

9-10-2009

**Reporter's Verbatim Report of Proceedings, September 10, 2009,
Volume VII, Sessions 1 and 2 of 2 [Pages 1416-1543]
07-2-02323-2**

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"Reporter's Verbatim Report of Proceedings, September 10, 2009, Volume VII, Sessions 1 and 2 of 2 [Pages 1416-1543]" 07-2-02323-2. *King County Superior Court Documents*. 258.
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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,) SUPREME COURT
 on their own behalf and on behalf)
 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 10, 2009
17 Volume VII, Session 1 and 2 of 2

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

19 FOR THE PETITIONER:

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

23 FOR THE RESPONDENT:

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

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

2

3 (Open court.)

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

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

10 We are back on the record in the McCleary
11 versus The State of Washington. This is King County
12 cause number 07-2-02323-2 SEA. We are continuing with
13 the petitioner's case-in-chief.

14 Mr. Ahearne, are we taking a witness out of
15 order or --

16 MR. AHEARNE: Yes, your Honor, to
17 accommodate the schedules. Ms. Jones is coming back
18 on Monday and we have our next witness.

19 THE COURT: If you would like to call your
20 next witness at this time --

21 MR. AHEARNE: Yes, your Honor.

22 Petitioners would like to call the State's
23 Assistant Superintendent of Public Instruction for
24 Financial Resources, Jennifer Priddy.

25 THE COURT: Please come forward and raise

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

1 your right hand.

2 JENNIFER PRIDDY,

3 Having been first duly sworn,

4 Testified as follows:

5

6 THE COURT: Thank you. Please be seated.

7 For the record, please state your full

8 name, spell for us your last name and give us your

9 contact address.

10 THE WITNESS: My name is Jennifer Priddy.

11 My last name is spelled P-R-I-D-D-Y.

12 My address is 7340 Boston Harbor Road,

13 Olympia, Washington 98506.

14 THE COURT: Thank you.

15 Mr. Ahearne.

16 DIRECT EXAMINATION

17

18 BY MR. AHEARNE:

19 Q. Good morning. Remember we met in a deposition

20 earlier; correct?

21 A. Yes.

22 Q. Your attorney, Mr. Clark, was representing you

23 in that deposition?

24 A. Yes.

25 Q. I want to start off by apologizing for maybe

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

1 being a little terse today, because we have a lot of
2 material to move through.

3 If at any time I am a little too abrupt or
4 terse, I want to apologize ahead of time.

5 Could you please state what your current job is.

6 A. I am Assistant Superintendent for Financial
7 Resources with the Superintendent of Public
8 Instruction.

9 Q. Could you just give like a one or two sentence
10 description of what that job is.

11 A. My responsibility is to manage the division
12 that sends out the resources to school districts. We
13 apportion the resources, manage the funding formulas,
14 manage the facilities and construction programs and
15 manage the agency budget and represent the
16 superintendent on matters related to finance.

17 Q. With respect to your responsibilities with the
18 sending out of the resources. Is that the
19 apportionment in the School Financing Services Group
20 -- or what do you call it -- the Division or the
21 Department?

22 A. It is apportionment -- the Unit For
23 Apportionment and Financial Services.

24 Q. -- Apportionment of the School Financial
25 Services Unit -- I am trying to get the right words.

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

1 A. Yes.

2 Q. Basically, what is -- what does that unit do?

3 A. It sends out all of the State resources to the
4 295 school districts apportioning them on a series of
5 funding formulas established by the State, managing
6 the State Administrative Code to do so.

7 And then, working on behalf of the
8 superintendent to identify, if there are changes that
9 need to be made to the funding formulas, to the
10 funding amounts, and advocating for his positions with
11 regard to that.

12 Q. Is part of that operation also the School
13 District Accounting Manual?

14 A. Yes.

15 Q. Is part of that also then the F-196 reports?

16 A. Those reports relate to the districts reporting
17 back what they spent, the F-196.

18 Q. Then, but that is all under the Apportionment
19 and School Financial Services Unit handles those?

20 A. Yes.

21 Q. Then the money that goes out, you mentioned
22 that the Program Funding Formulas. Are those like the
23 basic allocation formula, the transportation formula,
24 the Special Education formula, the LAP formula and ELL
25 formula?

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

1 A. Yes.

2 Although, the people transportation staff do not
3 report to me.

4 Q. With respect to the other State resources does
5 that also include the I-728 money, the LEA money, the
6 grants that are distributed to the school districts as
7 well?

8 A. Yes.

9 Q. Does that also include as part of the
10 Apportionment School Financial Services Unit, the
11 School District personnel summary reports that the
12 OSPI puts out.

13 A. Yes.

14 Q. Are there any other operations, or costs data
15 that the apportionment and the School Finance Services
16 Unit deals with other than those kinds of information?

17 A. Well, the unit manages the RCWs, and the
18 Administrative Code to implement the RCWs with regard
19 to the levy funds.

20 While levy funds are not run through the State
21 in any way, the law establishes the parameters for
22 what levy funds school districts collect and when and
23 how and -- so that the unit has responsibility with
24 regard to that.

25 Q. When you say "has parameters," are you

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

1 referring to, in part, the levy lids at different
2 districts have?

3 A. Yes, how we calculate the levy lid.

4 Q. You also mention school facilities, is there
5 also a school facilities organization unit under you?

6 A. Yes.

7 Q. Could you briefly describe what that unit does?

8 A. That unit has primarily responsibility for
9 distributing the construction assistance grants to
10 districts that are eligible within the parameters of
11 what the legislature establishes.

12 Q. Could you briefly explain what a Construction
13 Assistance Grant is?

14 A. It is the State matching funds associated with
15 construction of school facilities.

16 Q. On average, what is the approximate amount that
17 the School District pays for construction, as opposed
18 to what the matching grants provide?

19 A. The State pays about 34 percent of the costs.

20 Q. Is a remaining 66 percent then picked up by the
21 local School District?

22 A. Yes.

23 Q. Is there also a Repair Grant Program that is
24 run by OSPI?

25 A. Yes. That unit also manages that program. It

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

1 is a relatively smaller program compared to the
2 construction assistance.

3 Q. Could you briefly just describe what that
4 Repair Grant Program is?

5 A. It is a grant to address severe needs
6 associated with repair of school facilities. It
7 typically is a competitive process, based on the
8 severity of need.

9 It is, I think that it is about a \$10 million
10 program at this point.

11 Q. The matching fund program that you mentioned,
12 does the School District have to raise -- pass a bond
13 to in essence, trigger the matching fund program?

14 A. They have to have the matching -- yes, the
15 local resources. So they can, they don't have to pass
16 a bond in order to accumulate those resources, but
17 that is typically how they do it.

18 Q. In your experiences, can you give me an example
19 of some other local resources, other than the voter
20 approved bonds that provides the money needed for the
21 64 percent?

22 A. Theoretically, a district could accumulate or
23 save operating resources for many years in order to be
24 able to come up with that local match, but, it is
25 typically a bond.

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

1 I just want to make sure that there is not an
2 exclusion to having other sources of revenue.

3 Q. So, for example, if the School District were to
4 take its Program Funding Formula amount that it gets
5 every year, and put aside 10 percent, that could
6 accumulate local resources to then build the building
7 to provide the 64 percent?

8 A. Yes.

9 Q. Then under you as well is there a federal
10 policy and a grant unit?

11 A. Yes.

12 Q. Could you briefly describe what that does?

13 A. Federal funds are very complex; in that they
14 each, federal fund source carries its own set of
15 regulations and requirements then there are
16 over-arching financial requirements that school
17 districts must adhere to.

18 So that that, the work associated with that unit
19 is to help districts navigate the federal funding
20 requirements and be compliant as they expend those
21 funds.

22 Q. When you said that the federal programs have
23 the regulation and the requirements, that is common
24 parlance, would that be there are strings attached to
25 how you can and can't spend money?

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

1 A. Yes.

2 Q. Is the supplement, but not supplant requirement
3 part of that?

4 A. Yes. Most federal funds have that aspect of
5 strings.

6 Q. Could you just briefly explain what that the
7 whole supplement, but not supplant concept is?

8 A. Well, it is the federal government's
9 requirement and intent that when they provide funds to
10 States to enhance the particular aspect of the school
11 system that they don't want States to reduce State
12 support and replace it with federal support.

13 They want to enhance what students have been
14 getting so far, not keep what they are receiving even.

15 Q. Is there also a maintenance of effort
16 requirement that the federal funds?

17 A. There are.

18 Both the supplement, not supplant, and the
19 maintenance of effort requirements, are attached to
20 all of the major federal fund sources, which,
21 basically, means it is another way of getting to the
22 fact that the State has to keep spending what it has
23 been spending.

24 You can't replace federal funds for State funds.

25 Q. Is the basic concept between the maintenance of

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

1 effort that if you take money one year for -- from the
2 feds, you have to say that you are going to continue
3 using your local, your non-federal money to do what
4 you were doing in the following year and the following
5 year?

6 I just want to make sure that I understand it?

7 A. Yes, that is generally it, yes.

8 Q. Then is there also an audit management and
9 resolution unit under you as well?

10 A. Yes.

11 Q. Would you briefly say what that does?

12 A. The responsibility of that unit is twofold.
13 One is to conduct internal audit for the agency, and
14 second, is to resolve audit findings that school
15 districts receive.

16 So if a School District miscounted a pupil
17 transportation route, and how many student were
18 counted for purposes of the State funding and audit
19 was -- an audit exception was identified by the
20 auditor, then it is our responsibility to identify the
21 value of that miscount and take back funds from the
22 School District.

23 Q. When you were referring to the audit, those are
24 the audits that the State auditors' office does, for
25 example, the F-196?

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

1 A. Yes.

2 Q. Then is there also then an agency financial
3 services unit?

4 A. Yes.

5 Q. Briefly --

6 A. That unit runs all of the agency budget and
7 grant payments. So, you know, the travel of the State
8 agency employees, the salaries of the State agency
9 employees.

10 Q. Then lastly but a resource grant and a
11 development director or manager, under you could you
12 briefly explain what that is?

13 A. That is an individual, who helps the agency
14 apply for funds on behalf of school districts and
15 programs within the agency's responsibility.

16 Q. When you say the agency, you mean the Office of
17 the Superintendent of Public Instruction?

18 A. Yes.

19 Q. Have I missed any major unit or operation under
20 you, as the Assistant Superintendent of the Public
21 Instruction for Financial Resources?

22 A. No.

23 Q. Is part of your job also, then, preparing and
24 presenting testimony to, for example, the State
25 legislature on various issues?

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

1 A. Yes.

2 Q. -- also include preparing and presenting
3 information to State Task Forces and work groups
4 studies on education?

5 A. Yes.

6 Q. Do you also do the same to, for example, in
7 preparing and presenting information to the school
8 districts or the public at large in the presentations?

9 A. Yes.

10 Q. Then you mentioned that you worked with putting
11 together recommendations or -- would you explain
12 briefly what your job is with respect to the
13 recommendations that are prepared.

14 A. The Superintendent has responsibility to
15 advocate or to identify what the school system needs
16 as a whole.

17 With regards to whether it is instructional
18 changes, or financial changes, I provide the staff to
19 the superintendent -- myself and my offices provide
20 staff to the superintendent with that regard.

21 For example, one of his responsibilities is to
22 prepare a budget to the legislature each year. And it
23 is my office that would work with the Superintendent
24 to identify what he would request and develop those,
25 the specifics of those requests as he desires.

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

1 Q. Then when you say provide the staff, does that
2 include provide the background information and the
3 facts that he needs?

4 A. Yes.

5 Q. How long have you been the Assistant
6 Superintendent of Public Instruction for Financial
7 Resources?

8 A. Since 2003.

9 Q. Before that, you were a budget director at
10 OSPI?

11 A. Yes.

12 Q. Before that you were a budget analyst; correct?

13 A. Yes.

14 Q. You were originally hired in 1997; is that
15 correct?

16 A. Yes.

17 Q. That was actually by Judith Billings is the one
18 who actually hired you originally?

19 A. Yes.

20 Q. You worked throughout Superintendent Terry
21 Bergeson's term; correct?

22 A. Yes.

23 Q. Have you been involved with any of the State's
24 education and finance studies?

25 A. I have been the primary staff to many studies,

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

1 but primarily Washington Learns and the Basic
2 Education Finance Task Force.

3 Q. Could you briefly explain the work that you did
4 with the Basic Education Finance Task Force?

5 A. Superintendent Bergeson was a member of the
6 Task Force and so I provided assistance to her.
7 Specifically, I developed her proposal to the Finance
8 Task Force and then I provided assistance as requested
9 to other Task Force members.

10 Q. Then could you briefly describe what you did
11 with respect to the Washington Learns Study?

12 A. Yes.

13 The Superintendent Bergeson was also the heavily
14 involved in that effort. She was the chair of the
15 K-12 Advisory Committee, and on the -- I think that
16 they called it the Commission, Washington Learns
17 Commission.

18 So I provided staff work for her and assisted
19 her and the governor's office for financial
20 management, as we responded to the requests of the
21 advisory members, and provided them with the
22 deliverables that were required by the law.

23 Q. With respect to the providing the staff, for
24 both Washington Learns and the Basic Education Finance
25 Task Force, does that include providing the facts and

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

1 the information that they needed?

2 A. Yes.

3 Q. In the course of your work with Washington
4 Learns, were you involved at all with the Picus-Odden
5 Study?

6 A. I was.

7 I was involved in developing the RFP. I was
8 involved with a group of individuals, primarily led by
9 the Office of Financial Management to identify the
10 successful bidder. That was the Drs. Picus and Odden.

11 I worked with their staff and them directly for
12 nearly a year as they analyzed our finance data, our
13 funding formulas and developed an adequacy funding
14 model.

15 Q. Could you briefly describe what an adequacy
16 funding model?

17 A. Their approach was to identify what would it
18 take to adequately fund the K-12 system, in order for
19 State to meet its learning goals.

20 Q. When you say the learning goals do you mean
21 those four numbered paragraphs in House Bill 1209, the
22 read with comprehension, don't apply core concept of
23 math, science, et cetera?

24 A. Yes.

25 Q. Do you also include the State's Essential

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

1 Academic Learning Requirements as part of the State's
2 standards?

3 A. Yes.

4 Q. Did the Picus and Odden Study come to a
5 conclusion as to whether more money should be invested
6 and provided to the Washington State Public schools?

7 A. They did. They made very specific
8 recommendations in terms of operating staff that were
9 required for schools in order for them to meet those
10 goals.

11 Q. Was that, did that then result in a
12 recommendation for a small increase in the funding,
13 decrease in the funding, about the same?

14 A. About a 50 percent increase in the funding, but
15 I haven't calculated that figure recently, so it is a
16 very round number.

17 Q. Just ballpark about a 50 percent increase?

18 A. Yes.

19 Q. Do you know that -- you were involved with the
20 RFP process and the State selection of Picus and Odden
21 as a successful bidder for that.

22 Do you know approximately how much the State
23 paid for the Picus-Odden Study?

24 A. 800,000 dollars.

25 Q. Were the Picus-Odden recommendations included

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

1 in the final Washington Learns Report?

2 A. The recommendations were included in the report
3 from the Advisory Committee to the Steering Committee.

4 The Steering Committee had a much more
5 over-arching high level report. But the Picus-Odden
6 products -- and there are many -- are part of the
7 record of the K-12 Advisory Committee.

8 Q. Then jumping forward to the Task Force, were
9 those Picus-Odden studies also part of what the Basic
10 Education Finance Task Force looked at as well?

11 A. Very much, yes.

12 Q. When you say very much, what do you mean?

13 A. Well, they were an early focus of the Task
14 Force. There were several members of the Washington
15 Learns K-12 advisory committee on the K-12, on the
16 Task Force, and ultimately the recommendations are
17 very similar.

18 Q. When you say "the recommendation," you mean the
19 recommendations of the Basic Education Task Force very
20 similar to the recommendations of the K-12 Advisory
21 Committee of the Washington Learns?

22 A. Yes.

23 Q. You have also, in your role at OSPI --

24 THE COURT: Mr. Ahearne, I appreciate that
25 you want to get to the a lot of material, I think that

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

1 you are going to be taxing the court reporter this
2 morning.

3 MR. AHEARNE: I have to slow down, I know.

4 BY MR. AHEARNE:

5 Q. In the course of your work at OSPI, you have
6 also had the pleasure of being deposed in cases before
7 as well; correct?

8 A. Yes.

9 Q. Was one of those the Tunstall case that
10 involved the financial issues relating to the student
11 education in the adult prisons?

12 A. Yes.

13 Q. Was another the Special Ed litigation involving
14 financial issues for the Special Education funding for
15 the school districts?

16 A. Yes.

17 Q. Before OSPI, briefly, what did you do?

18 A. I worked for the House of Representatives
19 Appropriations Committee.

20 Q. That is the State House of Representatives?

21 A. Yes.

22 So I assisted the Chair of the Appropriations
23 Committee and other representatives on finance matters
24 and developing the budget proposals.

25 Q. Then you also worked for E-Cap for a while?

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

1 A. Yes.

2 Q. Could you briefly explain what you did and what
3 E-Cap is?

4 A. E-Cap is the State equivalent of the HeadStart
5 Program, which is a comprehensive preschool for youth
6 age 3 and 4 years old.

7 It is delivered for very poor families. My role
8 was to manage the resources and the finances of that
9 program.

10 Q. Why does, why is there an E-Cap program?

11 What is the impact, if any?

12 A. Early Learning has very solid research to show
13 that investments in Early Learning pay very
14 significant dividends later in life for both the
15 individuals and society, in the form of reduced costs
16 for prisons, reduced costs for social services and
17 health services and increased earnings for the
18 individual.

19 Q. That is then one of the goals of the E-Cap
20 Program, as well as the HeadStart Program?

21 A. Yes.

22 Q. From what you saw when you were at the E-Cap
23 Program, would that accomplish some of those goals?

24 A. Yes.

25 Q. I want to very quickly go through a few

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

1 exhibits.

2 First is Exhibit 66, I will just -- I have the
3 notebooks lined up here and hopefully we will go right
4 through them. I will hand them to you.

5 The way that it works is the exhibit is behind
6 the tab, even though that it says a different Exhibit
7 Number at the bottom -- that is from the deposition.

8 A. All right.

9 Q. Handing you Trial Exhibit 66, is this the
10 School District Personnel Summary Report that you
11 mentioned earlier?

12 A. Yes.

13 THE COURT: You may proceed, counsel.

14 BY MR. AHEARNE:

15 Q. Briefly, what is the purpose of this report?

16 A. This report identifies or rolls up the coding
17 for all personnel in the school system and district's
18 code, how many of their staff are teachers in the
19 classroom, how many are nurses, how many are
20 facilities maintenance staff.

21 And there is a complex set of codes and
22 activities that they assign all of the staff to, about
23 100,000 staff.

24 Q. Does this report include, then, how much the
25 district actually pays its staff?

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

1 A. Yes.

2 Q. When you said activities, are those the
3 activity codes?

4 A. Yes.

5 MR. AHEARNE: Your Honor, I would move to
6 admit Trial Exhibit 66, please.

7 THE COURT: Exhibit 66 is offered.

8 MR. CLARK: No objection, your Honor.

9 THE COURT: Exhibit 66 is admitted.

10 (Exhibit No. 66 received in evidence.)

11

12 Q. Now, I would like to hand you Exhibits 30 and
13 32. Handing you Trial Exhibit 30, is this accounting
14 manual for public school districts that you mentioned
15 earlier?

16 A. Yes.

17 Q. I notice that there is a September 2007 date at
18 the bottom. Is that the effective date then of --

19 A. Yes.

20 Q. So this would apply to the 2007-2008 school
21 year?

22 A. Yes.

23 Q. This has, then, those -- the activity codes
24 that you referred to would be in this accounting
25 manual?

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

1 A. Yes, I believe that they are in here.

2 Q. All right.

3 MR. AHEARNE: Your Honor, we would move to
4 admit Trial Exhibit 30.

5 THE COURT: Exhibit 30 is offered.

6 MR. CLARK: No objection, your Honor.

7 THE COURT: Exhibit 30 is admitted.

8 (Exhibit No. 30 received in evidence.)

9

10 Q. If I could ask you to turn to Trial Exhibit 32,
11 please. Do you have that in front of you?

12 A. I do.

13 Q. This is an addendum, dated August 17, under
14 "The Purpose, it talks about the accounting manual for
15 the public school districts in the State of Washington
16 for the 2007-2008 school year. It was published in
17 May of 2007.

18 That is the accounting manual that we were just
19 looking at; correct?

20 A. Yes.

21 Q. At the bottom it refers to an account for to
22 and from school transportations costs, separate from
23 other transportation spending. Do you see those last
24 two lines?

25 A. Yes.

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

1 Q. Could you briefly explain what this addendum is
2 about in the "to and from change."

3 A. Yes, the 2007 legislature directed OSPI to
4 change the way that we account for pupil
5 transportation.

6 So that the costs related to purely getting kids
7 to and from school were separated from costs that
8 might be activity costs, buses to take kids to the
9 football team.

10 And they wanted to make sure that when -- that
11 they could purely identify what was to and from
12 transportation, separate from costs, that, perhaps,
13 are not the responsibility of the State.

14 Q. This change was in effect, then, for the
15 2007-2008 activity codes?

16 A. For the 2007-2008 school year, yes.

17 MR. AHEARNE: Your Honor, we would move to
18 admit trial Exhibit 32, please.

19 THE COURT: Exhibit 32 is offered.

20 MR. CLARK: No objection.

21 THE COURT: Exhibit 32 is admitted.

22 (Exhibit No. 32 received in evidence.)

23

24 Q. Assistant Superintendent Priddy, you also
25 mentioned the F-196s; correct?

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

1 A. Yes.

2 Q. Is the F-196 the reporting tool that OSPI
3 designed to have school districts use a common format
4 to tell the States on how much they were spending for
5 various activities?

6 A. It is the reporting tool to identify how much
7 districts spent on different activities, yes.

8 Q. The one way that is reported is by activity
9 codes; correct?

10 A. Activity codes and object codes. Object codes
11 identify what did you buy, a salary, a benefit.

12 Q. If I could ask you to look, please, at Exhibit
13 68. Do you have that?

14 A. I do.

15 Q. There should be a cover page, which is an
16 e-mail.

17 A. Ah-hum.

18 Q. Could you identify what Trial Exhibit 68 is?

19 A. It is a presentation that I prepared for the
20 Renton School District to the school board and to
21 identify the process that the State was using to
22 address school finance.

23 And the fact that the school finance, that there
24 was a developing crisis in terms of School District
25 solvency.

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

1 Q. Was this then a presentation that or a document
2 that you prepared and presented in the September 2008
3 timeframe?

4 A. Yes.

5 MR. AHEARNE: Your Honor, the joint
6 statement shows there is no objection to this
7 document. I would move to admit it.

8 MR. CLARK: No objection, your Honor.

9 THE COURT: Exhibit 68 is admitted.

10 (Exhibit No. 68 received in evidence.)

11

12 Q. If I can ask you to please turn to the first --
13 actually the second page of Trial Exhibit 68, the
14 first page of your presentation. Do you see that?

15 A. Ah-hum.

16 Q. Your title is "K-12 Finance Looming Problems,
17 Proposed Solutions and Opportunities to Influence."

18 Do you see that?

19 A. Yes.

20 Q. What was the general purpose of this
21 presentation?

22 A. It was, the timeframe was towards the end of
23 the Basic Education Finance Task Force.

24 So as the Task Force was wrapping up its
25 responsibilities with regard to the making the

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1 recommendations. There were some opportunities to
2 testify to the Task Force about what was needed in the
3 school system.

4 And in order to do so, you have to understand
5 what they have heard so far, you know, where we are in
6 the process, what are your next opportunities.

7 Q. Is part of this to describe the condition of
8 the public school finance, at least at that time?

9 A. Yes.

10 Q. If I could ask you to turn to what is labeled
11 at the bottom "Office of the Superintendent of Public
12 Instruction, page 27."

13 Do you have that in front of you?

14 A. Yes.

15 Q. When it says "OSPI," that is the State
16 Superintendent of Public Instruction?

17 A. Yes.

18 Q. When it says "BEFTF," that is the Basic
19 Education Finance Task Force?

20 A. Yes.

21 Q. Every time in your documents that they have
22 those abbreviations, that is what they stand for?

23 A. Yes.

24 Q. When you are referring to the 25.5 per one
25 thousand, is that the 25.1 classified staff per one

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1 thousand FTE students --

2 MR. CLARK: Your Honor, I am lost. I am on
3 page 27, it is not what he has. These files all have
4 numbers.

5 MR. AHEARNE: Number 27. You have the
6 wrong exhibit.

7 MR. CLARK: I thought that we were on
8 Exhibit 67.

9 THE COURT: We are on Exhibit 68, counsel.

10 MR. CLARK: I am sorry, I didn't hear the
11 transition.

12 THE COURT: That is not on a problem. That
13 is all right.

14 MR. CLARK: Let me catch up, I am sorry.

15 THE COURT: Sure.

16 MR. CLARK: Thank you, I have it.

17 THE COURT: Mr. Ahearne.

18 BY MR. AHEARNE:

19 Q. Now --

20 THE COURT: You were asking about the 25.1
21 per thousand.

22 Q. Is that the 25.1 classified staff per thousand
23 FTE students that are in the State's funding formula?

24 A. Yes -- no. The State currently funds at 17
25 classified staff per thousand. The superintendent's

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1 recommendation was 25 staff per thousand.

2 Q. Again, who put together the recommendation that
3 is listed on the slide 27 here?

4 A. I had some work groups as part of the
5 developing her proposal to the Task Force.

6 So that the work group on classified staffing
7 levels designed this recommendation. I was the
8 primary staff to that work group.

9 Q. Could you briefly explain what the reasoning
10 was behind recommending that the current form of
11 formula funding be increase to 25.1?

12 A. We looked at how many staff districts employ
13 today. We looked at the Picus and Odden
14 recommendations, and other recommendations that were
15 relevant.

16 So, for example, for custodians groundkeepers
17 and maintenance workers, we were searching for whether
18 or not there was a better set of recommendations than
19 even Picus and Odden's recommendations for Washington
20 Learns.

21 So we evaluated the data that we had with regard
22 to each of these groups. Then brought forward a set
23 of recommendations to the superintendent on what was
24 the adequate level of funding in order to provide
25 appropriate staff in the school building, appropriate

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1 staff in the principal's office, appropriate staff to
2 maintain school buildings and facilities.

3 Q. All right.

4 I notice that although there is an over-all
5 increase, at least one of the categories you are
6 actually more critical analysis recommended a
7 reduction on the supervisor's control administration?

8 A. Yes.

9 Q. Then one category on the student staff and
10 safety increase from .1 to 1.2; do you see that?

11 A. Yes.

12 Q. Could you briefly summarize what the reasoning
13 was behind that recommendation?

14 A. Yes.

15 The recommendation was based on a small group
16 that we put together of security and safety staff from
17 school districts. We looked at, I believe, four
18 school districts that had a safety program that our
19 experts in OSPI viewed as appropriate, based on the
20 safety standards.

21 We looked at what they were spending in terms of
22 employing security staff, or contracting for security
23 staff.

24 Q. Just briefly when you say safety, what are you
25 referring to?

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1 A. Well, I am referring to staff who run safety
2 programs in schools.

3 So they have to identify the emergency plans
4 that the State requires. They have to develop the
5 emergency plans. They have to train on the emergency
6 plans. That is also, that category of staff is also
7 the staff, who provide security for teachers and
8 students in schools, so to prevent theft, to prevent
9 gang or other violence, to make sure that kids are
10 doing what they are supposed to do and not doing what
11 they are not supposed to do.

12 Q. If I could ask you to turn to the Office of the
13 Superintendent Public Instruction slide number 29,
14 please.

15 A. I am there.

16 Q. Under, ".2," it states: "The State has not
17 evaluated the salary levels or purposes for decades."
18 Do you see that?

19 A. Yes.

20 Q. To the best of your knowledge, is that true?

21 A. The State -- well, the State can, the statement
22 can be interpreted many ways.

23 Q. That is part of why I am asking.

24 A. Yes.

25 The State collects data on salaries that is,

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1 basically, in two categories of salaries. The State
2 identifies what is the base salary that it will pay,
3 and what is the total salary that districts pay.

4 And the difference between those two is what is
5 called supplemental salaries and time responsibility
6 and incentive salary.

7 Q. Sometimes called TRI?

8 A. TRI, it is a mixture that the State really has
9 no data on what is included in that.

10 So, the last time that the State really tried to
11 delve into the specifics of that salary was, I
12 believe, in the 80s, when the legislature contracted
13 for a study of what really was the purpose of the
14 specifics of what teachers were paid and what was it
15 tied to.

16 So, for example, how much of that additional
17 salary is associated with the coaching and how much of
18 it is associated with -- I mean by sports coaching --
19 how much of it is associated with the basic
20 responsibility of being a teacher.

21 Q. Moving on to the point three, frankly, my
22 questions on this slide are going to be interpretation
23 type questions.

24 Point three where you state: "The State salary
25 schedule does not reflect research on compensation

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1 incentives or fair compensation." Do you see that?

2 A. Yes.

3 Q. Could you briefly explain what you mean by
4 that?

5 A. The base salary that the State pays for the
6 teachers, is -- has been a salary schedule that has
7 been kind of rolled forward and inflated since the
8 '80s or the '90s.

9 There haven't been substantial reevaluations of
10 the form of that, that salary structure, or whether or
11 not that base salary is a competitive salary, in terms
12 of comparing to other States global challenged states.

13 It hasn't been updated, for example, for
14 regional costs of living in the pockets of the State.

15 It doesn't reflect new information that we have
16 about knowledge and skills base pay. The compensation
17 systems have evolved.

18 The Picus and Odden Study started that
19 conversation, but the State hadn't adopted a
20 structural review or embarked on a process at the
21 point that I made this statement to update the salary
22 schedule.

23 There is one exception, that is, the National
24 Board Certification, which the State does pay a bonus
25 if the teacher does become naturally certified.

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1 That bonus has varied over the years. At this
2 point it is \$5,000.

3 Q. Is that every year that they get an extra
4 \$5,000?

5 A. Every year that they hold their certificate,
6 their national board certificate.

7 Q. You mentioned global challenge States, could
8 you briefly explain what those are?

9 A. The Washington Learns Study introduced a
10 concept that Washington had to be competitive with
11 States that were globally competitive.

12 Q. Why is that?

13 A. Because the Steering Committee felt strongly
14 that we were not necessarily competing -- or our
15 students were not competing just regionally, say,
16 Idaho and Oregon, but they were competing with other
17 student from around the world.

18 So identifying challenge, globally challenged --
19 excuse me, I don't know if I am saying it right --
20 global challenged States in our nation would help us
21 set benchmarks for how we needed to improve our own
22 education system.

23 Q. If I understand it correctly it is part of the
24 underlining rationale is that the State of Washington
25 is involved heavily in the global economy?

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1 A. Yes.

2 Q. To look at what State we should compare
3 ourselves with is other States that are involved in
4 the global economy?

5 A. Yes.

6 Q. That is how the Washington Learns process came
7 up with the global challenged States?

8 A. Yes.

9 Q. Moving on to the slide number 4, where you say:
10 "State allocates different salary averages among
11 districts based on 30-year-old snapshot."

12 Do you see that?

13 A. Yes.

14 Q. What do you mean by that?

15 A. It means that the, for the classified staffing
16 ratio that we discussed earlier of 17 staff per
17 thousand, the State identifies how many staff it will
18 pay for a given school districts.

19 A school districts of a thousand student, the
20 State will pay for 17 staff. But the salary that the
21 State pays for those 17 staff, is based on a snapshot
22 that was taken several decades ago and has been
23 inflated with the cost of living increases that have
24 been provided by the State.

25 That snapshot, that many years ago, was --

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1 districts had different salaries. So there are
2 districts that get their -- there is about \$30,000 --
3 31,000 is the base or the lowest amount, but some
4 districts gets up to 34,000, based on what they were
5 paying that many years ago.

6 The same phenomenon exists for administrative
7 staff. So that the snapshot that was taken, we have
8 some districts that are allocated the resources to, to
9 pay a salary of, say, 57,000. And some districts are
10 allocated up to 85,000 for the same administrator.

11 Q. Next line where you say:

12 "The State has no method to allocate staff
13 salaries to reasonable costs of attracting and
14 retaining." Do you see that?

15 A. Yes; right.

16 Q. Could you briefly explain what you mean by
17 that?

18 A. What I meant is that when we took the snapshot
19 30 years ago and it was just updated, whatever that
20 was, if there was a cost of living increase, the State
21 has never gone back and said, "we need to reflect that
22 that -- we need an update to that salary snapshot to
23 reflect what districts have to pay today."

24 So a district that is getting \$30,000 for their
25 17 classified staff in the example that I used

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1 earlier, may be paying 36,000 on average for those 17
2 staff and they are funded at between 30 and 34
3 thousand, depending upon what district that they are.

4 Q. All right. If I could ask you to please turn
5 to Office of the Superintendent of Public Instruction
6 slide number 38, please?

7 A. I am there.

8 Q. Entitled "OSPI recommendation" and regarding
9 the NERCs; correct?

10 A. Yes.

11 Q. The first bullet says "allocates \$1,101 per
12 student instead of 568, fully funds operating costs
13 that relates to the Basic Education."

14 Could you see that?

15 A. Yes.

16 Q. Could you explain what you are referring to
17 with the allocation numbers and the costs of the Basic
18 Education?

19 A. This data is based on the 2006-2007 school
20 year. In that year we did a survey of the school
21 districts to identify how much they spent on the
22 operating costs associated with the Basic Education.

23 So how much did they spend, for example, on
24 utilities and insurance and -- I don't know how many
25 categories, maybe 15 categories.

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1 The superintendent at the time that the State
2 was allocating \$468 per student. The superintendent
3 recommended that the State spend \$1,100 per student in
4 order to fully fund utilities and insurance.

5 And in order to fully fund categories, such as,
6 security and facilities maintenance supplies --
7 student supplies and the other categories are escaping
8 me at this moment.

9 But this --

10 Q. When you said the other categories, the other
11 categories of things that the NERCs cover?

12 A. Yes.

13 Q. Then the next bullet says, "includes \$126 per
14 student per curriculum a six-year adoption cycle?"

15 A. Yes.

16 Q. What do you mean by a six-year adoption cycle?

17 A. We costed it out for all grades and all content
18 areas, what it would take, if the State was to buy all
19 new curriculum all at once, just write a check and
20 everybody gets a new curriculum.

21 Q. There would be aligned to the current
22 standards?

23 A. Current standards, yes. So we, to do that, we
24 looked at the State. Menu of appropriate curriculum
25 for grades K through 3, for reading. Would looked at

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1 the potential State curriculum menu for math. We were
2 in the process of developing that menu at the time.

3 We looked at what districts were spending on
4 those curriculum and then where the State doesn't have
5 a menu of curriculum that is aligned, we looked at the
6 curriculum materials that were most commonly
7 purchased.

8 We identified that if the State were to replace
9 all curriculum all at once for all content areas and
10 all grades, I think that the cost was about \$732
11 million. Then we analyzed based on the different
12 assumptions of how often that you replaced that.

13 The six-year replacement cycle refers to buying
14 new textbooks and curriculum every six years instead
15 of every year or every 12 years. That based on what
16 it costs in a given year to do it all at once, you
17 divide that by the number of years, that you assume in
18 your replacement cycle.

19 Q. Then the next bullet says, "inflates with
20 measures specific to the costs," can you explain what
21 that means?

22 A. Yes. Currently the NERCs costs inflate by the
23 implicit price deflator --

24 Q. Sometimes called the IPD?

25 A. -- IPD.

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1 So that the legislature, religiously, will add
2 more money to the NERC allocation based on the
3 inflation of the IPD.

4 But if you look at the costs for the NERCs
5 overall, it grows much faster than IPD. If you look
6 at why it grows much faster, is because there are some
7 categories of cost that grow wildly higher than IPD.

8 Utilities and insurance are the primary driver
9 of the costs of NERC.

10 Her recommendation was to take the component of
11 NERC associated with the utilities and insurance and
12 have a specific measure of inflation that mirror, that
13 was a utilities measure, for example.

14 Q. When you said "her," are you referring to the
15 then current Superintendent of Public Instruction,
16 Terry Bergeson?

17 A. Yes.

18 Q. Then that the next bullet, where it says "adds
19 to 282 per student for instructional technology, that
20 is in addition to the \$1,100?

21 A. I can't remember if it was 282 on top of or it
22 includes -- I believe that it was on top of. Yes, it
23 was on top of.

24 Q. When you say "instructional technology," could
25 you briefly explain what you are referring to there?

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1 A. Yes.

2 It is software and computer or hardware for
3 students and for instruction.

4 Q. So that is solely for student instruction as
5 opposed to, for example, the computers and technology
6 that you use in the administrative office to fill out
7 the reports and things?

8 A. Yes.

9 Q. If I can ask you to please turn to OSPI slide
10 number 44.

11 A. I am there.

12 Q. At the top it says "current LAP funding is
13 inadequate." Do you see that?

14 A. Yes.

15 Q. First, let me make sure that I understand it
16 correctly. At this slide, when you say "LAP funding"
17 that is the LAP program funding formula, as well as
18 the Federal Title I dollars, as well as the \$628, as
19 well as the PAS State dollars?

20 A. Yes.

21 Q. Could you briefly explain what the what you
22 mean when you say "current LAP funding is inadequate"?

23 A. The Learning Assistance Program has been in
24 effect for many years. That provides an allocation to
25 students, like I think that it is \$280 per LAP student

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1 unit, which is poor students in this State.

2 Districts can spend that amount of money, can
3 spend the money on any students that is struggling
4 academically, but poverty is the driver.

5 Q. When you say "a poor student," is that the
6 federal grant Free and Reduced Lunch Program figure
7 that is used to determine that?

8 A. Yes.

9 When you look at what that amount of money can
10 buy, my assessment is that the resource is inadequate.
11 The reason that I came to that conclusion is twofold.

12 One, is that the resources were never increased
13 beyond just keeping up with inflation and costs, when
14 we enacted education reform and had higher
15 expectations for student learning.

16 Q. If I can interrupt, when you say "education
17 reform" you mean House Bill 1209?

18 A. Yes.

19 Q. I am sorry, go ahead.

20 A. When you look at the buying power of the
21 program in 1994 compared to the buying power of the
22 program in say, 2007, it is, basically, the same
23 number of teacher hours that you can buy per student,
24 who qualifies for Free-And-Reduced Price Lunch.

25 Given the fact that we have much higher

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1 expectations of the students, it is my assessment that
2 the State needs to identify what students need and
3 fund that program.

4 The second approach to identifying adequacy was
5 to translate the 208, 80 dollars per student into how
6 many staff can you buy with that amount of money and
7 what -- what kind of opportunity or program can you
8 provide with it.

9 The last bullet -- I am sorry the second bullet
10 reflects what you can buy. You can essentially buy
11 3.46 staff per thousand students.

12 So that is one staff per 289 students qualifying
13 for Free-And-Reduced Price Lunch that would equal to a
14 teacher spending 30 minutes a day with a group of 28
15 struggling student, all of analyze in order to develop
16 the proposal for funding is that you had to have very,
17 very small groups of students with the teacher, in
18 order for that teacher to identify why the student was
19 struggling, diagnose the problem, and identify a plan
20 for how -- how to address that problem.

21 Then have the small enough group that you could
22 actually work one-on-one with students who were
23 struggling.

24 Q. The 3.46 staff units that you were referring to
25 are the slide says "that leaves no money for

1 materials, program support or professional
2 development"; is that correct?

3 A. Correct.

4 Q. If I could ask you to look at slide number 46,
5 OSPI slide 46, it notes that there is a three second
6 from the bottom line. It notes that there is a \$325
7 million increase over the current funding is the
8 recommendation?

9 A. Yes.

10 Q. That was, that is the basis for that
11 recommendation explanation that you just gave to the
12 LAP funding?

13 A. Yes.

14 Q. If I could ask you to please turn to OSPI slide
15 51, this is regarding the Superintendent of Public
16 Instruction's recommendations regarding the ELL;
17 correct?

18 A. Yes.

19 Q. The second bullet from the bottom states "the
20 \$96 million increase over the current funding." Do
21 you see that?

22 A. Yes.

23 Q. Could you briefly explain the reasoning for
24 that recommendation?

25 A. It is similar to the reasoning for the Learning

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1 Assistance Program recommendation.

2 For both of those recommendations we formed a
3 work group of school districts experts providing
4 programs to struggling students and providing programs
5 to English Language Learners.

6 We designed from the ground up with them what
7 does it take to address their educational needs, that
8 are unique to the fact, that they are struggling or
9 that they are still learning English.

10 So when you build from the ground-up, what each
11 of those sets of programs must include, given the
12 complexity of those student populations.

13 They represent for Learning Assistance Program
14 the \$325 million increase and for the ELL program a
15 \$96 million increase annually.

16 Q. Did you look at any other school districts or
17 consider other programs, in any particular school
18 districts, as part of the ELL recommendation?

19 A. Yes.

20 We looked at the programs that were being
21 provided in the Yakima and Pasco School Districts and
22 the Spokane School District.

23 Spokane was a heavy emphasis of the work group
24 given that Spokane has very successful outcomes for
25 their ELL students.

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1 Q. If I could ask you to please turn to, OSPI
2 slide 53, please.

3 A. I am there.

4 Q. The one that is titled "Transportation Funding,
5 the Gap is Widening," do you have that one?

6 A. Yes.

7 Q. It refers to a JLARC Study at the bottom, that
8 estimated under-funding at 2004-2005 at 92.6-114
9 million; do you see that?

10 A. Yes.

11 Q. Could you briefly explain what JLARC estimates
12 that you are referring?

13 A. JLARCs, is the Joint Legislative Audit and
14 Review Committee. This is the legislature's research
15 arm, and they were tasked with identifying whether or
16 not the people transportation program was adequately
17 funded for Basic Education transportation.

18 They identified in 2006 -- I believe is when
19 their study came out -- that based on the latest data
20 that they, which was 2004-2005 data, that districts
21 were spending between 92 and 114 million dollars in
22 excess of State funding on Basic Education costs.

23 Q. All right.

24 If I can ask you to turn to the next slide, it
25 is the chart where it says "diesel dollar per gallon";

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1 do you see that?

2 A. Yes.

3 Q. Briefly, what is the point that your making
4 with this chart?

5 A. The point is that on the chart, on page 53, the
6 latest date that you that we have is 2006-2007 data.
7 That is the year of the data that had closed. Then in
8 2008 we were experiencing very significant increases
9 in fuel prices.

10 So that the fact that there was a gap of \$127
11 million in the 2006-2007 school year would have
12 been -- in our estimation, was a great under estimate
13 of the current situation in the 2007-2008 school year,
14 given the wild increases in the costs of the fuel.

15 Q. All right.

16 Then last question on this exhibit, if I can ask
17 you to turn to slide number 64.

18 A. Yes.

19 Q. Could you briefly explain what this chart is
20 showing?

21 A. This chart displays the cost of living
22 increases that the legislature has granted to the
23 three major categories of the School District
24 personnel between 1999 and 2006-2007 and 2000.

25 There are projections there, based on projected

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1 Seattle Consumer Price Index.

2 Q. They are based on the Seattle Consumer Price
3 Index, because that is what Initiative 732 said?

4 A. Yes.

5 Q. Then I notice on the chart for 2009, 2010,
6 2010, 2011, it shows that the 3.4 percent and the 2.4
7 percent.

8 A. At the time, that was the projected COLA. But
9 that was, that is a fairly old estimate or old
10 projection.

11 Q. In the budget that the State just passed, is
12 there any increase at all? Were the COLA numbers
13 wiped out?

14 A. The COLA was not granted for the 2009, 2010,
15 and 1011 school years.

16 Q. Which means that the updated information would
17 be a zero in those lines, then?

18 A. Let me -- explain.

19 The Consumer Price Index is projected forward
20 each quarter, right.

21 Q. Right.

22 A. When the legislature made the decision to
23 suspend the COLA for the 2009-2010 and 2010-2011
24 school year. If they hadn't suspended, the increase
25 would have been 4.1 percent in the 2009-2010 year and

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1 zero percent in the 2010-2011 year, because the
2 inflation has been updated.

3 So that inflation was -- has been so low that
4 the projected COLA had been granted in the 2010-2011
5 year would have been zero.

6 But ultimately they didn't grant any COLA. They
7 didn't grant the 4.1 and they didn't grant the zero.

8 MR. AHEARNE: That is all I have on Exhibit
9 68.

10 BY MR. AHEARNE:

11 Q. You had mentioned that the fuel prices, if you
12 could, Exhibit 79 is in that same notebook?

13 A. Yes.

14 Q. If I could ask you to please turn to that.
15 This is an e-mail from you to Allan Jones at OSPI;
16 correct, with an attached document relating to the
17 emergency fuel supplemental requests?

18 Is that correct?

19 A. Yes.

20 MR. AHEARNE: Your Honor, we would move to
21 admit Trial Exhibit 79. There is no objection from
22 the joint statement.

23 MS. BASHAW: Mr. Clark is speaking on it.

24 MR. AHEARNE: I am sorry.

25 MR. CLARK: Sorry about the colloquy, your

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1 Honor. It was -- I am getting my exhibit list, I can
2 respond.

3 THE COURT: All right.

4 MR. AHEARNE: I move to admit Exhibit 79.

5 THE COURT: Exhibit 79 is offered.

6 MR. CLARK: No objection, your Honor.

7 THE COURT: Exhibit 79 is admitted.

8 (Exhibit No. 79 received in evidence.)

9

10 Q. Assistant Superintendent Priddy, if I could ask
11 you to please turn to the second page of the exhibit.
12 On the graph there where it says "WSDOT diesel price
13 change forecast." Do you see that?

14 A. Yes.

15 Q. Can you briefly explain what WSDOT forecasts
16 are?

17 A. The Washington State Department of
18 Transportation forecasts the costs of fuel, because
19 the Department of Transportation has such a
20 significant fuel bill.

21 They have fuel that they have to buy for the
22 ferries and all of the State Patrol vehicles. And so
23 their measure is very important to the State
24 appropriately anticipating those costs.

25 Q. All right. Then what is the general point that

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1 is being conveyed by this graph here, on Trial Exhibit
2 79?

3 A. Well, the State funding formula for
4 transportation is in part inflated by the IPD, the
5 Implicit Price Deflator.

6 The funding formula is not the -- there is no
7 component for fuel in our funding formula, I believe.
8 It is not tied -- there is no part of our funding
9 formula tied to the Washington State Department of
10 Transportation anticipated fuel costs.

11 So as the State anticipates the costs to School
12 District transportation, the fact that transportation
13 costs, or fuel costs, are increasing at a very
14 significant rate, it is not built in to what the State
15 funded for schools.

16 Q. Is there a rule of thumb that penny increase in
17 the diesel price results in a hundred thousand dollar
18 increase in the School District costs?

19 MR. CLARK: Objection to the question, your
20 Honor.

21 I don't think that there is a foundation
22 established for this witness to testify as requested.

23 BY MR. AHEARNE:

24 Q. Do you have an understanding as to whether
25 there is a rule of the, without telling me what the

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1 understanding is, do you have an understanding one way
2 or the other, as to whether there is a rule of thumb
3 as to whether a penny increase in the diesel costs
4 results in an approximately \$100,000 increase in the
5 School District costs?

6 A. That is my understanding.

7 Q. When you, on this Exhibit Trial Exhibit 79, the
8 first bullet notes: "Districts that pay about 1.20
9 per gallon for diesel in 2004-2005 school year are now
10 paying more than 2.70 per gallon," do you see that?

11 A. Yes.

12 Q. Then I also see at the bottom there is a
13 funding request of \$11 million; do you see that?

14 A. Yes.

15 Q. How do those two relate to each other, if they
16 do?

17 A. They relate, in that the superintendent
18 requested that the legislature infuse additional \$11
19 million into the school -- into the funding formula
20 for the 2006-2007 school year as an emergency
21 recognition that fuel prices had increased
22 substantially.

23 Q. Did fuel prices continue to increase?

24 A. Yes, but they leveled off.

25 Q. They increased after this, but then they

1 leveled off?

2 A. Yes.

3 Q. If I could ask you to please turn to Trial
4 Exhibit 67. Trial Exhibit 67 is a later version of
5 one of your presentations?

6 A. Yes.

7 Q. Is this an example of one of the -- if I
8 understood correctly from your deposition, you give
9 these types of presentations to various groups;
10 correct?

11 A. Yes.

12 Q. This would be one example of the general
13 presentation, that you prepared and present to the
14 groups?

15 A. Yes.

16 Q. Is one purpose of this document to present
17 information on the current condition of the public
18 school Financial Resources that are available?

19 A. Yes.

20 Q. Could you briefly describe what the main theme
21 or purpose of this presentation is?

22 A. The purpose is to identify that the school
23 system is at a crisis point financially; that the
24 costs have been increasing so much more quickly than
25 revenue, that districts are reaching the point of

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1 insolvency.

2 And in order to remain solvent, they will have
3 to make drastic changes in the instructional program
4 that they delivered to the students by reducing the
5 number of staff that they employ in the classroom and
6 in the school generally.

7 Q. All right.

8 If I could ask you to turn to office of the
9 superintendent public instruction slide 2, please.

10 A. Yes.

11 Q. It refers to the 295 school districts; correct?

12 A. Yes.

13 Q. There used to be 296 school districts; correct?

14 A. Yes.

15 Q. Why was there the reduction?

16 A. The Vader School District dissolved. It was
17 absorbed by the neighboring school districts, because
18 they could not operate on the funds -- the State funds
19 and the federal funds that they received. And they
20 couldn't pass the levy. They tried to pass a levy the
21 last year that they operated, and that failed.

22 Also, their building, one-school building, was
23 about to be condemned by the County.

24 Q. On this pie chart, where it refers to the
25 State, is that the only the Basic Education funding

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1 formulas or is that all State money?

2 A. All State funds. Vader, V-A-D-E-R -- might be
3 A-R.

4 Q. At one point I knew whether it was spelled the
5 same as Darth Vader, but now I forget.

6 If I could ask you to turn to Office of the
7 Superintendent of Public Instruction slide 7, please.

8 A. I am there.

9 Q. Could you explain what the point that you are
10 trying to make with this slide is?

11 A. This is an example of how quickly costs that
12 school districts incur are growing.

13 Health life and disability insurance for the
14 100,000 employees in our school system grows at a much
15 faster pace than inflation, for the staff that the
16 legislature funds in its funding formulas.

17 So that the 17 staff per thousand students, the
18 State allocates the resources to keep up with that
19 inflation typically. But for the staff that the
20 districts employ using the levy funds, or using the
21 federal funds, those costs inflate so much faster than
22 the revenue sources that support those staff, that it
23 contributes to the significant shortage that districts
24 are experiencing in the revenue to keep up with the
25 instructional program that they have today.

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1 Q. Over the past 10 years, has the increase in the
2 health life and disability insurance expenses for the
3 school districts increased at a higher rate than the
4 inflation?

5 A. Yes.

6 Inflation is two, three percent, if you are
7 using the Implicit Price Deflator.

8 If you are using the CPI, the Seattle Consumer
9 Price Index, it is maybe 3 or 4 percent. But the
10 insurance costs increase between 6, 9, 11 percent per
11 year.

12 Q. If I can ask you to turn to the next slide.

13 A. I am there.

14 Q. Under, there is one bar graph is typical of one
15 is Everett. Do you see that?

16 A. Yes.

17 Q. Is this an illustration of what you were
18 referring to earlier about how some districts have the
19 larger base allocation from the State than other
20 districts?

21 A. Yes.

22 Q. In this bar graph is the dark blue -- what is
23 the Program Funding Formulas is base allocation?

24 A. Yes, the State salary schedule.

25 Q. Then the light blue is what is additional money

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1 from non-State sources?

2 A. Yes.

3 Q. Those typically are from the local levies, et
4 cetera?

5 A. Yes.

6 Q. Then under your point 2, it says: "Equalizing
7 will cost \$167 million and raise most teachers'
8 salaries by 5 percent."

9 Do you see that?

10 A. Yes.

11 Q. What do you mean by "equalizing?"

12 A. If you bought the salary schedules of the 280
13 districts that are at the base level -- is it 280?

14 It is about 280 something districts, at the base
15 level, up to the Everett level, that is a 5 percent
16 difference.

17 So those teachers would experience a 5 percent
18 increase to get up to the Everett salary schedule
19 level and then Everett they would be constant with
20 Everett.

21 Q. That is when the -- to do that would cost
22 approximately \$167 million?

23 A. Yes.

24 Q. The title of your slide, at least this one is
25 "Differences in the Teachers; Salary Impacts Morale

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1 and Retention: Do you see that?

2 A. Yes.

3 Q. How does it impact morale and retention?

4 A. The teachers that are in districts neighboring
5 the Everett School District make less.

6 They would like. They are doing the same job.
7 They are teaching the same students. They have the
8 same learning expectations or goals that are set by
9 the State. So it is difficult to see, in a
10 neighboring district, the same job pays much more.

11 Districts Superintendents report frequently that
12 they are in the neighboring districts. They lose
13 their best teachers to those districts.

14 Q. When you say the same learning expectations and
15 goals, are you referring to the State Education
16 Standards in 1209 and the Academic Learning
17 Requirements?

18 A. Yes.

19 Q. If I could ask you to turn to the Office of the
20 Superintendent Of Public instruction slide 10. Do you
21 have that in front of you?

22 A. Yes, I do.

23 Q. Let's just take the classified, for example, is
24 the dark blue the 30,688 figure, is that the base
25 salary amount that you were talking about earlier for

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1 classified in the State's funding formulas?

2 A. Yes.

3 Q. Then the sort of lighter color the 4,539
4 number, do you see that?

5 A. Yes.

6 Q. Is that some districts get a higher amount?

7 A. Yes.

8 Q. So if you were to add those two numbers to go
9 to come up with the \$35,277; that is what the
10 allocation is for the highest allocated School
11 District in the State?

12 A. Seattle is the highest allocated School
13 District. They get the 35.

14 Q. The 30,000 is everybody gets at least 30,000
15 figure; correct?

16 A. Yes.

17 Q. Then the 1316 that is there, that is made up
18 with local levy funds, et cetera?

19 A. Yes.

20 Seattle has to -- well, if you are getting the
21 maximum, you have to make up 13. If you are getting
22 the minimum, the 30,000, you have to make up all of
23 that \$6,000 difference with the local levy funds. It
24 is very dependent upon what district that you are
25 doing this analysis for.

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1 Q. The 36,593 number, that is the average actual
2 costs for classified employee of the School District?

3 A. Yes.

4 Q. Then if we go to the administrative column,
5 that would include like School Districts
6 Superintendents?

7 A. It is superintendent -- School District
8 Superintendents and mainly principals and vice
9 principals.

10 These are certificated administrative staff,
11 which means that they hold the teaching certificate.

12 Q. Then the 96,445 number, that is the average
13 amount that is the School District pays for one of the
14 administrative staff positions?

15 A. Yes.

16 Q. The dark line 57,065, that is the base amount
17 that the State allocates to every district at least
18 that amount?

19 A. Yes.

20 Q. Then the 23,742 amount, some districts get some
21 additional amount that is in that light gray area?

22 A. The 85,000 range, yes.

23 Q. So every district, if you add those two
24 together, it comes -- if I did my math correctly,
25 \$80,707. Every district gets at least 57,000 some,

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1 the grandfather districts get up to 80,000?

2 A. Yes.

3 Q. Then when you say here, on point 3, equalizing,
4 are you talking about the equalizing the salary,
5 \$226,000,000 State cost equalizer; what are you
6 referring to?

7 A. If all districts were all located, the salary
8 of the \$80,000 for the top of amount for their
9 administrative staff, and the top amount for the
10 classified staff, the State would be pushing out to
11 school districts additional \$226,000,000 a year.

12 Q. Then in your next paragraph, you refer to true
13 costs and a \$140,000,000 difference, what are you
14 referring to there?

15 A. The fact that if you -- if you look at what
16 districts actually have to pay in order to keep and
17 retain their classified -- to attract and retain their
18 classified staff and their administrative staff, to
19 the average salaries that districts' experience today,
20 it would cost another \$140 million for the State to
21 fund the formula of 17 classified staff per thousand
22 students, and four administrative staff per classified
23 student.

24 Q. Per thousand --

25 A. Per thousand, per thousand students.

1 Q. I understood what you meant. You understood
2 what you meant. I want to make sure that the record
3 says that.

4 If I could ask you to turn to OSPI, slide 11,
5 please. Those three stacked bar charts, are those the
6 same type of information we have discussed earlier,
7 but all for the same school year the 2007-2008 school
8 year?

9 A. Yes.

10 Q. If I can ask you to turn to, for some reason
11 this is one slide that doesn't have an OSPI, that
12 little thing at the bottom, OSPI slide 16 and then the
13 next one is a large pie chart, that suspect bumps a
14 few pages, because the following page is 18. So this
15 probably say 17. It says 17 in the corner there. Do
16 you see that?

17 A. Yes.

18 Q. Do you have that slide in front of you?

19 A. Yes, I do.

20 Q. "State NERC funding intended to cover" that
21 slide?

22 A. Yes.

23 Q. What is the points that you are making with
24 this pie chart here?

25 A. The State funding formula for operating costs,

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1 if you look at the upper left-hand circle, it says
2 "9,476," the State allocated in the 2006, 2007 year,
3 \$9,400 for every certificated staff unit that it
4 bought, based on the funding formula of 46
5 certificated instructional staff per thousand
6 students.

7 First you identified how many certificated
8 instructional staff that the State is going to pay
9 for, then you give districts another \$9,400.

10 The purpose of this slide is --

11 Q. Actually, if I could interrupt, just so we are
12 clear on the formulas.

13 The State allocates for -- certificated
14 instruction staff 46 slots for every one thousand FTE
15 students?

16 A. Yes.

17 Q. Then for the NERCs, it takes that 46, and
18 multiples it by whatever that year number is -- this
19 year was 9,476?

20 A. Right.

21 Q. All right.

22 A. So a district with a thousand students, would
23 get one certificated instructional -- 46 instructional
24 staff and then you take the 46 times \$9,400.

25 Q. All right. I interrupted you there?

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1 A. That is all right.

2 That \$9,400 amounts to \$468 per student. That
3 \$468 per student covers all of the items listed on the
4 pie chart on the far right side. So it is meant to
5 display how many -- how far the \$9,400 has to go,
6 essentially.

7 Q. All right.

8 If I could ask you to turn to the next slide
9 Office of the Superintendent of Public Instruction
10 slide 18. Do you see that?

11 A. Yes.

12 Q. Could you briefly explain what your point is on
13 that slide?

14 A. The point of the slide is that -- what I spoke
15 to earlier, that the NERC funding amount is inflated
16 by the Implicit Price Deflator.

17 If you look at how much of an increase the
18 district received for all NERC across 16 years,
19 sometimes in some years that increase covers utilities
20 and insurance plus a little bit more.

21 But in 1999 to 2000, for example, the increase
22 in the whole NERC funding; didn't even cover the
23 increase in the utilities and insurance. If they got
24 another -- well, let me give a different year.

25 In 1998, 1999 districts had an additional \$7

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1 million after they covered their utilities and
2 insurance.

3 In 1999, 2000 they had barely any money left
4 over for any of their NERC costs, after they paid for
5 utilities and insurance increases.

6 I stopped using this slide, because it is so
7 hard to explain.

8 Q. Actually, that is a perfect segue in what I was
9 going to ask you. Look at Trial Exhibit 616.

10 You said in your deposition that there is an
11 updated version. I would like to hand you Trial
12 Exhibit 616. If I can ask you to turn to slide 4,
13 please.

14 Do you have this in front of you?

15 A. I do.

16 Q. Is that an updated version of the slide that we
17 were just talking about from Trial Exhibit 67?

18 A. Yes.

19 Q. Perhaps using this slide could you, does this
20 provide the numbers that makes it a little easier to
21 understand?

22 A. It does. Go ahead.

23 Q. I am sorry.

24 If I do my math correctly on this one -- it
25 shows the updated slide shows that the difference,

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1 that is 212 figure there that is \$212 million?

2 A. Yes.

3 Q. Then \$187 million?

4 A. Yes.

5 Q. That is \$25 million cushion there; correct?

6 A. Right.

7 Q. The slide that we are looking at from Exhibit
8 67, shows it is being a \$30 million cushion; right?

9 A. Yes.

10 Q. Is the approximate timeframe of slide 67 late
11 2008, early 2009?

12 A. It would have been late 2008.

13 Q. Then the updated slide, that is in Trial
14 Exhibit 616, that is more recent; correct?

15 A. It is more recent; yes.

16 It is based on new inflation, more recent
17 inflation estimates, and more recent -- better data on
18 the utilities and on the insurance projections.

19 Q. All right. If I could ask you, going back to
20 Exhibit 67, please, if I could ask you to turn on the
21 Office of the Superintendent of Public Instruction
22 slide 20, do you have that in front of you?

23 A. Yes.

24 Q. At the top, could you briefly explain what the
25 main point that you are making with this slide is?

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1 A. The point of this slide is that school
2 districts spend much more than the State funds on the
3 basic operating costs associated with utilities,
4 insurance, facilities, maintenance supplies,
5 textbooks, curriculum, that kind of thing.

6 It is based on a survey of the school districts
7 that this graph -- this is displaying 2006, 2007 data.
8 The data was a special survey that we required school
9 districts to report just their Basic Education
10 expenditures associated with these categories.

11 It displays the results of that survey, the
12 State funding, and the District spending.

13 Q. This is, you still have Exhibit 616 on the
14 little shelf there?

15 A. Yes.

16 Q. This is another example, where there is an
17 updated slide?

18 A. Yes.

19 MR. AHEARNE: I am sorry, your Honor, I
20 should have told you not to put that one away.

21 THE COURT: It is all right.

22 MR. CLARK: Which slide are we going to?

23 THE COURT: Exhibit 616.

24 MR. AHEARNE: Yes.

25 MR. CLARK: Was there a specific slide?

1 MR. AHEARNE: I am sorry, Office of the
2 Superintendent of Public Instruction slide 1 is the
3 first one.

4 MR. CLARK: Thank you.

5 BY MR. AHEARNE:

6 Q. Is slide number one in Trial Exhibit 616, the
7 updated version of the slide for the 2007-2008 school
8 year?

9 A. Yes.

10 Q. If I can ask you to please -- we have covered a
11 lot of the ground here -- I am moving ahead.

12 THE COURT: Mr. Ahearne we are at 10:30.
13 At this time, we will take our morning recess for 15
14 minutes. Then we will resume with Ms. Priddy's
15 testimony at that time.

16 The Court will be in recess.

17 THE CLERK: All rise. Court is in recess.

18 (Court was recessed.)

19 THE BAILIFF: All rise. Court is back in
20 session.

21 THE COURT: Please be seated.

22 Learn.

23 MR. AHEARNE: Thank you, your Honor.

24 BY MR. AHEARNE:

25 Q. (Continued.) If I could ask you to go back to

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1 Trial Exhibit 67, please. Please turn to Office of
2 the Superintendent of the Public Instruction slide
3 number 25, please. On the title it says "District
4 Costs Exceed State Revenue," do you see that?

5 A. Yes.

6 Q. Is that referring to the pupil transportation?

7 A. It is.

8 Q. What is the basic point that your making with
9 this slide?

10 A. The point is that we have historically been
11 able to see how much the State was funding versus how
12 much districts were spending, that there was a gap.

13 But in 2007-2008, we implemented a new
14 accounting method to identify how much districts were
15 spending just onto and from transportation.

16 In the 2007-2008 school year, the data that is
17 reflected for that year, the identified gap of \$125
18 million is just related to the purely transporting
19 students to and from school, and would not have any of
20 the costs associated with activities, such as, sports,
21 or other non-Basic Education costs.

22 Q. All right.

23 Just want to be clear on that the heading where
24 it says: "State-wide Expenditures Minus the
25 Revenues," the expenditures that there are there are

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1 the expenditures by the school districts?

2 A. Yes.

3 Q. The revenues are the revenues to the school
4 districts from the State funding formulas?

5 A. Yes.

6 Q. If I could ask you to please turn to OSPI slide
7 29, please.

8 A. Yes.

9 Q. What is the basic point that you are making
10 with this slide?

11 A. The point at that time was that going into the
12 2008-2009 school year, School District were spending
13 down in their ending fund balance, in order to avoid
14 cutting costs for the 2008-2009 school year that they
15 would have had to cut in order to maintain their prior
16 year-ending fund balance.

17 Q. When you are saying "avoid cutting costs,"
18 avoid cutting teaching positions and things like that?

19 A. Yes.

20 Q. As the Assistant Superintendent of Public
21 Instruction for Financial Resources, does the dropping
22 of the end fund balance have any significance to you?

23 A. It does.

24 Q. What is the significance?

25 A. It is significant in that it reflects that what

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1 we know, that the districts are having to make tough
2 choices in terms of balancing their budget.

3 But it is also significant, because as ending
4 fund balances drop, districts are less able to respond
5 to the emergencies. That cushion is very important
6 for solvency.

7 So it reflects the fact that there is something
8 happening financially, but it -- on a State-wide
9 level, it is too much summarized information. So you
10 need to look at this on a district-by-district level,
11 really, to know more specifically who is in trouble
12 and who isn't.

13 Q. But another way of trying to break down the
14 state-wide information of 29, would be to look at
15 whether it is a large School District, medium School
16 District, or a small School District?

17 A. Yes.

18 Q. If I could ask you to turn to slide 30, please.

19 A. Yes.

20 Q. Is that a breakdown by the size of the school
21 districts, then, of the ending fund balance?

22 A. Yes.

23 Q. What is the principal point -- first, there is
24 a background, if I could look at the legend up here,
25 it says district less than 1,000 FTD -- those are FTD

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1 students?

2 A. Yes.

3 Q. What is the point that your making with this
4 part of your presentation?

5 A. That the smallest school districts have seen
6 the most dramatic change in their ending fund balance.

7 Q. Does that have any significance?

8 A. It does; because a small School District is,
9 has less economy of scale.

10 They have less money per student, typically, and
11 their costs, their emergency costs are sometimes very
12 similar to that of a big district. So --

13 Q. Could you give an example?

14 A. Yes.

15 A district facility, a school that has a boiler
16 breakdown, it has to be replaced, that cost is the
17 same cost in a small School District, as it is in a
18 big School District.

19 So that they have typically budgeted a larger
20 ending fund balance, as a percentage, in order to
21 respond to the fact that they are just some costs that
22 are fixed costs and are not scaleable. The fact that
23 their ending fund balance has been cut nearly in half
24 is very alarming.

25 Q. Just a follow-up on your example, if a high

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1 school boiler breaks in a small School District with
2 one high school, that is a bigger chunk of their
3 budget than if it is a large School District with
4 several high schools?

5 A. Yes.

6 Q. If I could ask you to turn, please, to, OSPI
7 slide 49.

8 A. Yes.

9 Q. When you say that this talks about levy
10 authority and levy capacity, could you explain -- is
11 there a difference between the two, or are they
12 talking about the same?

13 A. They are the same; levy authority and capacity
14 are used interchangeably.

15 Q. Is this the levy lid that you were talking
16 about earlier?

17 A. Yes.

18 Q. So, for example, in some districts they have a
19 levy capacity, levy authority, of 30 something
20 percent, and other districts it is 20 something
21 percent?

22 A. No, other districts the minimum lid is 24
23 percent.

24 Q. 24.

25 A. Some districts levy less than the 24 percent

1 lid, but their lid is 24 percent.

2 Q. I am saying 20 something, because I will
3 forget -- I will confess that I forgot the exact
4 number in the 20s.

5 A. It is.

6 Q. What is the purpose of this chart?

7 A. This chart is to display that school districts
8 are maximizing their levy authority.

9 And what that means is that as costs increase
10 faster than their revenue. There isn't much more room
11 that they have to go and obtain local levy funds, in
12 order to address those increasing costs.

13 In fact, the levy authority or the levy capacity
14 utilization has climbed dramatically since 1994.

15 Q. Just so that I can understand what is being
16 portrayed here, I have looked at the -- I think that
17 it is 2007. It looks like the line intersects at
18 about 90 percent. Is that correct?

19 A. Yes.

20 Q. Is what is being portrayed here that 90 percent
21 of the school districts are at 100 percent of their
22 capacity, or is it of all of the school districts in
23 all of the capacity that they have, you put them all
24 together, they are at 90 percent of everything?

25 A. The latter; so if you look at the full

1 capacity, it might be --

2 Q. -- of the state-wide system?

3 A. -- of the whole State, depending upon the levy
4 lid that each district has, if you add up that levy
5 capacity, pretend for a moment that it adds to \$2
6 billion, districts are collecting \$1.8 billion.

7 Q. From your work, do you know why School District
8 won't just, each School District wouldn't use 100
9 percent of its maximum authority?

10 A. Yes.

11 There are a number of factors. First of all,
12 districts run levies one- or two- or three-year,
13 four-year levy.

14 If you are running a four-year levy, you can't
15 perfectly predict that what your levy capacity will be
16 in that third and fourth year.

17 You will always have slight differences, but I
18 think that the biggest --

19 Q. If I can interrupt there for a second, to make
20 sure that I understand. When you say that you run a
21 levy in year one, it is a four-year levy, you can't --
22 in year one -- always accurately estimate when the
23 levy lid percentage is applied to something, since I
24 don't know what the something is going to be in year
25 four, I don't know what that percentage is going to

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1 be?

2 A. Yes.

3 Q. All right. I am sorry, I interrupted.

4 A. I think that a bigger driver is that districts
5 make commitments in their community about what their
6 levy is going to be.

7 Some communities have a norm that the levy not
8 exceed, at a certain tax rate, or it not exceed a
9 certain amount.

10 They are willing to support the School District
11 in levying either that tax rate or that amount, but
12 not more.

13 So districts, in order to insure that they get
14 that levy enacted or passed by their voters will not
15 ask for the maximum levy.

16 Q. If I can ask you to actually skipped over a
17 page and go back to slide 44, of the Office of the
18 Superintendent of Public Instruction, slide number 44.

19 A. Yes.

20 Q. That lists you, your phone number, your e-mail
21 address; correct?

22 A. Yes.

23 Q. Then after that, there is a website for the
24 Task Force proposal and then the Task Force itself;
25 correct?

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1 A. Yes.

2 Q. Why does it -- why do you list yourself and
3 your contact information on these presentations?

4 A. Because they are primarily my content that I
5 have developed and so it would be appropriate to ask
6 questions of me.

7 Q. All right.

8 MR. AHEARNE: Your Honor, we would move to
9 admit Exhibit 67, as well as the update, which is
10 Exhibit 616.

11 THE COURT: Exhibits 67 is offered.

12 MR. CLARK: No objection.

13 I am laughing, your Honor, because I,
14 frankly, don't have it admit -- I certainly have
15 plenty questions about it, so no objection.

16 THE COURT: Exhibit 616 is offered also.

17 MR. CLARK: No objection.

18 THE COURT: Exhibit 616 is also admitted.

19 (Exhibit Nos. 67 and 616 received in evidence.)

20

21 Q. If I could ask you to just look at Exhibit 83,
22 please. Do you have that in front of you?

23 A. Yes.

24 Q. Attached to it, is a 1999 report entitled, "The
25 Look at NERC," do you see that?

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1 A. Yes.

2 Q. Do you recall what this report is about?

3 A. I do.

4 It is to start to review the adequacy of the
5 NERC funding formula and identify what districts were
6 spending money on, and whether or not it is keeping up
7 with the inflation.

8 Q. The date of this report is May of 1999?

9 A. Yes.

10 Q. This is while were you at OSPI?

11 A. Yes.

12 MR. AHEARNE: Your Honor, we would move to
13 admit Trial Exhibit 83.

14 THE COURT: Exhibit 83 is offered.

15 MR. CLARK: Let me catch up, your Honor.
16 No objection, your Honor.

17 THE COURT: Exhibit 83 is admitted.

18 (Exhibit No. 83 received in evidence.)

19

20 BY MR. AHEARNE:

21 Q. If I could please ask you to look at Exhibit
22 266 -- do you have Exhibit 266 in front of you?

23 A. Yes, I do.

24 Q. This is an e-mail from Gordon Beck to you;
25 correct?

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

1 A. Yes.

2 Q. With the slides attached?

3 A. Yes.

4 Q. Gordon Beck, is he the person at the School
5 Facilities and the Organization Unit that is under
6 you?

7 A. Yes.

8 MR. AHEARNE: Your Honor, we would move to
9 admit Trial Exhibit 266.

10 THE COURT: Exhibit 266 is offered.

11 MR. CLARK: No objection, your Honor.

12 THE COURT: Exhibit 266 is admitted.

13 (Exhibit No. 266 received in evidence.)

14

15 Q. If I may ask you to look at the first slide,
16 "State Funding Compared to the Total Funding," do you
17 see that?

18 A. Yes.

19 Q. When it says "Total Funding," is that the State
20 funding -- is that referring to the State Funding
21 Formula Amounts?

22 A. It is, yes.

23 Q. When it says, "compared to the total funding,"
24 is total funding, the total amount paid by the school
25 districts?

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

1 A. Yes.

2 Q. When it refers to the activities, 61, 62, 64,
3 those from the activities codes from the F-196?

4 A. Yes.

5 Q. What is the purpose that is being, the point
6 that you are making with this slide?

7 A. The left-hand access -- the Y access is not
8 labeled, I don't remember.

9 The point generally was we were comparing how
10 many districts spent on these activities and how much
11 the State funded.

12 But I don't know if this is on the -- if we are
13 looking at dollars expended or staff per thousand at
14 this point.

15 Q. All right.

16 If I could ask you to look at the next slide,
17 that is a pie chart. Was this just another way of
18 illustrating that same point of the percentage State
19 funding as opposed to the local funding for those
20 three activity codes?

21 A. Yes. But it is not labeled, so I still don't
22 know what it is.

23 Q. Then the next slide, they are a bunch of facts
24 and figures on the facilities maintenance and ground
25 expenditures comparisons, do you see that?

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

1 Could you explain just what the general point is
2 of this part, this block of data here?

3 A. Yes.

4 We were, this was data analysis that was being
5 conducted as we were building for Superintendent
6 Bergeson her proposal for the funding for the
7 facilities maintenance function of school districts.

8 So we were first looking at how much districts
9 were spending and then comparing that to what other
10 metrics that there might be for what was the
11 appropriate level of expenditures in order to have
12 appropriately maintained facilities.

13 So in the top part of the document, it displays
14 how much the State funded per square foot and how much
15 that amounted to per student.

16 So it is total expenditures were \$236 per
17 student, or \$1.54 per square foot, while the State
18 funded 89 cents per square foot.

19 Then we were looking at other entities and what
20 they spent per square foot. So there is a
21 comprehensive school system and university system
22 analysis, which is the AS&U Maintenance Cost Study.

23 They identify an expenditure that is necessary
24 of \$1.58 per square foot, the University of Washington
25 spends \$1.82 per square foot, and on and on.

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

1 Q. These others that are listed, those are other
2 education facilities?

3 A. Yes.

4 Q. Those are at least the set of the examples --
5 at least at this point -- OSPI considered to be a
6 comparables?

7 A. Yes. They were the closest comparable that we
8 could find.

9 Q. If I could ask you to, please, look at Trial
10 Exhibit 71, please.

11 Do you recognize Trial Exhibit 71 as being part
12 of you and Terry Bergeson's presentation to the Basic
13 Education Finance Task Force in June of 2008?

14 A. I do.

15 Q. If I could ask you to the second page is the
16 entitled, "The Facilities," going on to the next page,
17 there is a slide says, "State funding covers 58
18 percent of the facilities maintenance expenditures,"
19 do you see that?

20 A. I do.

21 Q. Is this a more recent version of the slide that
22 we just went through?

23 A. Well, it is a version that is labeled. It
24 looks like it is the same data. It is now labeled.

25 Q. Again, with respect to the information on in

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

1 the heading says "State Funding" -- that is State
2 funding of the School District facilities, correct?

3 A. Yes.

4 Q. When it says "total expenditures," that is the
5 total expenditures by the School District; correct?

6 A. Yes.

7 Q. Is this also based on the same activities codes
8 of --

9 A. Yes, I am almost positive.

10 Q. -- of activity 61, 62, 64, in the prior
11 exhibit?

12 A. Yes.

13 Q. If I could ask you to turn to the two pages
14 further, and this slide is actually labeled on the
15 bottom, left-hand side.

16 It says "slide 32, June 9, 2008, Basic Education
17 Finance Joint Task Force." Do you see that?

18 A. Yes.

19 Q. Under the first bullet it is talking about the
20 preferred maintenance. Then there is a sub-bullet
21 says: "Seattle SP, \$485 million, (no State inventory
22 under development)." Could you see that?

23 A. Yes.

24 Q. Could you briefly explain what that is
25 referring to?

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

1 A. Yes.

2 When school districts are not adequately funded
3 for facilities maintenance, they defer maintenance.
4 The school Seattle School District has a very good
5 tracking system on what maintenance they defer. They
6 quantify that at the time of \$485 million.

7 Other school districts may have tracking
8 systems, but we don't collect that at the State level,
9 we are under, or in the process of a building an
10 inventory system, so that we can collect deferred
11 maintenance data.

12 Q. Then there is the next bullet refers to the
13 "district application for 10.5 million in Small Repair
14 Grant applications," can you see that?

15 A. Yes.

16 Q. Can you explain what that is related to?

17 A. I don't remember.

18 That bullet, I think, was referring to the fact
19 that there were many unfunded grant applications for
20 the Small Repair Grant.

21 I don't know if it is saying that there was \$10
22 million in unfunding, in the amount that was not
23 funded, or if that was the amount that was available.

24 Q. Actually, if I can ask you to look at Exhibit

25 263 --

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

1 A. Yes.

2 Q. Exhibit 263, the document is entitled, "The Two
3 Percent Rule" at the top?

4 A. Yes.

5 Q. It is another slide thing prepared by OSPI. Do
6 you see that at the bottom?

7 A. I do.

8 Q. If I could please ask you to turn to the slide
9 that is labeled, very faint, but the bottom corner,
10 13?

11 A. Yes.

12 Q. It refers to like, for example, the 2007-2009
13 Small Repair Grant; do you see that?

14 A. Yes.

15 Q. Then on the left-hand side in blue, "2007-2009
16 \$4 million 125 applications totaling approximately
17 \$10.5 million." Do you see that?

18 A. Yes.

19 Q. Are these the Small Repair Grants that you were
20 referring to?

21 A. On the prior slide, yes.

22 Q. All right.

23 Then the subsequent -- under that it says "for
24 2005-2007, \$3 million, 126 applications totaling \$11.4
25 million." Do you see that?

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

1 A. Yes.

2 Q. Does that refresh your recollection as to what,
3 whether those \$10.5 million number is referring to the
4 applications that came in or the dollars that went
5 out?

6 A. Well, the dollars that went out were \$4
7 million. What I still don't know, because we haven't
8 been entirely clear is whether or not there were \$10
9 million of unfunded applications, or \$6 million of
10 unfunded applications.

11 Q. All right. I see what you mean. Could you
12 briefly explain for the Court how the -- what the
13 application process is?

14 And at the beginning of your testimony you
15 talked about some competitive system or something.
16 Could you explain what the Small Repair Grant process
17 is?

18 A. Yes.

19 It is a grant where districts must apply to OSPI
20 for funds attached to a specific project and they must
21 identify why the project is an urgent need.

22 Then we score each of the application for the
23 urgency, and the need of the district, whether or not
24 they have funds available, whether or not they have
25 the capacity in bonding authority -- you know, I don't

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

1 remember all of the criteria. But it is a need-based
2 criteria.

3 Then we prioritize, based on that scoring. We
4 fund as far down the list as we can go.

5 Q. When you say "as far down the list as you can
6 go," does that mean as far down the list as whatever
7 the appropriation that year will cover?

8 A. Yes; how many applications will the \$4 million
9 cover. There is a maximum application amount. I
10 believe that you cannot apply for more than \$100,000.
11 The fact that there are \$10 million in requests is
12 based on a very rigid requirement, in terms of how
13 much that you can request.

14 Q. All right.

15 At least as far as the then this page shows
16 there were applications totaling for the 2007-2009
17 biennium -- applications totaled about \$10.5 million;
18 correct?

19 A. Yes.

20 Q. Four million was paid out?

21 A. Yes.

22 Q. What I am not clear on is whether that is a \$6
23 million gap or a \$10 million gap but the gap is at
24 least the \$6 million difference?

25 A. At least 6 million.

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

1 Q. The same math would apply for the prior
2 2005-2007, the applications were about \$11.5 million.

3 A. Yes.

4 Q. The money that the State funded was \$3 million?

5 A. Yes.

6 What I don't know is if that second line is
7 telling us that the applications that were not funded,
8 or if we had -- did we have \$10 million in application
9 or \$14 million in applications.

10 We don't know.

11 Q. But we know that the gap was at least the 6
12 million --

13 A. Yes, at least.

14 Q. -- in 2007 and 2008 reasoning was behind 2009
15 and at least \$8 million in 2005-2007?

16 A. Yes.

17 MR. AHEARNE: Your Honor, I would move to
18 admit Trial Exhibit 263.

19 THE COURT: Exhibit 263 or 266?

20 MR. AHEARNE: Exhibit 263 first.

21 THE COURT: I am sorry, I am on the -- all
22 right. Exhibit 263 is offered.

23 MR. CLARK: No objection, your Honor.

24 THE COURT: Exhibit 263 is admitted.

25

1 (Exhibit No. 263 received in evidence.)

2 MR. AHEARNE: Also, at this point
3 move to admit Exhibit 71.

4 THE COURT: Exhibit 71 is offered.

5 (Exhibit No. 71 received in evidence.)

6

7 MR. CLARK: We did have a completeness
8 objection, your Honor --

9 THE COURT: All right.

10 MR. CLARK: -- as far as the document was
11 concerned.

12 Perhaps we can get more testimony from the
13 witness as to whether this is a document that is only
14 two, three, four-page document in and of itself, or
15 whether there is a larger document.

16 We would like to know, if it was a larger
17 one, of course, we would like to examine it and
18 potentially use it.

19 THE COURT: All right.

20 MR. CLARK: I guess that the witness would
21 be best suited to tell that rather than inquiring of
22 counsel.

23 THE COURT: Did you want to voir dire the
24 witness?

25 MR. CLARK: I can ask a few questions, your

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

1 Honor, or --

2 MR. AHEARNE: I don't -- I mean -- I will
3 explain my understanding of where this came from.

4 We, actually, if it cuts to the end, I
5 don't have an objection to substituting the full copy
6 of this.

7 This is the PowerPoint presentation that
8 the witness already testified that she and
9 Superintendent Bergeson gave.

10 As you know from the deposition, we tried
11 to take out the pages that related to the facilities,
12 the pages related to the such and such. It is
13 completeness is the only objection I have no objection
14 substituting the full copies, we have full color
15 copies with us here.

16 MR. CLARK: I would prefer to do that, your
17 Honor. Then we have one document to look at.

18 We can also look at the excerpts, of
19 course. But as long as we have the full document of
20 record, I think that that would be a better way to
21 approach it.

22 THE COURT: All right.

23 Exhibit 71 is conditionally admitted,
24 subject to the completeness.

25 (Exhibit No. 71 received in evidence.)

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

1 MR. AHEARNE: I will flaunt my procedural
2 ignorance here.

3 Can we -- since it is conditionally
4 admitted subject to the completeness, can we
5 substitute a full version of Trial Exhibit 71, for the
6 current version. The slides are, the slides that I
7 asked about are the same -- the additional slides as
8 well.

9 THE COURT: Yes, you can.

10 MR. CLARK: Perhaps we can have the witness
11 identify it. If it is offered as an exhibit, great.

12 If not, then we can just substitute, if
13 that is what the Court wants to do.

14 THE COURT: I think that it is better to
15 substitute. So that rather than creating a new
16 exhibit, we will just substitute it.

17 MR. CLARK: For the record, we can have the
18 witness identify it?

19 THE COURT: Sure.

20 MR. CLARK: Thank you.

21 BY MR. AHEARNE:

22 Q. I previously had asked you questions about
23 Trial Exhibit 71; correct?

24 A. Yes.

25 Q. Those were selected slides from your and

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

1 Superintendent Bergeson's presentation to the Joint
2 Task Force on the Basic Education and finance;
3 correct?

4 A. Yes.

5 Q. I am handing you now the documents. Is that a
6 complete version of that PowerPoint presentation?

7 A. It is.

8 MR. AHEARNE: Your Honor, I would move to
9 substitute the complete version for Trial Exhibit 71
10 and move that that substituted Trial Exhibit 71 would
11 be admitted.

12 THE COURT: Any objection?

13 MR. CLARK: No, your Honor.

14 THE COURT: Exhibit 71 is substituted as
15 admitted.

16 (Exhibit No. 71 received in evidence.)

17

18 BY MR. AHEARNE:

19 Q. If I could ask you to, please, look at Trial
20 Exhibit, since we are on the construction topic 261
21 and 262.

22 Going to Exhibit 261 it is entitled "Joint
23 Legislative Task Force on the School Construction
24 Funding."

25 On the bottom it says "Final Report."

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

1 Trial Exhibit 262 is entitled "Joint Legislative
2 Task Force on School Construction Funding, August 28,
3 2008" date on it. Do you see those?

4 A. I do.

5 MR. AHEARNE: Your Honor, we would move to
6 admit these two exhibits. We move to admit these two
7 exhibits.

8 THE COURT: All right. Exhibit 261 and
9 Exhibit 262 are offered.

10 MR. CLARK: No objection to Exhibit 261.

11 THE COURT: Exhibit 261 is admitted.

12 (Exhibit Nos. 261 received in evidence.)

13

14 MR. CLARK: -- no objection to Exhibit 262.

15 THE COURT: Exhibit 262 is admitted.

16 (Exhibit No. 262 received in evidence.)

17

18 Q. Assistant Superintendent Priddy, you had
19 testified earlier about how the school facilities and
20 the organization unit is under you; correct?

21 A. Yes.

22 Q. We talked about that, the matching program and
23 the smaller parent program; correct?

24 A. Yes.

25 Q. Did OSPI provide, or if you can explain briefly

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

1 the role that OSPI had in providing information or
2 data to this Joint Legislative Task Force on the
3 School Construction Funding?

4 A. The Task Force would request information from
5 OSPI and request presentations and we would fulfill
6 those requests. We were a staffing that to the extent
7 that they asked for anything.

8 Q. Could you just give a little bit fuller
9 description of what kind of information that -- I
10 mean, I am not looking for details. It is sort of a
11 picture of how OSPI fit into the Legislative Task
12 Force efforts or work?

13 A. It was a joint effort.

14 I believe that they relied on OSPI to provide
15 background facts and information about how much
16 districts spend on the facilities construction.

17 They wanted to know about the funding formulas.
18 They were including OSPI in discussions and seeking
19 information on the transparency of the funding
20 formula, how complicated was the formula to administer
21 by OSPI by school districts, then what was the result
22 of the formula process where school districts needs
23 being met with regards to the facilities construction.

24 Q. All right. Thank you.

25 If I could you ask you to look at Trial Exhibit

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

1 72. Do you have Exhibit 72 in front of you?

2 A. I do.

3 Q. Do you recognize this as being excerpts from a
4 May 2008 Basic Education Finance Task Force
5 presentation?

6 A. Yes.

7 Q. If I could ask you to turn to the last page of
8 this exhibit, which is numbered 35 in the lower
9 left-hand corner. Do you have that in front of you?

10 A. Yes.

11 Q. In the parens above the chart it says, "Actual
12 Dollars Without Pension Contributions."

13 Do you see that?

14 A. Yes.

15 Q. So that this chart is reflecting that dollars
16 without any adjustment for inflation; correct?

17 A. Correct.

18 Q. Then when it says "Without Pension
19 Contributions," could you explain how that influences
20 the numbers, when you look at the graphs like this?

21 A. Yes.

22 The amount that the districts are required by
23 the State to contribute to the pension system on a
24 percentage of total salaries varies each year based on
25 what the system needs to be solvent.

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

1 So if the system is earning a lot of money in
2 the stock market, the State will then, you know -- has
3 in the past -- and so may change and reduce the rate
4 that the school districts would need to contribute.

5 That would drive less State money to the school
6 districts.

7 The opposite is true, also, that if keeping the
8 pension system solvent requires more contributions,
9 the amount that the State must send to a School
10 District, so that the School District can send it to
11 the pension system, must increase.

12 Those two changes haven't helped students learn
13 more. It hasn't provided more teachers in a
14 classroom. It has just been responsive to a set of
15 assumptions that are so far outside of the school
16 system.

17 So when the State is sending less money for
18 pension contributions, it looks like there has been a
19 cut to the classroom, there hasn't.

20 The pension contributions have been jumping
21 around substantially, so as we were looking at
22 information on how much the State was funding, we
23 wanted to take those jumps and those swings out of the
24 mix and get a true picture of what was the State
25 funding per student overtime.

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

1 Q. As the analysis that we have been talking about
2 this morning, that you have done, you take that
3 pension, those pension swings into account?

4 A. Yes.

5 Q. Just so that I can, I would make sure that I
6 understand this correctly, the School District is
7 required, for example, to give X dollars to the State
8 pension fund; correct?

9 A. Yes.

10 Q. In a particular year, is the way that the State
11 funding works, that the State actually gives the
12 School District the X for the funding teachers and
13 then the School District takes that exact same X that
14 they got to the State and gives it to the State
15 pension fund?

16 A. Yes.

17 Q. So if the --

18 A. -- except, for the staff that the district
19 employs on levy funds, they have to pay for the
20 pension costs of that employee out of levy funds.

21 Q. All right.

22 But at least with respect to the State funded
23 people, which were the 43 FTDs in your example?

24 A. Yes, 46 staff.

25 Q. -- 46 teachers per thousand FTD kids, for the

1 46 teachers the State would give X this year to the
2 district and the district would take that exact same X
3 and give it to the pension?

4 A. Yes.

5 Q. The X might be bigger some years or a smaller
6 some years, but it is a wash. It goes through the
7 School District, that they don't actually have?

8 A. Yes.

9 Q. For the salaries, or for example the teachers
10 that aren't within that Program Funding Formula, the
11 district has paid the full amount to the State's
12 pension fund?

13 A. Yes.

14 Q. If I can ask you to look at Exhibit 74, please.
15 Do you recognize this as being part, or being you and
16 Superintendent Bergeson's January 11, 2008,
17 presentation to the Basic Education Finance Task
18 Force?

19 A. I do.

20 Q. If I could ask you to please turn to slide that
21 is numbered 24, sort of in the upper left-hand side.
22 And the way that it prints out is 24, so on the top of
23 24?

24 A. Yes.

25 Q. Are you with me -- entitled "State Funding Per

1 Pupil." Can you see that?

2 A. I do.

3 Q. Can you explain what the point that you are
4 making with this slide?

5 A. This compares the State funding in two ways.
6 The State funding that is not adjusted for inflation,
7 which is the top line.

8 State funding that is adjusted for inflation,
9 which is the second line, at the bottom.

10 So starting in 1994, if you look at just actual
11 dollars appropriated, the State was funding \$4,083 in
12 1994 and \$6,311 in 2008. Then that excludes the
13 dollars associated with pension contributions that
14 full-time period.

15 The bottom line adjusts that, those sets of
16 figures for Seattle CPI -- I don't know if it is
17 Seattle or it is national CPI, it didn't state. But
18 it is Consumer Price Index inflation measure.

19 It is displaying that the State funding per
20 pupil is roughly constant, if you compare it between
21 1994 and 2008.

22 Q. If I am looking at that the chart on the top
23 line, where it is labeled "not adjusted for," is that
24 supposed to be say "not adjusted for inflation"?

25 A. Yes.

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

1 MR. AHEARNE: Your Honor, we would move
2 admit Trial Exhibit 74.

3 THE COURT: Exhibit 74 is offered.

4 MR. CLARK: Your Honor, we have lodged a
5 completeness objection.

6 But I am looking at the document, wondering
7 perhaps if the witness can tell us if this is the
8 complete version of it.

9 If she does, then we don't have the
10 objection.

11 MR. AHEARNE: Having looked at it on the
12 completeness objection, this appears to us to be the
13 complete document. But if I can ask the witness--

14 BY MR. AHEARNE:

15 Q. Is this a -- to the best of your recollection,
16 is this a complete copy of your presentation?

17 A. It is.

18 MR. CLARK: We have no objection, your
19 Honor.

20 THE COURT: Exhibit 74 is admitted.

21 (Exhibit No. 74 received in evidence.)

22

23 Q. If I could please ask you to look at Exhibit
24 78.

25 A. Yes.

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

1 Q. Is this an e-mail from you to Roxanne Lieb;
2 correct?

3 A. It is.

4 Q. Is this part of your work with respect to the
5 Basic Education Finance Task Force?

6 A. Yes.

7 Q. If I could you ask you to look at the first
8 paragraph where you say: "The national test is not
9 aligned with our State standards."

10 Do you see that?

11 A. Yes.

12 Q. When your saying "State standards," are you
13 referring to the four parts of the House Bill 1209 and
14 the Essential Academic Learning Requirements?

15 A. Primarily, the Essential Academic Learning
16 Requirements.

17 Q. When you say "a national test is not aligned
18 with our State standards," why are you making that
19 point?

20 A. Because if you establish standards and you
21 track whether or not students are meeting those
22 standards, you have to track it with something that
23 tests those standards.

24 While some -- if you look at any given national
25 assessment, some of the questions, or enough of the

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

1 questions are going to align with what we are trying
2 to teach our students in this State.

3 But there may be some standards that aren't
4 assessed at all. Reading comprehension may be
5 adequately tested on the national assessment, but some
6 other reading requirements that I can't --

7 Q. Some other aspect?

8 A. -- I can't come up with right now may not be.

9 Q. If I can just sort of, we have, for example,
10 for reading, a set of Essential Academic Learning
11 Requirements?

12 A. Yes.

13 Q. -- the reading comprehension, is that part of
14 the House Bill 1209, would be part of that; correct?

15 A. Yes.

16 Q. There might be a national test that tests
17 reading comprehension.

18 A. Yes.

19 I am not an educator. There are many aspects to
20 reading comprehension. So I started to try to give an
21 example, and realized that I cannot possibly do it.

22 Q. But is your basic point that the national tests
23 are geared necessarily to our State standards?

24 THE COURT: Counsel --

25 A. Correct.

1 MR. CLARK: I was going to object to the
2 question, your Honor, on the grounds as she has just
3 indicated she is not an educator.

4 We have started with the document. We have
5 got some opinion testimony elicited. The document
6 hasn't been offered. We have an objection to the
7 document.

8 All of this is a long winded way of saying
9 "I don't believe that the foundation has been
10 established."

11 Indeed, I think that her last answer, about
12 not being an educator, says that there can't be one
13 established to allow her to expressed opinions on the
14 efficacy of the tests.

15 So we object, your Honor, to the question
16 that was asked, even though it was answered.

17 MR. AHEARNE: I am not asking for an
18 opinion of the efficacy of the national tests.

19 I am asking, he made a point about the
20 national tests not being aligned with the State
21 standards. I just want to know what she meant when
22 she was submitting this as part of the work, with the
23 Basic Education Finance Task Force.

24 THE COURT: I think that the witness can
25 testify as to what she meant in her memorandum.

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

1 As far as talking about the test or
2 standards themselves, you have to lay a foundation,
3 because she is -- as stated she does not have an
4 educator background.

5 BY MR. AHEARNE:

6 Q. If I may ask you, then, on the second paragraph
7 within there, where you make the statement:

8 "Furthermore national tests are re-normed every
9 decade, so depending upon when we adopt a national
10 test we are tying ourselves to someone's idea of
11 what the standards should be from 5-10 years ago ";
12 do you see that?

13 A. Yes.

14 Q. What is the point that you were making --

15 MR. CLARK: Your Honor, I would like to
16 object to the questions about the document, which
17 hasn't been admitted yet.

18 We still is have the same concerns about
19 straying from explaining what she means in this thing
20 to expressing an opinion for which there has been no
21 foundation laid.

22 THE COURT: I think that the pending
23 question was: "What is the point that she was
24 making."

25 MR. CLARK: My objection is, your Honor,

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

1 that the document is not in evidence yet. I don't
2 think that it is --

3 THE COURT: I don't know that the document
4 needs to be in evidence, unless you are stating that
5 her testimony is hearsay, or something.

6 The document does not need to be in
7 evidence in order for the witness to testify about it.

8 MR. CLARK: First of all, on the document,
9 your Honor -- maybe I am incorrect, but I always
10 thought that it was appropriate to get a document
11 admitted, before you were asking the witness -- even
12 the witness who appears to have generated the
13 document -- to explain what it means and what he or
14 she meant by it.

15 Secondly, your Honor, I would object to the
16 questions in general on the relevance grounds,
17 because, again, without a foundation established that
18 she can provide the explanation about the tests, or
19 comparing State versus national tests, I don't think
20 that it is appropriate for her to express those
21 opinions.

22 One, perhaps your Honor can correct me and
23 say "it is all right for her to testify about the
24 document before it is admitted into evidence."

25 Though we still have a relevance objection

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

1 as well.

2 THE COURT: If there is -- a party can
3 testify on a document that hasn't been admitted,
4 unless there is an objection to the document, itself.

5 In other words, if the document is hearsay,
6 or has other objectionable characteristics, then you
7 can object. If the witness should not be testifying
8 off of the document, that is hearsay, or otherwise
9 objectionable. That is number one.

10 Number two, is I have to take the question
11 by question. But if the question pending is "what was
12 the point that she was trying to make," she is the
13 author of the memorandum, then it strikes me that it
14 is legitimate question.

15 MR. CLARK: Then, your Honor, I am going to
16 indicate that we have objections to the document.

17 THE COURT: Tell me what are the objections
18 to the document.

19 MR. CLARK: The objection is that the
20 document is not relevant.

21 The objection is, further, that there is no
22 foundation to establish that she can express the
23 opinions of being expressed in here on testing,
24 national versus the State.

25 THE COURT: All right.

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

1 MR. AHEARNE: Your Honor, my understanding
2 of the testimony is that the Assistant Superintendent
3 Priddy was the principal OSPI person providing the
4 background information, et cetera, from OSPI to the
5 Basic Education Finance Task Force.

6 This is an e-mail that she wrote to Roxanne
7 Lieb. I will go ahead and ask the question.

8 BY MR. AHEARNE:

9 Q. Who is Roxanne Lieb?

10 A. She is the director of the Washington Institute
11 for Public Policy. They were staffing the Task Force.
12 They were the official staff to the Task Force.

13 MR. AHEARNE: Your Honor, the witness'
14 testimony -- also this is part of the work that she
15 was doing on behalf of OSPI, with the Task Force.

16 I think that it is relevant what the
17 primary OSPI person was telling to the Task Force, and
18 you are getting an understanding of what she meant
19 when she was saying things to the Task Force.

20 THE COURT: All right.

21 With regard to the objection to Exhibit 78
22 on relevance, the objection is overruled.

23 With regard to the pending question, that
24 it lacks foundation, the objection is overruled.

25 The pending question is: What was the

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

1 point that the witness was trying to make with regard
2 to the statement and in the second paragraph of the
3 exhibit.

4 MR. AHEARNE: Yes, your Honor, that is
5 solely my question --

6 THE COURT: Right.

7 MR. AHEARNE: -- at this point.

8 THE COURT: You may proceed, counsel.

9

10 BY MR. AHEARNE:

11 A. Could you restate the question?

12 Q. Certainly.

13 You make a statement that says, "furthermore,
14 national tests are re-normed every decade. So
15 depending upon when we adopt a national test, we are
16 tying ourselves to someone's idea of what the
17 standards should be from five-ten years ago."

18 Do you see that statement?

19 A. Yes.

20 Q. What was the point that you were trying to make
21 in that statement?

22 A. The point of the document, and it is kind of
23 supported in that statement, is that Washington
24 learning standards were developed for Washington by
25 Washington educators through an extensive process.

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

1 A national assessment may not adequately assess
2 all of our standards. Furthermore, the point in time
3 that you choose a national assessment, it could be
4 more or less aligned, because those tests evolve also.

5 Q. In the course of the Basic Education Finance
6 Task Force work that you did, was there a resolution
7 reached one way or the other as to whether
8 Washington's testing should be changed?

9 A. I don't remember if the Task Force made
10 recommendations to change testing or not.

11 Q. If there were those recommendations, they would
12 be in the final report?

13 A. They would be, yes.

14 MR. AHEARNE: I am told that I had
15 misspoken earlier. I would like to reask a question.

16 BY MR. AHEARNE:

17 Q. Are the national tests geared towards the
18 Washington State standards?

19 A. Not necessarily.

20 There may be some coverage of national
21 standards -- of Washington standards, but there may
22 not be coverage of other standards.

23 Q. If I could ask you to turn to, please, what is
24 now substituted as Trial Exhibit 71, please, which is
25 now the full version of the PowerPoint that you and

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

1 Superintendent Bergeson gave.

2 Do you have that in front of you?

3 A. I do.

4 Q. If I could ask you to, please, you had
5 mentioned when we were talking about ELL, the Spokane
6 program?

7 A. Yes.

8 Q. If I could you ask you to turn to slides 13,
9 14, and 15, do you have those in front of you?

10 A. I do.

11 Q. Do those relate to the Spokane program that you
12 were talking about?

13 A. Yes.

14 Q. Could you explain what the purpose or the point
15 that you are making with slide 12 is?

16 A. Slide 12 details --

17 MR. CLARK: Objection, your Honor.

18 I think that we need some testimony to
19 establish that she has something to do with the
20 developing of the slide.

21 THE COURT: Sustained.

22 BY MR. AHEARNE:

23 Q. Do you have anything to do with this developing
24 of this slide?

25 A. I did not directly create this slide. I worked

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

1 with Howard DeLeeuw, who was the Director of Bilingual
2 Education for the Office of the Superintendent of
3 Public Instruction.

4 And prior to that, he had been the director of
5 the ELL program at the Spokane School District. He
6 was intimately involved in the program.

7 Q. This is the slide's 12, 13, 14, are slides that
8 you presented to the Task Force?

9 A. Superintendent Bergeson was the primary
10 presenter.

11 Q. Were you there as well?

12 A. I was, yes.

13 Q. In the co-presenter type of role, supporting
14 role?

15 A. Yes.

16 Q. On slide 13, when saying percentage meeting or
17 exceeding the standards, those are the State standards
18 that you are referring to earlier?

19 A. Yes.

20 Q. The same thing with slide 14, being the
21 standard that is the State's Essential Academic
22 Learning Requirements standard.

23 A. Yes, one is reading and one is math.

24 Q. Were you involved in any way in preparing or
25 understanding what these slides were represented?

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

1 A. Yes.

2 Q. What is your understanding of what was taken on
3 slide 34 of what that was -- was conveying.

4 MR. CLARK: Your Honor, I am going to
5 object, I didn't quite hear her answer, but I believe
6 that somebody else prepared these.

7 If I am wrong, she can correct me, but I
8 object on the grounds that they are not her work.

9 MR. AHEARNE: May I ask a few questions?

10 THE COURT: You may, counsel.

11 BY MR. AHEARNE:

12 Q. Is this part of the presentation that
13 Superintendent Bergeson and you presented to the Joint
14 Task Force on the Basic Education Finance?

15 A. Yes.

16 Q. The people that you, the person that you
17 referred to Mr. DeLeeuw, he was also the person at
18 OSPI as well?

19 A. Yes.

20 Q. This slide presentation was part of the OSPI
21 staffing that you were talking about earlier, in
22 providing facts and data to the Task Force?

23 A. Yes.

24 Q. In preparing to be the co-presenter on this
25 presentation, are you familiar at all with what these

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

1 slides were talking about, 14, 13, 12?

2 A. Yes.

3 Q. As the Assistant Superintendent for the State
4 Superintendent of Public Instruction on Financial
5 Resources, do you have any knowledge as to whether
6 these -- the presentation in these three slides is
7 true, false, or otherwise?

8 A. It is very basic information that I believe is
9 accurate.

10 Q. I would like to ask my question on slide 14 --

11 THE COURT: You may proceed, counsel.

12 BY MR. AHEARNE:

13 Q. What is the point that your presentation is
14 conveying in that slide?

15 MR. CLARK: Again, your Honor, I will
16 object.

17 These slides were prepared by Howard
18 DeLeeuw. His testimony has been taken by both sides
19 in the case. His explanation of them would be part of
20 the record, because we are both offering that
21 deposition.

22 I don't think that this witness has to
23 testify about that.

24 THE COURT: I think that the witness can
25 testify as to her understanding, as to the purpose of

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

1 the presentation of the specific slide.

2 She cannot testify as to her intent on the
3 slide itself, because she didn't develop it.

4 She can testify as to her understanding as
5 part of her participation in this PowerPoint
6 presentation.

7 MR. CLARK: May I just ask a question, your
8 Honor, then, if it -- if her understanding is based on
9 what somebody else who prepared these told her, isn't
10 that hearsay?

11 THE COURT: No. It is her understanding as
12 to the purpose of the slide as part of the
13 presentation.

14 Not her understanding as to the purpose for
15 which the slide was intended, but, rather, the purpose
16 for which the slide was being used at the
17 presentation.

18 What was the point that the group was
19 making at the presentation?

20 MR. CLARK: What if the point is not the
21 point of the person, who prepared the documents and
22 has testified about what they meant?

23 THE COURT: Then it is her understanding of
24 what the purpose was -- it may differ from what the
25 person intended, but she is a co-presenter.

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

1 She formed an understanding as to the
2 purpose of the slides.

3 MR. CLARK: Then I object that it is
4 hearsay, your Honor, if it is what someone else told
5 her.

6 THE COURT: She has an understanding based
7 upon participating in this presentation, maybe based
8 upon --

9 MR. CLARK: Maybe if it is not offered for
10 the truth of the matter asserted, your Honor, I can
11 understand that.

12 But it seems to me to say that it was part
13 of her presentation, if somebody came to her and told
14 her, "this is what I did, this is what I meant," all
15 she is doing is relating what they told her.

16 THE COURT: You are saying that she doesn't
17 have the information that is the basis of the slide?

18 MR. CLARK: Yes; that it came from someone
19 else who prepared it, that person was in this Spokane
20 district, and had access to the information upon which
21 these slides are based.

22 MR. AHEARNE: Your Honor, she testified
23 that this is basic information that she knows.

24 I understand that the State attorney's
25 point that they want to present testimony from Howard

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

1 DeLeeuw, his understanding of what this slide was
2 conveying. But my question was not what did Howard
3 DeLeeuw think, when he was a co-presenter, but what
4 was her understanding of what she was presenting to
5 the State Education Task Force.

6 THE COURT: I am going to allow it. I
7 think that there is a representation made by this
8 group to the BEFT --

9 MR. AHEARNE: The Task Force.

10 THE COURT: -- BEFTF, and I will allow it
11 for that limited purpose. You may proceed,
12 Mr. Ahearne.

13 I am sorry, I have lost my place now.

14 MR. AHEARNE: We are on slide 14.

15 THE COURT: Thank you.

16 BY MR. AHEARNE:

17 Q. My question is what is your understanding of
18 the point that was being made in this part of your
19 presentation?

20 A. The point that was being made is that if you
21 look at the assessment results of all students in this
22 Spokane School District, compared to the assessment
23 results of students, who exited -- who had been in and
24 exited the ELL program -- that the investments that
25 the district was making in the ELL program and the

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1 type of program that they offered to those students,
2 was such that they had even higher WASL outcomes or
3 assessment outcomes than the district average, which
4 is remarkable, in that they -- they are just learning
5 English.

6 They have just exited the ELL program. This is
7 data from the 2007 WASL that we were presenting in
8 June 2008. It is the latest WASL results.

9 I believe that it is dated that we actually
10 collected it at OSPI. I don't believe that it is data
11 that was brought from the Spokane School District.

12 THE COURT: Counsel, this is 71, the
13 substituted 71, correct?

14 MR. AHEARNE: Yes, your Honor.

15 THE COURT: Which I don't have.

16 MR. AHEARNE: I am sorry, your Honor.

17 I will confess what I was doing I was
18 operating off a similar other exhibit that was just
19 the ELL section.

20 Since we substituted a full version, I had
21 moved the full version and then --

22 THE COURT: All right. Thank you.

23 BY MR. AHEARNE:

24 Q. On slide 14, the red is then the kids left the
25 ELL program, and their scores, and then the blue is

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

1 the district-wide average scores?

2 A. Yes.

3 Q. For a slide 14, that is for the mathematics
4 test?

5 A. Yes.

6 Q. If I look at slide 13, same format, but for the
7 reading assessment?

8 A. Yes.

9 MR. AHEARNE: Your Honor, I have two final
10 areas then I will briefly talk to Mr. Clark about
11 this.

12 One is as you are familiar, we have had the
13 F-196 for the 2007-2008 year for both Colville and
14 Chimacum, because the superintendents were here.

15 We also have Trial Exhibits, the corollary
16 F-196 for the other 11 focused districts, none of
17 which there is an objection in the joint statements
18 to.

19 We can have, if F-196 are under Ms. Priddy,
20 have her go through and authenticate those.

21 In the interest of time whether we want
22 to -- I will just ask some general questions about
23 them, and if there is no objection to -- the Trial
24 Exhibits are 380, 385, 390, 407, 412, 417, 427, 505,
25 510, 515, 520.

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1 MS. BASHAW: If I can get some
2 clarification, are these the F-196 only and the ones
3 that you used in the depositions as an expert?

4 MR. EMCH: Correct.

5 MR. AHEARNE: So that the record is very
6 clear, remember when we had Superintendent Emmil, we
7 had the F-196 for Colville for the 2007-2008 year, and
8 same thing with the Superintendent Blair for Chimacum.
9 These are the corollary F-196, but for the other 11
10 focus district.

11 MS. BASHAW: I will take counsel's
12 representations that is what they are and if that is
13 what they are -- then without taking Court time to
14 look them all up, we won't have an objection.

15 THE COURT: You would not have an objection
16 to the F-196s for the exemplar district?

17 MS. BASHAW: Yes, that were used at the
18 deposition as the site expert.

19 MR. EMCH: Correct.

20 These are the exhibits that we introduced
21 during some prior depositions of the case, the F-196
22 for the focus districts.

23 MR. CLARK: I would suggest, Your Honor,
24 let us run down the numbers from Mr. Ahearne's list.
25 He can proceed. If we have an issue, we can raise it

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

1 so we can move things along.

2 THE COURT: You have all of the numbers.

3 MR. CLARK: He has just provided the list
4 to me.

5 THE COURT: So that the offer is that
6 Exhibits 380, 385, 390, 407, 412, 417, 427, 505, 510,
7 515 and 520.

8 I will await to hear back from counsel,
9 before we conclude our session today. If we need to
10 lay the foundation with Ms. Priddy, we will.

11 MR. AHEARNE: Thank you, your Honor.

12 BY MR. AHEARNE:

13 Q. You have testified that you are the State
14 Superintendent of Instruction for Financial Resources;
15 correct?

16 A. Yes.

17 Q. Before that you were a budget director and a
18 budget analyst at OSPI; correct?

19 A. Yes.

20 Q. You have been there since Judith Billings hired
21 you in 1997; correct?

22 A. Yes.

23 Q. As Assistant Superintendent for Financial
24 Resources, are you the principal OSPI person providing
25 information to the Basic Education Finance Task Force;

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

1 correct?

2 A. Yes.

3 Q. Before that, were you the primary OSPI person
4 providing information to the K-12 Advisory Committee
5 of Washington Learns; correct?

6 A. Yes.

7 Q. Before all of that, you worked with the
8 Washington House Appropriations Committee and OPR;
9 correct?

10 A. Yes.

11 Q. Before that you worked for the Washington E-Cap
12 Program, which is the State equivalent of or parallel
13 to the Federal HeadStart Program?

14 A. Yes.

15 Q. In the course of your work as the State
16 Assistant Superintendent for Financial Resources you
17 also prepared and presented numerous presentations and
18 documents to the State legislature, various State Task
19 Forces, work groups, School District, et cetera;
20 correct?

21 A. Yes.

22 Q. You also prepared OSPI funding recommendations
23 in the course of that work as well; correct?

24 A. Yes.

25 Q. Based upon all of your work, to the best of

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

1 your knowledge, did the State's Basic Education
2 funding formulas provide school districts the level of
3 Financial Resources that they need to operate?

4 A. No.

5 Q. Based on all of your work, to the best of your
6 knowledge, do the State's Basic Education Program
7 Funding Formulas provide school districts with the
8 level of financial resources that they need to teach
9 the State standards that you were referring to the
10 Essential Academic Learning Requirements?

11 A. No.

12 MR. AHEARNE: Your Honor, subject to the
13 counsel's confirming that have my numbers right, I
14 have nothing in addition.

15 THE COURT: All right.

16 MR. AHEARNE: Actually hold on, I think
17 that I have messed something else up. No, I am fine.

18 THE COURT: All right.

19 Mr. Clark, where are we on the exhibits?

20 MR. CLARK: Your Honor, I am informed that
21 we do not have any objection to the list of exhibits
22 that your Honor and Mr. Ahearne were read off.

23 THE COURT: At this time the Court admits
24 Exhibits 380, 385, 390, 407, 412, 417, 427, 505, 510,
25 515, and 520.

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1 (Exhibit Nos. 380, 385, 390, 407, 412, 427, 505 510
2 515 and 520 received in evidence.)

3 THE COURT: You have concluded your direct
4 Examination.

5 MR. AHEARNE: Yes, your Honor.

6 THE COURT: So are you going to have any
7 cross?

8 MR. CLARK: Your Honor, I will, your Honor,
9 but given the fact that we are calling Ms. Priddy as a
10 witness ourselves, I will defer.

11 Counsel conferred about doing this. If it
12 is all right with the Court, that is what I would
13 prefer to do.

14 THE COURT: That is perfectly fine with me.
15 I have some questions of this witness. I will wait
16 until she is recalled as a witness, because it may
17 clarify some of the questions that I have.

18 So we are at the noon hour. We will recess
19 and adjourned for the week.

20 Ms. Priddy, you may step down. Thank you.

21 I had promised counsel that I would do a
22 calculation. The calculation at this time is included
23 this morning's testimony is 21 hours for the
24 petitioners; 10.3 hours for the respondent. So we are
25 essentially capturing -- not quite maximizing our

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

1 time, but it is -- I am satisfied that we are on
2 track.

3 MR. AHEARNE: You are not as panicked as I
4 am.

5 THE COURT: Well, we will get the case
6 done. We will get it so that each side has enough
7 time to present its case --

8 MR. AHEARNE: Thank you, your Honor.

9 THE COURT: -- whatever accommodations that
10 we need to accomplish that, we will accomplish that.

11 So we will be adjourned.

12 Yes.

13 MR. AHEARNE: On a procedural matter --

14 THE COURT: Yes.

15 MR. AHEARNE: -- Ms. Priddy is excused with
16 respect to my direct, but she will be coming back.

17 In essence we need to do the cross and do
18 the direct on the voir dire case.

19 MR. CLARK: That is what intend to do. She
20 is not discharged.

21 THE COURT: No, we are not excusing her.

22 MR. AHEARNE: On Monday we will be starting
23 with a brand new witness.

24 THE COURT: What happened to Ms. Jones?

25 MR. AHEARNE: Ms. Jones couldn't come back

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1 today. She will be coming back on Monday.

2 Because of her scheduling commitments in
3 Olympia, I said that it was okay for her to come back
4 in the afternoon, rather than in morning.

5 THE COURT: That is fine.

6 MR. CLARK: Your Honor, we will start on
7 the Monday morning with Dan Grimm -- with Dan Grimm,
8 the Chair of the Basic Education Task Force.

9 I had a message from him this morning --
10 that I forgot to mention to counsel -- that says that
11 he is okay with the arrangement of counsel.

12 Any way, he will testify. If he is not
13 completed by the time that we take our afternoon
14 break, he will be interrupted -- with the Court's
15 allowance, of course -- to put Ms. Jones back on the
16 stand to complete her testimony.

17 Then Mr. Grimm will return on Tuesday
18 morning, so that we can complete with him.

19 MR. AHEARNE: I apologize to the moving
20 around, but we are trying to accommodate the Olympia
21 people's schedules.

22 THE COURT: Sure. Let me see if there is
23 anything that I need to advise about the next week.
24 We are clear next week. We have a full week of trial
25 next week. I have nothing on the calendar that should

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

1 interrupt us.

2 Counsel, if anything should come up, please
3 contact Marci. Otherwise, I hope that you have a good
4 weekend. We will see you Monday morning just before 9
5 o'clock.

6 MR. CLARK: Thank you, your Honor.

7 MR. AHEARNE: Thank you.

8 THE COURT: The Court is adjourned at this
9 time.

10 THE CLERK: All rise.

11

12 (Court was adjourned.)

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1 I N D E X

2 W I T N E S S E S

3

4 JENNIFER PRIDY

5

6 DIRECT EXAMINATION BY MR. AHEARNE 1418

7

8 E X H I B I T S

9 Exhibit No. 66 received in evidence 1437

10 Exhibit No. 30 received in evidence 1438

11 Exhibit No. 32 received in evidence 1439

12 Exhibit No. 68 received in evidence 1441

13 Exhibit No. 79 received in evidence 1465

14 Exhibit Nos. 67 & 616 received in evidence 1492

15 Exhibit No. 83 received in evidence 1493

16 Exhibit No. 266 received in evidence 1494

17 Exhibit No. 263 received in evidence 1504

18 Exhibit No. 71 received in evidence 1504

19 Exhibit No. 71 received in evidence 1505

20 Exhibit No. 71 received in evidence 1507

21 Exhibit Nos. 261 received in evidence 1508

22 Exhibit No. 262 received in evidence 1508

23 Exhibit No. 74 received in evidence 1515

24 Exhibit Nos. 380, 385, 390, 407, 412, 427, 1538

25 505 510 515 and 520 received in evidence

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

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

2 REPORTER'S CERTIFICATE

3 STATE OF WASHINGTON)

4 SS:

5 COUNTY OF KING)

6

7 I, DOLORES A. RAWLINS, an official reporter of
8 the State of Washington, was appointed an official
9 court reporter in the Superior Court of the State of
10 Washington, County of King, on January 15, 1987, do
11 hereby certify that the foregoing proceedings were
12 reported by me in stenotype at the time and place
13 herein set forth and were thereafter transcribed by
14 computer-aided transcription under my supervision
15 and that the same is a true and correct transcription
16 of 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 10, 2009

22 -----
23 DOLORES A. RAWLINS, RPR, CRR, CCR
24 King County Superior Court, Seattle, WA

25

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