropout prevention by
23 early learning and additional dollars for K-4 as
24 opposed to focusing on whether or not we needed
25 additional dollars with DSHS or some other once the

1 damage was done.

2 Q. Okay. If you look at page 11 of Exhibit
3 211 -- or, excuse me, 215 under the bold heading there
4 that says "A Community-Wide Issue."

5 Do you see that?

6 A. Yes.

7 Q. And the Building Bridges work group that you
8 were on states that "the role of reducing the number of
9 public school dropouts is not solely that of the K
10 through 12 school system."

11 A. Absolutely.

12 Q. And then in the paragraph below, it indicates
13 that "there are nine state agencies that provide K-6
14 programs that support at-risk youth in Washington."

15 A. Uh-huh.

16 Q. Now, as part of House Bill 1573, the
17 legislature also intended to award grants around the
18 state to try and address the dropout issue; is that
19 right?

20 A. Yes, uh-huh.

21 Q. All right. So if you look at Exhibit 1521.
22 Have I got you too overloaded here?

23 A. I just have to get to it. Okay. It's right
24 here.

25 Q. Again, on page two under new section two.

1 A. Uh-huh.

2 Q. I think you referenced this yesterday that
3 sometimes the legislature puts into legislation the
4 phrase "subject to the availability of funds
5 appropriated for this purpose."

6 A. Yes.

7 Q. This would be one of those examples.

8 A. Yes.

9 Q. Okay. But it goes on to say that "The Office
10 of Superintendent of Public Instruction shall create a
11 grant program and award grants to local partnerships,
12 schools, families, and communities to begin the phasing
13 in of a statewide comprehensive dropout prevention
14 intervention and retrieval system."

15 A. Yes.

16 Q. And it goes on to say that "This program
17 shall be known as the Building Bridges Program."

18 A. Yes.

19 Q. And this is what you testified about
20 yesterday.

21 A. \$5 million was put in the budget for this
22 program. In the last budget that amount was cut to
23 \$2.5 million in this budget.

24 Q. And that was going to be my next point. The
25 legislature did fund this to the tune of \$5 million.

1 A. And then reduced it in this budget. I'm
2 sorry. I anticipated your question. And then reduced
3 it from 5 million to 2.5 million in this budget, which
4 we just passed, which is part of the evidence.

5 Q. All right. So this bill was passed in '07 --

6 A. Uh-huh.

7 Q. -- right? So for the '07-'09 biennium, the
8 legislature had appropriated \$5 million.

9 A. Yes.

10 Q. Okay. And that's over and above the basic
11 education program dollars that we looked at on the
12 other exhibits here.

13 A. Yes. Although I did testify and make a
14 speech on the House Floor, without making a narrative,
15 that it was ironic that it would spend \$13.3 billion on
16 the 70 percent that we have in school, and 5 million on
17 the ones that we don't.

18 Q. Okay.

19 A. Sorry.

20 MS. BASHAW: Your Honor, I would move to
21 strike. Representative Priest's comments on the Floor
22 are not relevant and there was no question pending.

23 THE COURT: There was no question pending.
24 The motion to strike is granted.

25 We are at the noon hour, Ms. Bashaw.

1 Counsel, if everyone's available,
2 Representative Priest, I'd like to start the afternoon
3 session at 1:15.

4 So we'll be in recess until 1:15 this
5 afternoon.

6 (Noon recess.)

7 --oOo--

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1 SEATTLE, WASHINGTON
2 WEDNESDAY, SEPTEMBER 9, 2009
3 AFTERNOON SESSION - 1:15 P.M.

4 --oOo--

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

7 Ms. Bashaw, if you would like to
8 continue with your cross-examination of Representative
9 Priest at this time.

10 MS. BASHAW: Thank you, Your Honor.

11 BY MS. BASHAW:

12 Q. Do you still have Exhibit 215 there?

13 A. No.

14 Q. No. There you go.

15 Could you turn to page five of Exhibit
16 215? Again, under the background section, the first
17 paragraph, the legislative overview.

18 Do you see that section at the top of
19 the page?

20 A. Uh-huh.

21 Q. The last couple of sentences says that "Funds
22 appropriated for the grants programs," so part of the 5
23 million that you referenced earlier?

24 A. Yes.

25 Q. "The legislation calls for one grant to be

1 awarded to First Place School for a two-year
2 demonstration project. First Place School will submit
3 a report to the legislature by December 1 of 2009."

4 Do you see that?

5 A. Yes.

6 Q. What is First Place School?

7 A. It is a school -- at least one of their
8 facilities is up here in Seattle, and it works with
9 minorities and others students. Particularly from
10 low-income backgrounds. It does provide similar
11 learning, I believe, as well as their educational
12 opportunities.

13 Q. And the report isn't due until basically the
14 end of this year, correct?

15 A. Yes.

16 Q. So I think I can take that from you for a
17 second.

18 Just quickly, I believe in your
19 testimony yesterday and this morning you referenced
20 that the state has 19 credits as a graduation
21 requirement.

22 A. Yes.

23 Q. Isn't it true that it's actually 20 credits
24 now, at least starting with the 2013 class, they have
25 to have 20 credits to graduate?

1 A. It may be.

2 Q. Are you aware that the Board of Education
3 adopted regulations to add a second Algebra, Algebra
4 Two requirement?

5 A. I know there was discussion. I have not seen
6 the final decision.

7 Q. All right. If you could you look at Exhibit
8 319.

9 A. (Reviewing.)

10 Q. Showing you what's Exhibit 319,
11 Representative Priest. This is a document that's off
12 the State Board of Education's website.

13 A. Okay.

14 Q. Have you looked at those kinds of documents
15 before from --

16 A. No.

17 Q. No. If you look down in paragraph -- where
18 it's numbered paragraph four on the first page.

19 A. Yes. That's the 19 credits that I referred
20 to.

21 Q. All right. And it goes on to say in parens
22 "20 credits for the class of 2013 and beyond."

23 Do you see that?

24 A. I do.

25 Q. And if you go in this packet -- in this

1 exhibit to -- essentially it's about the fifth page
2 from the end.

3 A. I'm sorry. In the same exhibit?

4 Q. Yeah, in the same exhibit, fifth page from
5 the end.

6 A. Okay.

7 Q. And this identifies Washington Administrative
8 Code Regulation 180-51-061.

9 Do you see that?

10 A. Yes.

11 Q. And under subparagraph (1), subparagraph (b),
12 there's a reference there to two mathematics credits.

13 A. Yes.

14 Q. Do you see that?

15 A. Yes.

16 Q. And right under that reference to the
17 regulation, it says "These are the credits that are
18 required through June 30th of 2009."

19 Do you see that? Back up at the top for
20 students entering the 9th grade as of July 1 --

21 A. Yes, uh-huh.

22 Q. And if you flip two more pages. You see up
23 there at the top it says "Students entering the 9th
24 grade on or after July 1, 2009 --"

25 A. Yes.

1 Q. And it goes on to say "-- the credit shall
2 total 20 as listed below."

3 Do you see that?

4 A. I do.

5 Q. All right. And if you go again to
6 subparagraph (1,) subparagraph (b), it indicates that
7 three mathematics credits are required.

8 A. That's right. When we ended the math WASL
9 because of the 50 percent approval rate -- or pass
10 rate, we required additional math courses because the
11 past rate was so low that we did not want to lose those
12 students in terms of their mathematics ability.

13 Q. All right.

14 A. That was part of -- its -- I only say that
15 because it's part of a broader decision that, up until
16 then, the math WASL was a requirement for graduation
17 but the pass rate of the math WASL was so low that,
18 once we decided to delay the math WASL as a graduation
19 requirement, passage of it, then we added additional
20 math courses.

21 MS. BASHAW: Your Honor, respondent's would
22 offer Trial Exhibit 319.

23 THE COURT: 319 is offered.

24 MR. EMCH: No objection to 319, Your Honor.

25 THE COURT: 1319 is admitted.

1 EXHIBIT ADMITTED

2 BY MS. BASHAW:

3 Q. What range of numbers do you have there?

4 A. I have about 300 to 348, and then I also have
5 460 to 489.

6 Q. Okay. That's not the one that I want.

7 THE COURT: Which Exhibit number, counsel?

8 MS. BASHAW: 357 I believe.

9 BY MS. BASHAW:

10 Q. Representative Priest, I believe you were
11 providing testimony about the transportation issues
12 with K-12 funding.

13 A. This -- the document that you've given me is
14 one study by the Joint Legislative Audit Review
15 Committee and then there was an additional study
16 subsequent to that study.

17 Q. All right. And Exhibit 357 is the study that
18 identified the underfunding of transportation that you
19 testified about earlier.

20 A. Yes.

21 Q. All right. And if you could look at Exhibit
22 356. Have you seen 356 before?

23 A. Yes.

24 Q. Is this --

25 A. Although it's been a while. It's three years

1 ago.

2 Q. Is this the other study that you were
3 referring to?

4 A. No, this was the -- this is the initial
5 study. This is the Joint Legislative Audit Review
6 Committee study, or the JLARC study. I hope that's
7 right. Did you say -- oh, 356. I'm sorry. I was
8 looking at 357.

9 Q. So 357 was the initial study.

10 A. Yes, and 356 is the subsequent study.

11 Q. And these were the two studies that you were
12 referring to.

13 A. Yes.

14 Q. All right. And 356, the date of that report
15 is November 21st, 2008.

16 A. Yes.

17 Q. All right. And in the binder that I put on
18 your little stand there --

19 A. Yes.

20 Q. -- if you could turn to Exhibit 1317.

21 Do you have Exhibit 1317?

22 A. I do.

23 Q. All right. And is Exhibit 1317 the
24 legislation -- or some of the legislation that resulted
25 from the report that was identified in Trial Exhibit

1 357?

2 A. If you'd give me just two seconds to just
3 quickly --

4 Q. Sure.

5 A. (Reviewing.) I believe it is.

6 Q. All right. And so Exhibit 357, that report
7 from November of 2006 identified the shortfalls, the
8 underfunding of transportation, and, as a result of
9 that, the legislature directed in Exhibit 1317, which
10 is Senate Bill 5114, correct?

11 A. Yes.

12 Q. The legislature directed that OS -- or the
13 Office of Financial Management with OSPI contract for
14 the development of two options for people
15 transportation funding methodology.

16 Do you see that on the second page of
17 Exhibit 1317?

18 A. Yes. Yes.

19 Q. And that's in the first full paragraph,
20 subparagraph (1) there?

21 A. Yes.

22 Q. And then Trial Exhibit 356 that would be the
23 report that, in fact, identifies two options for the
24 funding of the methodology of transportation; is that
25 correct?

1 A. Yes.

2 Q. All right.

3 A. The importance of that legislation, by the
4 way, was to address the issue of making sure that the
5 school-related versus football, basketball, other none
6 -- that's why that bill was -- that issue had been not
7 addressed through the legislature's satisfaction in the
8 JLARC study.

9 Q. And that's the amended or added language in
10 section one that directs OSPI to require the district
11 to separate their costs --

12 A. Yes.

13 Q. -- correct?

14 A. Yes.

15 Q. So in Trial Exhibit 356 --

16 A. 356. I'm sorry.

17 Q. That's all right.

18 A. I went to 358, which is another copy of it
19 but a different approach.

20 Q. So in Trial Exhibit 356 --

21 MS. BASHAW: And, actually, Your Honor, if I
22 haven't, I would offer 356.

23 THE COURT: 356 is offered.

24 MR. EMCH: No objection, Your Honor.

25 THE COURT: 356 is admitted.

1 EXHIBIT ADMITTED

2 MS. BASHAW: And I'd also offer 1317.

3 MR. EMCH: No objection, Your Honor.

4 THE COURT: 1317 is admitted.

5 EXHIBIT ADMITTED

6 BY MS. BASHAW:

7 Q. All right. If we go to numeric page two of
8 Exhibit 356. Okay? And you see the reference there to
9 option one and option two?

10 A. Yes.

11 Q. And these are the two methodologies that were
12 adopted by the committee that was charged with figuring
13 out two possible methodologies, correct?

14 A. Uh-huh.

15 Q. Is that yes?

16 A. Oh, I'm just catching -- I'm sorry. I'm just
17 catching up. I was just quickly reading what option
18 one and option two were.

19 Q. Sure. Please take your -- whatever time you
20 need to refresh your memory.

21 A. I don't want to delay the court. I'm going
22 to say yes because I think that's --

23 THE COURT: Take your time to do what you
24 need, to look at.

25 THE WITNESS: (Reviewing.) Yes.

1 BY MS. BASHAW:

2 Q. All right. And I'm not going to get into all
3 the machinations, if you will, as to what each of these
4 options actually entail. But the thing I want to
5 identify is that under the expected cost model, do you
6 see there that this was a methodology-based,
7 essentially, a regression analysis?

8 A. Yes.

9 Q. All right. And so if you go to the next
10 page, page three, below the boxed area it says,
11 "Regardless of which funding option the state
12 ultimately selects, it will be important to address
13 several ancillary functions and systems. We suggest
14 that the state put the new formula selected by the
15 legislature in place with the start of the 2011 and
16 2013 biennium."

17 A. Yes.

18 Q. Is that the recommendation out of this
19 report?

20 A. Yes.

21 Q. And if you'd go to page 54, at the very
22 bottom it says "Time is needed for some school
23 districts to make necessary operational changes."

24 A. Yes.

25 Q. "The question naturally arises as to why a

1 three- or two- or five-year buffer period should be
2 provided. The reason is that time is needed for school
3 districts to evaluate why their costs are higher than
4 expected, develop an improvement plan, and to put the
5 necessary changes in place."

6 Do you see that?

7 A. Uh-huh. I'm sorry. Which page?

8 Q. Oh, I'm sorry. I thought you were -- 54.

9 A. Yes, uh-huh.

10 Q. And if you go back to Exhibit 357 --

11 A. All right.

12 Q. -- on page 31. Are you with me?

13 A. I am.

14 Q. All right. Under the conclusion section. So
15 even before the work group that -- or the consultants
16 who developed the two methodologies rendered the
17 opinions that we just read, JLARC itself also cautioned
18 the legislature to "carefully consider how it will
19 allocate funding for pupil transportation before any
20 decisions are made to provide additional funding to
21 districts."

22 A. Uh-huh.

23 Q. "JLARC does not --" and this is in bold, is
24 it not?

25 A. Uh-huh.

1 Q. "JLARC does not recommend simply increasing
2 the allocation rate used in the current funding method
3 to add approximately 100 million per year in new
4 funding. Doing so is likely to exacerbate the
5 disparities in the funding method and cause some
6 districts, that appear to be fully funded, to have an
7 even greater amount of funding without bringing
8 revenues up to this statistically-expected costs for
9 the other districts."

10 Do you see that?

11 A. Uh-huh.

12 Q. So the recommendation was not to just give
13 them the \$100 million that you testified to.

14 A. Actually -- actually what I testified to was
15 the fact that the JLARC study said that, in fact, we
16 were underfunding transportation, and in the document
17 that you were nice enough to -- in number 356, it
18 indicates in the box above the paragraph that you
19 read -- or asked me to look at the "regardless of which
20 funding option the state ultimately selects," it
21 indicates that under the unit cost model we are almost
22 \$80 million under, and under the expected cost model
23 per anum we were over 100 million. And that was before
24 the price of fuel, I believe, although you might have
25 to check about the price of fuel.

1 The bottom line is, if were selective in
2 the paragraph we read, it's important to recognize that
3 this is a study presentation. If you're a school
4 superintendent, who is going to make decisions about
5 whether or not to have teachers in the classroom
6 because you were subsidizing with a levy, this amount
7 of money, then, for those of us involved in this, we
8 only ask that we read the entire document as opposed to
9 merely a particular paragraph.

10 And so I would -- I would underscore
11 that, while you are correct in reading the "regardless"
12 starting on page three, in the box right above it,
13 "using either the unit cost model or the expected cost
14 model," that indicates a significant underfunding of
15 transportation, which is being currently subsidized by
16 revenues which is not dependable and regular.

17 MS. BASHAW: Your Honor, I would move to
18 strike the response. The narrative is nonresponsive to
19 my question.

20 THE COURT: I'm going to allow the answer to
21 stand. The motion to strike is denied.

22 BY MS. BASHAW:

23 Q. Okay. If we could look at Exhibit 239.

24 A. Thank you.

25 Q. And if you could go to page 41 of Exhibit

1 239. Exhibit 239 is House Bill 2261.

2 A. (Reviewing.)

3 Q. Are you with me?

4 A. Uh-huh.

5 Q. All right. Under section 304, the
6 legislature amended RCW 28A.160.150 to require that
7 "Transportation and transportation services to and from
8 school, the funds allocated for those purposes, shall
9 be in addition to the basic allocation."

10 Do you see that?

11 A. Yes.

12 Q. And if you go to page 46 under new section
13 311, "The legislature adopted the provision that OSPI
14 shall phase in the implementation of a distribution
15 formula under this chapter for allocating state funds
16 to school districts for the transportation of students
17 to and from school."

18 Do you see that?

19 A. I do.

20 Q. And it says, "The phase in shall be according
21 to the implementation schedule adopted by the
22 legislature and shall begin no later than 2013 to 14."

23 A. Yes.

24 Q. Do you see that?

25 A. Uh-huh.

1 Q. And if you go to the next page, 47. This
2 would now be under section 311, again, under sub (1),
3 sub (b), "The legislature adopted the regression
4 analysis model" that we talked about from Exhibit 357,
5 correct?

6 A. I'm sorry.

7 Q. At the top of page 47.

8 A. Oh, yes. Yes. Sorry. I was looking --
9 yes.

10 Q. Using the regression analysis. And that was
11 the expected cost model.

12 A. Yes.

13 Q. And do you have an understanding that the
14 expected cost model is actually more generous to the
15 districts than the unit cost model?

16 A. It is. I don't know if generous. It may be
17 more reflective of true district costs.

18 Q. All right.

19 A. I don't know if generous is the term we're
20 looking for.

21 Q. It's more reflective of the actual costs.

22 A. Yes.

23 Q. Now, I'd like to go back to Exhibit 206.
24 Would that be in the binder that you have?

25 A. No. Oh, I'm sorry. Just a second. No.

1 Q. It's not?

2 A. No, I have 231 and some other ones. Thank
3 you.

4 Q. If you could turn to the page with the last
5 three digits 111. 111.

6 A. Okay.

7 Q. Now, Exhibit 206 was the PowerPoint
8 presentation that you made to the task force.

9 A. Yes.

10 Q. Or you and the other representatives.

11 A. Representative Hunter, uh-huh.

12 Q. All right. And this indicates on page 111
13 that this is just one proposal being made to the task
14 force as it looked to adopting a final plan that would
15 include or incorporate good ideas from several
16 proposals.

17 A. Yes.

18 Q. And if we go to the next page, one of the key
19 principles that you wanted to articulate to the task
20 force was flexibility for the districts.

21 Do you see that?

22 A. Am I on page 112 now?

23 Q. Yes.

24 A. Yes, uh-huh, flexibility, uh-huh.

25 Q. And flexibility to allow the districts to

1 make decisions in the best interests of their students.

2 A. Yes.

3 Q. And how would that flexibility manifest
4 itself?

5 A. Under the current system, we find a balance
6 under our allocation method versus the requirements we
7 have at school districts. And that the allocation
8 method, for example, the money is sent out, and then
9 local school districts have the local decision making
10 to decide how that money is spent.

11 We have a long history of local control
12 here in our state.

13 At the same time, when part and parcel
14 to the flexibility also required transparency, and
15 that's why a formula was put together or an exhibit
16 which indicated in its most simplest form is that on a
17 school-by-school basis, teachers, parents, classified
18 staff, school board, and others would know how the
19 money was allocated out to a particular school. And
20 then they would be able to ask questions of the local
21 school board as to why the school classrooms, for
22 example, didn't look like the allocation.

23 As an example, if we said that all
24 K-4 -- we were going to allocate on a 1 to 15 student
25 basis, one certificated teacher per 15, and we were

1 also in that same school going to provide one security
2 officer, which we don't do now, we just send the money
3 out in block. The parents would be able to look and
4 say, my gosh, there are 20 people in our classroom, how
5 come, and the school district could then respond we've
6 had trouble in that school and so we've hired two
7 officers or two security officers, and, as a result of
8 that, we had to have a slightly larger class size.

9 Under the current allocation model, that
10 type of clarity and transparency is not available. So
11 the idea was to provide flexibility to local school
12 districts, which maintains a tradition. And, in fact,
13 when we have done categorical grant programs in the
14 budget process, unfortunately, those categorical grant
15 programs are funded one year and then not another. And
16 so the idea was to send money out as we have for basic
17 education, try to provide additional clarity and
18 transparency to the people who are involved in the
19 local school district and, thus, have the best of both
20 worlds.

21 Q. And there's --

22 A. So that's what that was about.

23 Q. And there's flexibility in the system now. I
24 mean, there's local control now, and not all of the
25 funds that the districts are receiving are categorical

1 funds, correct?

2 A. Correct.

3 Q. All right. And so you want to encourage that
4 approach going forward, the flexibility.

5 A. We wanted to encourage flexibility and
6 accountability.

7 Q. And transparency.

8 A. And transparency.

9 Q. All right. So on the next page, 113 under
10 your five components, what does changing teaching
11 mean? The short answer.

12 A. Changing teaching meant that we had to do, we
13 believed, the following: Number one, we needed early
14 intervention, and, so, as a result of that, we needed
15 to ensure that students who needed help the most had
16 teachers who were trained to do that.

17 Second of all, when it came to changing
18 teaching, we also felt that it was extraordinarily
19 important that, again, as I've mentioned I think four
20 hours ago, the professional development was very
21 important and particularly in the classroom or in the
22 building.

23 Finally, and some of these issues were
24 controversial in this proposal, we recommended that we
25 look at some of the ways that we actually fund our

1 teachers today. For those of us who believed that we
2 are significantly underfunding our teachers in the
3 schools, we also made recommendations that we might
4 consider a couple of things, and that would include the
5 funding -- changing the teacher funding schedule to
6 base it more on a performance based. Not performance
7 based like you read in the newspaper, which tends to be
8 very vitriolic and sometimes very emotional, i.e. the
9 health care debate, but more ensuring that teachers
10 when we paid them more were given the incentive to
11 improve the quality of their performance through
12 additional training as well as additional experience.

13 The flipside of that was that we also
14 called into question the issue of whether there should
15 be additional compensation as we do today for the
16 masters program, particularly where the masters degree
17 was not in the area of the teacher's area of expertise
18 that they were teaching.

19 So when you talk about changing teachers
20 -- I'm sorry about the long answer, but it wasn't a
21 two-sentence answer. It was a very complex review of
22 how do we ensure that our teachers are compensated in a
23 market value, that they get the training they deserve
24 and that we have sufficient teachers in the areas that
25 are important to us, which are the kids we worry about

1 the most.

2 Q. So it meant a number of things, one of which
3 was dealing with this disparity in salary, the issue
4 you testified about early on.

5 A. That is understood number three, equity, as
6 opposed to number two, changing teaching.

7 Q. All right. So --

8 A. The equity issue is the fact that we are not
9 allocating funds today on an equitable basis.

10 Q. So if you flip to page 116.

11 A. Page 116. Yes.

12 Q. You're discussing something as it relates to
13 changing teaching around something called the growth
14 model.

15 Do you see that in the first bullet?

16 A. Yes.

17 Q. And then in the second bullet you say
18 "provide current teachers with --"

19 A. Well, I'm sorry. It wasn't teaching. It
20 was -- when you talk about the growth model, you're
21 talking about, as you can read there, a building-based
22 approach, and so teaching was one component. But the
23 work of classified staff, all those groups that are
24 necessary, including principals, in a building that are
25 necessary for successful. We know that success in a

1 building only comes when you have a high-quality
2 principal working with engaged, high quality teachers,
3 as well as classified staff that also work as either in
4 the classroom or doing other jobs.

5 And so point one was an idea to look at
6 the idea of building-based incentives where everyone
7 was working together. So that's not just teaching.
8 That was a broader concept in number one.

9 Number two was directed to teachers.

10 Q. All right. So let's focus on the second
11 bullet --

12 A. Okay.

13 Q. -- because you make reference to something
14 that you were calling financially attractive, and then
15 you make reference to a 10-year deadline for
16 eliminating the old system.

17 A. Yes.

18 Q. So my first question is, the brief answer,
19 what is financially attractive? What did you mean by
20 that.

21 A. Okay.

22 Q. What were you referring to?

23 A. Okay. According to research by the
24 University of Washington, the SAT scores of teachers
25 have, over the last 20 years, declined significantly.

1 That's not surprising because of the fact that both
2 women and minorities have other options that they may
3 not have had 20 years ago, so there's more competition
4 in the general job marketplace for quality individuals
5 no matter what their chosen profession.

6 As a result of that, we recognized that,
7 to be competitive as far as the quality of teachers are
8 concerned, not surprising if you're using the market as
9 a guide, you would have to look at other professions in
10 a particular area who are competing for the same
11 individual, and you would have to, through some type of
12 analysis -- and there are groups, and we've seen that
13 already -- we've seen that -- that you have to figure
14 out what the market is to attract the high-quality
15 people you're looking for.

16 That's almost kind of 101. There's no
17 question that -- there is no question that there are
18 teachers who are passionate and outstandingly effective
19 under the current model, but, under the longer term,
20 given what's going on in the marketplace, we believed
21 very strongly that we ought to increase salaries,
22 particularly for starting salaries. And, as I said,
23 that's reflected in studies from around the world.

24 And so that's what this was about.

25 Q. All right. So the 10-year deadline for

1 eliminating the old system, what old system are you
2 referring to?

3 A. The current schedule.

4 Q. All right. So you proposed to the task force
5 that we identify a 10-year period in which to eliminate
6 that particular salary schedule.

7 A. It was one of the worst decisions we ever
8 made. And the reason it was a bad decision --

9 Q. But the point of my question was that you had
10 picked a phase period, if you will, a phasing period of
11 10 years in which to get rid of that system -- that old
12 system.

13 A. The idea was that all new teachers would go
14 under the new system and that other teachers who, for
15 example, had spent time to get their masters, and,
16 thus, get additional dollars on their salaries would
17 maintain that. And the hope was you would try, try up
18 to 10 years not to run two different systems as far as
19 payments were concerned. The idea was to begin
20 immediately in terms of new teachers and hope that you
21 would be making it financially attractive, the program,
22 that existing teachers would want to do it as well.

23 We recognized, however, that if you were
24 at the top of the grid and that you also had your
25 masters, for example, that the new system, however

1 finally defined, might not pay you as much. And, so,
2 the idea was that those teachers, we hoped, after 10
3 years would have retired or other things, because we do
4 have an aging teacher force.

5 So the 10 years was not, we need to wait
6 for 10 years before we do something. We've already
7 done that since 1994. We've waited the 15 years. The
8 idea was to not penalize teachers, existing teachers,
9 by requiring them to be on a new system, which, because
10 of their longevity or because of their educational
11 experience would be penalized as a result of it.

12 Q. And that's part of the reason why we have the
13 system today; is it not? I mean, back when the salary
14 schedule was created, we talked about the districts or
15 the teachers who wanted to be grandfathered in who were
16 already at a higher salary and they didn't want their
17 salary lowered.

18 A. That's true.

19 Q. So if we look at page 114.

20 A. Although it's a flipside in this case
21 because -- that's fine. Never mind.

22 Q. Page 114.

23 A. So we're going backwards?

24 Q. We are flipping backwards.

25 A. Okay.

1 Q. So you also supported the establishment of
2 CORE 24.

3 A. Yes.

4 Q. And then if you go to page 119 under
5 resources, you were proposing that a phase-in period of
6 six years be applied to providing additional resources.

7 A. And that 50 percent of growth in the General
8 Fund would go to that. That second provision was taken
9 out of House Bill 2261. It was in the House version
10 and it was taken out of the final version. So the
11 commitment we made in the House Bill to provide the 50
12 percent growth over the top -- 50 percent of the
13 General Fund growth for K-12 education was taken out of
14 the final legislation, so that commitment was made.

15 Q. All right. But you proposed that, in time,
16 we return it to this 50 percent.

17 A. We wanted to do it immediately.

18 Q. Well, but your proposal here says in time,
19 does it not?

20 A. What this says is return to 50 percent of the
21 General Fund because we are significantly below that.

22 When you showed the -- when you provided
23 the graphs earlier today, you showed on those same
24 graphs, if you actually follow from 1997 to 2008, that
25 the percentage of K-12 education, even though the --

1 even though the demands because of either federal or
2 state requirements has increased, the percentage of the
3 overall budget has, in fact, decreased to below 50
4 percent.

5 Q. In any event, higher education with K-12 is
6 51 percent of the budget.

7 A. It doesn't matter under the Constitution.

8 Q. Am I right? It's 51 percent?

9 A. Yes.

10 Q. And your exhibit here, your PowerPoint
11 proposes that in time it get returned to 50 percent for
12 K through 12.

13 A. Right.

14 Q. All right. You were one of the prime
15 sponsors of House Bill 2261.

16 A. I was.

17 Q. And you also believe that despite the things
18 that didn't get into House Bill 2261, it was a dramatic
19 effort at reform for education in the state, was it
20 not?

21 A. No. Would you like me to elaborate?

22 Q. No, not now. You'll get your chance.

23 A. I've just -- I agreed to help.

24 Q. Isn't it true that you believe that, because
25 even though not everyone got what they wanted, the

1 sticking point, the things that weren't in there, do
2 not outweigh the great strides that 2261 takes?
3 Would you believe that?

4 A. I believe that, from a policy standpoint,
5 2261 was a very important piece of legislation. I
6 believe that its basic principles that we should move
7 the CORE 24 is very important. I believe that all-day
8 kindergarten should be included in the definition of
9 basic education as opposed to merely partial day. I
10 believe that there should be additional transportation
11 funding. I believe that if you're going to do CORE 24,
12 that you -- it is very, very important that you also
13 allocate additional dollars in order to see that it
14 happens because another unfunded mandate in our school
15 districts is unaccepted. I believe that transparency
16 is very important.

17 The debate we're having here today,
18 though, when you talk about education funding is, to
19 some extent, 2261 helps provide direction for the
20 future. What it does not do in its language or
21 eventually what it does not do today, is it does not
22 address the underfunding that is occurring under the
23 current efforts to meet the requirements of 1209. It
24 does not meet the issue of salary equity for
25 classified. It does not meet the issue of

1 transportation. It does not meet the issue of salary
2 equity for certificated staff. It does not meet the
3 issue of NERC's that we are funding books on a 16-year
4 level when school districts are being forced -- it does
5 not meet the issue of \$1.3 billion.

6 So I do not want to underestimate the
7 importance of having direction, just like I think 1209
8 was extraordinarily important as a goal that we are
9 committed to live by. At the same time, 2261, because
10 of its lack of financial commitment, has the same
11 Achilles' heel that we've had with this debate on
12 1209.

13 And I say that as a sponsor of 2261, a
14 proud sponsor of 2261.

15 Q. Well, as a legislator, you're going to make
16 every effort to see to it that the things that are in
17 2261 are fully implemented, are you not?

18 A. Absolutely.

19 Q. All right. Do you have Exhibit 222 in your
20 stack there?

21 A. I do.

22 Q. And Exhibit 222 is one of the releases by the
23 House of Representatives --

24 A. Yes.

25 Q. -- regarding 2261, is it not?

1 A. Yes.

2 Q. All right. And in this release by the House
3 of Representatives, in the middle of the page there, it
4 says that "2261 was a bipartisan compromised proposal
5 that combined elements of the original measure, House
6 Bill 1410, and recommendations from public testimony."

7 A. Yes.

8 Q. "The final measure includes many of the
9 Finance Task Force recommendations, including the
10 updated definition of basic education in the phase-in
11 of a restructured funding formula for K through 12."

12 A. Yes. But this was -- this press release went
13 out after the House bill was passed, not the final
14 passage of House Bill 2261.

15 If you'd notice in the paragraph right
16 below, I say, "One of the key elements of the bill
17 previously explained is the emphasis on early education
18 for at-risk students, a provision that was vetoed by
19 the governor."

20 Q. Well, right now in our state early education
21 is not part of the definition of basic education.

22 A. Right. It was under 2261 and it was vetoed
23 by the Governor.

24 Q. Do you have Exhibit 216 there in front of
25 you?

1 A. I do.

2 Q. Okay. And in Exhibit 216, you were asked
3 questions by Mr. Ahearne about this memo from you to
4 the task force members.

5 A. Yes.

6 Q. All right. And if you go to the second page
7 of the document, which is page one of your working
8 paper.

9 A. Uh-huh.

10 Q. Under paragraph two, you state that the
11 funding system isn't broken, but it needs a major
12 overhaul.

13 A. Yes.

14 Q. Do you see that?

15 A. Uh-huh.

16 Q. You go on to say "There's nothing inherently
17 wrong with allocating CORE funding largely on the basis
18 of staffing ratios and student enrollment."

19 Do you see that?

20 A. Yes.

21 Q. And you go on to say that "The state's
22 current funding of five periods, it's a question of
23 whether that is sufficient or whether we must go to a
24 six-period day."

25 A. Yes.

1 Q. All right. If you could look at Exhibit 223.

2 A. (Reviewing.)

3 Q. Are you with me?

4 A. I am.

5 Q. Okay. This Exhibit 223, do you recognize
6 this?

7 A. Yes.

8 Q. And this was a -- what, an editorial that you
9 and Representative Sullivan provided to the News
10 Tribune?

11 A. Yes.

12 Q. All right.

13 A. And this was after the passage of the bill.

14 Q. Thank you. So after passage of the bill in
15 Exhibit 223, do you see the first full paragraph after
16 the bullets, the sub-bullets there, it starts out
17 "Passing these reforms"?

18 A. Yes, uh-huh.

19 Q. And you say "Passing these reforms is just
20 the beginning. We have tough decisions to make that
21 will require all of us committed to education to stick
22 together and work out any differences and build the
23 best system to serve our children."

24 A. Uh-huh.

25 Q. "The bill is not perfect. Everyone found

1 items they could not get behind, but judging from the
2 support it received, some of the sticking points did
3 not outweigh the great strides the measures take."

4 A. Uh-huh.

5 Q. Did I read that correctly?

6 A. Right. This was prior -- this was after
7 passage of the bill, but before the governor vetoed the
8 early learning section. I'm assuming it is because, as
9 I look in here, it says "Establish earlier learning for
10 at-risk children is part of the new definition of basic
11 education." She vetoed that provision so I assume that
12 the timing of this then was between passage and when
13 the governor signed the legislation.

14 I'll be honest with you, I would not
15 have been as charitable in my editorial. If I would
16 have known that the governor arbitrarily would have
17 signed -- would have vetoed one of the most important
18 provisions of the bill, this would not have been
19 written.

20 Q. Up at the top of Exhibit 223, you state that
21 "We didn't win a gold medal at the Olympics or run an
22 Iron Man triathlon, but we feel as though we just
23 finished the toughest race of our legislative careers
24 with the passage of House Bill 2261, the first
25 comprehensive educational reform legislation since

1 1993."

2 A. Uh-huh.

3 Q. Do you see that?

4 A. Yes.

5 Q. All right. But for the early learning, you
6 believed that this was comprehensive education reform
7 legislation.

8 A. Yes. But it did not address the funding
9 issue that we are discussing today, and that's what I
10 tried to explain and maybe didn't do as good a job as I
11 might have, is that to create a pathway for CORE 24,
12 for example, or to provide additional funding in terms
13 of hours in the schools is one thing, but when you
14 don't address funding -- this is a policy bill. The
15 issue we're talking about here now is are we meeting
16 our responsibility to fund education.

17 Q. You go on in the first bullet to acknowledge
18 that House Bill 2261 has a phase-in funding allowing
19 high school students to achieve 24 credits in six
20 classes per day.

21 A. Yes.

22 Q. You indicate that House Bill 2261 creates a
23 transparent funding system?

24 A. Yes.

25 Q. It creates work groups to make

1 recommendations on how best to spend local levy money.

2 A. Yes.

3 Q. How teachers are hired and how to phase in
4 early learning.

5 A. Yes. Again, before the veto.

6 Q. Before the veto. You also, down in the
7 second paragraph after the paragraph referencing the
8 sticking points, do not outweigh the great strides --

9 A. Yes.

10 Q. -- you indicate, "What are our next steps?
11 Let's take the education funding debate out of the
12 courts and make the important decisions in the
13 legislature."

14 A. Right. And then we passed a budget that cut
15 education funding.

16 Q. On the second page of Exhibit 223 --

17 A. Yes.

18 Q. -- is a second paragraph there. You say
19 "This bill places Washington schools on the right
20 path. It might take a few years to implement the
21 changes, but we all want to take the time to get these
22 reforms right and create something monumental to give
23 our children."

24 A. Right.

25 Q. Correct?

1 MS. BASHAW: Your Honor, we would offer
2 Exhibit 223.

3 THE COURT: Any objection to 223?

4 MR. EMCH: Just a moment.

5 (A discussion was had off the record between
6 Mr. Emch and Mr. Ahearne.)

7 MR. AHEARNE: I just want to note for the
8 record the irony of their introducing these press
9 releases, et cetera, when they objected to them when we
10 tried to do it. But, in the interest of just getting
11 evidence in, we have no objection.

12 MS. BASHAW: I don't think that Mr. Ahearne
13 attempted to admit any press releases. I don't recall
14 you --

15 MR. AHEARNE: They were the exact same thing,
16 Ms. Bashaw, but --

17 We don't object, Your Honor.

18 THE COURT: All right. 223 is admitted,
19 irony notwithstanding.

20 EXHIBIT ADMITTED

21 BY MS. BASHAW:

22 Q. 2261 also includes a provision for phasing in
23 all-day kindergarten, does it not?

24 A. Yes.

25 Q. In many of the provisions -- or all of the

1 provisions, are supposed to be implemented by 2018.

2 A. Your choice of words is accurate. Supposed
3 to. I'm sure the same comments were made about 1209.

4 Q. Again, you're going to be in there fighting
5 for it.

6 A. I hope so. No. That's not necessarily the
7 case.

8 Q. You're not going to be fighting for it?

9 A. I may not be in there. If you'll remember,
10 Winston Churchill was thrown out of office after he
11 saved the world from democracy, so none of us ever take
12 elections for granted.

13 Q. Assuming you get elected, you'll be
14 fighting.

15 A. Yes.

16 Q. All right. Now, you testified earlier
17 that -- I think you were equating some of this to the
18 Declaration of Independence.

19 A. Yes.

20 Q. Do you recall that? Actually, I apologize.
21 I move to strike that.

22 Do you have Exhibit 1524 up there?

23 A. I'll look. I do not.

24 Q. I'll hand that to you.

25 A. I'm sorry. It's taking a few minutes to get

1 this --

2 Q. The binders are challenging sometimes.

3 A. Okay. I'm there.

4 Q. Okay. Exhibit 1524. Do you recognize this
5 as the Final Bill Report for House Bill 2261?

6 A. Yes.

7 MS. BASHAW: Respondents would offer Exhibit
8 1524.

9 THE COURT: Any objection to 1524?

10 MR. EMCH: There is no objection to 1524,
11 Your Honor.

12 THE COURT: 1524 is admitted.

13 EXHIBIT ADMITTED

14 BY MS. BASHAW:

15 Q. Now, Exhibit 1524, this bill report gives us
16 some background information in the first few pages,
17 correct?

18 A. (Reviewing.) Yes.

19 Q. And if you go to the bottom of page three.
20 It actually indicates that the underfunding for
21 transportation was between 92 and 1114 million, not 125
22 million, correct?

23 A. Correct. Although I don't know exactly what
24 the cost of fuel was when they made that projection.
25 The last -- the last information I've received from the

1 OSPI is that it was 125 million. But, again, I don't
2 know.

3 Q. All right. If you go to page five.

4 A. But, by the way, that -- and I say that
5 because the study was in 2006 and I know that the price
6 of fuel was significantly less in 2006 than it was in
7 2008. So I don't have the capability, I'm sorry, to
8 make that kind of projection, but I think it's
9 important to note that the cost of fuel, unfortunately
10 has been -- had significant impact on the shortfall
11 because our dollars don't change based on what the
12 price of fuel is.

13 Q. If you'd go to page five. You testified
14 earlier about being on the Quality Education Council.

15 A. Yes.

16 Q. And I'd like you to turn in that binder to
17 Exhibit 1652.

18 A. 1652 is not in this binder. This only goes
19 to 1640 unfortunately.

20 Q. All right. Let me find the right one.

21 A. I'm starting to see that it didn't matter
22 that I didn't have my workout this morning here, I
23 think. We're getting the hang of this here. I can do
24 curls if I need to. I'm sure those remarks will be
25 just as humorous when you write them down as when I

1 said them, so --

2 MR. CLARK: So stipulated, Your Honor.

3 THE WITNESS: Thank you.

4 BY MS. BASHAW:

5 Q. All right. Exhibit 1652 identifies the
6 individuals on the Quality Education Council.

7 Do you see that?

8 A. I do.

9 Q. All right. Is there anybody missing from
10 that list that you're aware of?

11 A. (Reviewing.) I believe that is the entire
12 membership.

13 Q. And one of the functions of the Quality
14 Education Council is to oversee the activities of the
15 group up above, the Funding Formula Technical Work
16 Group.

17 Do you see that?

18 A. I do.

19 Q. And what's the technical funding formula work
20 group?

21 A. The K-12 Funding Formula Technical Working
22 Group is a group that is working under the leadership,
23 I guess is the word we would use, of the Office of
24 Financial Management, and they are addressing specific
25 issues that the Basic Education Finance Task Force

1 addressed but were not included in the final bill
2 concerning how one fills up that diagram as far as the
3 important pieces of education funding. And so they are
4 working as we speak, if not today certainly, they
5 started about a week ago -- or a month ago and are
6 meeting on a regular basis to provide recommendations
7 on filling in the -- or cross-walking our current
8 funding model to the new proposed transparent funding
9 model. That's one of the things they're looking at.

10 Q. All right. And in House Bill 2261, they have
11 a deadline for getting their first reports out, do they
12 not?

13 A. They do.

14 Q. And that's a pretty short timeline.

15 A. It was made more short because,
16 unfortunately, there was an emergency clause in the
17 bill, and the reason there was an emergency clause was
18 for this group to get to work immediately after the
19 legislation was signed. And, unfortunately, they began
20 their work only three weeks ago.

21 And, so now, there is significant
22 pressure on the group to achieve the direction of 2261
23 because, for whatever reason -- and you'll have to ask
24 the Governor's Office -- the going forward of this
25 group was delayed.

1 Q. In any event, they're going to make
2 recommendations by December 1 of 2009 per 2261 --

3 A. We hope so.

4 Q. -- right?

5 A. We hope so.

6 Q. Well --

7 A. I mean --

8 Q. That's what the legislation provides.

9 A. I've sat in on the meetings. Given the very
10 short period of time and the complexity of the
11 recommendations, whether or not they will be able to
12 achieve what the legislation requires or not is
13 uncertain.

14 Q. In any event, they're charged --

15 A. Yes.

16 Q. -- to provide recommendations by December --

17 A. Yes.

18 Q. -- 1st of this year.

19 A. Yes.

20 Q. And their work will be overseen by the QEC.

21 A. They will provide their work to us. We are
22 not overseeing their work. We are the depository of
23 their work.

24 Q. And --

25 A. Or repository. One of repositories.

1 Q. One of the positories.

2 And the QEC is charged with giving an
3 initial report to the legislature by January 1st of
4 2010.

5 A. Welcome to Christmas vacation.

6 Q. And as part of that report, the QEC is
7 supposed to look at resolving issues requiring
8 legislative action for 2010; is that right?

9 A. It is.

10 Q. And any funding necessary to continue the
11 development and implementation of 2261?

12 A. Yes.

13 Q. One of the things that the QEC is supposed to
14 identify is, within this phase-in period for the people
15 in transportation, whether it can be done sooner than
16 the 2013 time-frame provided for in the legislation.

17 A. Yes.

18 MS. BASHAW: Your Honor, we would offer
19 Exhibit 1652.

20 THE COURT: 1652 is offered.

21 MR. EMCH: Your Honor, we have some
22 objections on the Joint Statement of Evidence but,
23 we'll withdraw those objections. So, no objection.

24 THE COURT: 1652 is admitted.

25 EXHIBIT ADMITTED

1 THE WITNESS: That's just what I looked at.
2 Oh, yeah. Sorry. Started to look for another exhibit.

3 BY MS. BASHAW:

4 Q. Before I diverted myself, you had equated
5 some of this to the Declaration of Independence,
6 correct?

7 A. I did.

8 Q. And isn't it true that you believe that what,
9 really, the state should be doing is not providing
10 basic education but high quality education.

11 A. I believe that's the same.

12 Q. You don't think there's a difference between
13 a basic education and a high quality education?

14 A. If one looks at the requirements of House
15 Bill 1209 in statute, there is no difference.

16 MS. BASHAW: Your Honor, no further
17 questions.

18 THE COURT: Thank you, Ms. Bashaw.

19 THE WITNESS: Really?

20 THE COURT: Well, you're not done.

21 THE WITNESS: Oh.

22 THE COURT: A few more rounds left.

23 THE WITNESS: I see. Now I just --

24 THE COURT: Should we recess now perhaps?

25 MR. AHEARNE: Six one way, half dozen of the

1 other, Your Honor. As you know, I'm sort of disjointed
2 when I do my redirect. I've got notebooks sort of here
3 in order that I can march through until the court's
4 ready to take a recess. We could stop whenever you
5 want.

6 THE COURT: We started a little bit early.
7 Why don't we just take our recess now and we'll resume
8 just prior to 2:45 with the redirect examination of
9 this witness.

10 Thank you. Court is at recess.

11 (Whereupon a recess was taken and there was a
12 change in court reporters.)

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