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**Reporter's Verbatim Report of Proceedings, Tuesday, September
29, 2009, Volume XVI - Sessions 3 and 4 of 4 [Pages 3591-3683]
07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR KING COUNTY

3 _____

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

16 _____

17 REPORTER'S VERBATIM REPORT OF PROCEEDINGS

18 --oOo--

19 TUESDAY, SEPTEMBER 29, 2009
 20 VOLUME XVI - Sessions 3 and 4 of 4

21 --oOo--

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

25 --oOo--

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

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

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

--oOo--

1 CHRONOLOGICAL INDEX

2 --oOo--

3

4 TUESDAY, SEPTEMBER 29, 2009 - Afternoon Session

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--oOo--

1 SEATTLE, WASHINGTON
2 TUESDAY, SEPTEMBER 29, 2009
3 AFTERNOON SESSION - 1:15 P.M.

4 --oOo--

5 THE COURT: Good afternoon. Please be
6 seated. We are back on the record in the McCleary
7 versus State of Washington.

8 Mr. Moore, if you would please retake
9 the stand. Thank you. Thank you. You may be seated.

10 Mr. Ahearne, if you would like to
11 continue with your cross-examination.

12 MR. AHEARNE: Yes, Your Honor.

13 CROSS-EXAMINATION (Resumed)

14 BY MR. AHEARNE:

15 Q. Exhibit 347 is what we were on when we left.
16 We were talking about the schematic on the second page
17 of the exhibit.

18 A. Yes.

19 Q. Do you have that in front of you?

20 And it's my understanding that somewhere in
21 the process of legislation, OFM also does fiscal notes;
22 is that correct?

23 A. Yes.

24 Q. Does that fit in any particular area in this
25 schematic?

1 A. For the most part, I'd say between January
2 and April, May. The legislative session, in odd
3 numbered years, is a 105-day session that begins in
4 January and ends sometime in April.

5 Q. Just very briefly, can you explain what a
6 fiscal note is and what the heck OFM does to come up
7 with them?

8 A. Sure. Fiscal note is, if there's a piece of
9 legislation introduced that there's a request for the
10 preparation of a fiscal note, the responsibility -- OFM
11 administers the fiscal note process.

12 If I could give an example. A bill that
13 effects Department of Social and Health Services, we
14 would receive the fiscal note request. We would farm
15 it out to the Department of Social and Health Services,
16 and we'd ask them to prepare an analysis of the cost
17 that they can see in a bill that the bill would incur
18 over a six-year period. DSHS would submit that then to
19 OFM. OFM would then review the fiscal note and, to the
20 best of their ability, sign off on the note or send it
21 back to the agency for changes. And then ultimately we
22 would send it back to the Legislature, and it would be
23 in -- typically, the Legislature uses it as one of its
24 documents in terms of considering a piece of
25 legislation.

1 Q. And just in layman's terms, if I understand,
2 a fiscal note, basically, is OFM's best guess of what a
3 bill will cost the state?

4 A. Yeah. I would like to add, it's actually the
5 agencies that do the fiscal note first, OFM approvals
6 or, you know, has final buy-off on the fiscal note.

7 Q. What does OFM do when you're reviewing the
8 cost estimate by the agency for the bill? Do you
9 exercise professional judgment control?

10 A. We can go back to the widget. First, we want
11 to see if they're interpreting the language in the bill
12 correctly and whether or not it drives cost to the
13 agency. Then, to the extent -- let's say, if I could
14 use the widget, does this require them to make a widget
15 first? If it does, how many widgets do they actually
16 to have produce, and then have they cost correctly the
17 cost of the widget.

18 Q. Is part of that using your professional
19 judgment as to costing, et cetera?

20 A. Yes.

21 Q. And the cost, are those only costs to the
22 state or does the fiscal note also include cost to the
23 local governments that might be impacted by that
24 legislation?

25 A. If it impacts cities or counties, then there

1 is a local government fiscal component. If it's a
2 school district, there's not.

3 Q. Okay. And then, with respect to the last box
4 on this schematic that Mr. Clark was asking you
5 questions about, the on-going performance measure
6 tracking, you made a comment along the lines of this is
7 looking to whether the money invested in the program
8 produces the intended result.

9 Is that what the tracking is for?

10 A. Yes.

11 Q. And what kind of performance measure
12 tracking, if any, does OFM do with respect to K-12
13 funding?

14 A. I'm not sure.

15 Q. If I could ask you to please turn to page
16 six. There's a pie chart that Mr. Clark asked you some
17 questions about.

18 A. Yes.

19 Q. And just so I understand, under the K-12
20 schools, there's the \$12.196 billion number, correct?

21 A. Yes.

22 Q. Is that just the Basic Ed Program funding
23 formulas, or is that all K-12 funding?

24 A. That's all the state General Fund. That's
25 all state General Fund from K through 12 programs.

1 Q. So that would include the Basic Ed Program
2 funding formulas and the --

3 A. Yes. And the discretionary programs, yes.

4 Q. Okay. If I could ask you to turn to page 10,
5 Mr. Clark had asked you some questions about some of
6 the definitions on that page. And he'd asked you about
7 maintenance level.

8 Do you see that?

9 A. Yes.

10 Q. Could you briefly say what a non-appropriated
11 fund is? That's the one after that.

12 A. Is the question about non-appropriated
13 funds?

14 Q. Right. What is a non-appropriated fund?

15 A. Some funds are created in statute which can
16 be spent without an appropriation from the Legislature.

17 Q. Could you just give, like, one example of
18 what that would be?

19 A. I'm thinking of tuition, Higher Ed tuition.

20 Q. How does that play out?

21 A. Higher Ed institutions collect tuition from
22 their students. It goes into their -- into the tuition
23 fund. They can spend it without appropriation from the
24 Legislature.

25 Q. Okay. And then the last line talks about a

1 supplemental budget.

2 A. Yes.

3 Q. Any legislative change in the original budget
4 appropriations.

5 Do I understand that, what this -- this is
6 referring to is budgets can be changed mid-biennium?

7 A. Yes.

8 Q. And is that also true with, just, statutes in
9 general that each Legislature can change a prior
10 statute?

11 A. That's pretty much the whole book of business
12 right there. Yeah.

13 Q. Okay. And then Mr. Clark had also asked you
14 some questions about the priorities of government.

15 That's in one of these definitions that are
16 here, right?

17 A. Yes.

18 Q. If I can ask you to look at Trial Exhibit
19 342, please.

20 A. Yes.

21 Q. That's one of the exhibits he asked you
22 about. In the upper right-hand corner where it talks
23 about Statewide Results List Student Achievement, do
24 you see that?

25 A. Yes.

1 Q. What kind of student achievement is being
2 referenced there?

3 A. I think it's just a title for primarily the
4 K-12 program.

5 Q. Okay. Let me ask you some questions.

6 Do you have 344 in that same book?

7 A. Yes.

8 Q. And on the first page he asked you some
9 questions about the general apportionment, that
10 second -- there is that second prioritized paragraph in
11 the middle there.

12 Do you see that?

13 A. Yes.

14 Q. And the second sentence says, "General
15 apportionment funding, the state's largest Basic
16 Education Program, is provided to the state's 295
17 school districts through a complex formula based on the
18 number of enrolled students, approximately a million,
19 staffing ratios, average salaries, and other factors
20 such as adjustments for very small districts."

21 Do you see that?

22 A. Yes.

23 Q. Is this program funding formula a complex
24 formula?

25 A. Yes.

1 Q. And when it's referring to the staffing
2 ratios, those are the staffing ratios that you referred
3 to earlier that they're just fixed by statute?

4 A. Yes.

5 Q. And then on the Average Salaries, is that the
6 average salaries that the districts actually pay to
7 teachers?

8 A. No. It's the average salary based on the
9 salary schedule. That's -- I'm not sure if it's in
10 statute, but I think it's -- it's identified. It might
11 be in what we call LEAP documents. But there's a
12 salary schedule there which has a rate -- teacher pay
13 rate for the -- for time and service and education.

14 Q. And I just want to be clear. The average
15 salary there -- the average salaries, that's in the
16 program funding formula matrix, correct?

17 A. Yes.

18 Q. Not the average salary the school districts
19 actually pay.

20 A. Well, I think those are all different
21 depending on the school district so --

22 Q. All right. And then when it says Other
23 Factors, would that include things like the NERCs that
24 we talked about earlier?

25 A. Yes.

1 Q. And then it says, Adjustments for Very Small
2 Districts.

3 Could you briefly explain what that means?

4 A. Small school factor has to do with the
5 kind -- there's some, I guess, acknowledgement that
6 there are fixed costs to some administrative functions
7 that a large school or a small school, large district,
8 small district would each have a superintendent. So if
9 you did it all on per-student basis, there wouldn't be
10 enough there. So it's recognized as the lack of a
11 economy of scale, a fixed cost of administration
12 function in a small district. There may be other
13 aspects of small schools that I'm not talking about but
14 my -- the good example is administration.

15 Q. Okay. Okay. In that notebook, is there also
16 Exhibit 345?

17 A. Yes.

18 Q. Would you look at that, please.

19 Is this another document that's associated
20 with the Priorities of Government?

21 A. Yes.

22 MR. AHEARNE: Your Honor, we'd move to admit
23 Exhibit 345.

24 THE COURT: 345 is offered.

25 MR. CLARK: I'm just looking. just a second,

1 Your Honor.

2 THE COURT: All right.

3 MR. CLARK: No objection, Your Honor.

4 THE COURT: 345 is admitted.

5 EXHIBIT ADMITTED

6 BY MR. AHEARNE:

7 Q. If I can ask you to please look on the left-
8 hand column under (1) where it says, Maintain Basic
9 Funding.

10 Do you see that?

11 A. Okay.

12 Q. Do you see that section heading?

13 A. Yes.

14 Q. Okay. There's a paragraph that says, "It can
15 be difficult to make and sustain progress when funding
16 sources fluctuate from year-to-year. In addition, many
17 strategies to improve student achievement involve a
18 multi-year approach."

19 Do you see that?

20 A. Yes.

21 Q. Could you explain how that relates to the
22 priorities of government approach?

23 A. Well, this is a document that is part -- that
24 was part of a public presentation to the -- to kind of
25 a review group that we had. So, I believe that what

1 it's saying here is that these are one of the criteria
2 that they used in evaluating the K-12 activities. And
3 so I think -- I think one of the ideas here is that if
4 the funding goes up and down, it's tough to make
5 progress so that there needs to be -- you know, that
6 the funding needs to be consistent because if the
7 funding -- I think that's what they're saying in terms
8 of when they talk about fluctuation.

9 Q. All right. And then the next heading right
10 below it where it says, "Prioritize Programs in the
11 District Lead to Research Based Best Practices," do you
12 see that?

13 A. Yes.

14 Q. And then it rolls over to the paragraph that
15 starts on the top of the next column --

16 A. Uh-huh.

17 Q. -- "Program Improvement Results Should be
18 Prioritized." And then it states, "Quality Early
19 Learning experience, such as those provided through the
20 Early Childhood Education and Assistance Program,
21 ECEAP, are modeled after what research has shown to be
22 effective strategy to the achievement gap early and
23 provide lasting effects (higher graduation rates, less
24 criminal behavior, et cetera)."

25 Do you see that?

1 A. Yes.

2 Q. Is that consistent with what the Washington
3 Learns findings were?

4 A. Yes.

5 Q. And is that -- or how does that relate to the
6 priorities in government approach?

7 A. Well, Early Learning Programs were, I
8 believe, part of the student achievement grouping. So
9 that this was, I think, a comment on the prior -- of
10 the criteria that were used in evaluating the Early
11 Learning portion of their work.

12 Q. Okay. If I can ask you to look at --
13 Mr. Clark asked you some questions about 1407. And
14 this excerpt from the OFM data book, which I am
15 presuming we're going to be able to bore out and make
16 sure everything related to K-12 is actually in there.
17 But if I can ask you some followups on the pages that
18 Mr. Clark had for you there.

19 Just so I understand what these headings are,
20 on the first page, the third column it says State
21 Revenue.

22 Do you see that?

23 A. Yes.

24 Q. Is that the number for the Basic Ed Program
25 funding formulas and what you called the discretionary

1 dollars, or is it just one?

2 A. It appears to be both.

3 Q. Okay.

4 A. The Basic Ed portion and the discretionary
5 portion.

6 Q. Okay. And then if I can ask you to go to the
7 second page.

8 A. Yes.

9 Q. Where the third column says, Basic Education,
10 is that just the General Allocation funding formula, or
11 is that all the program funding formulas, General
12 Allocation, LAP, BLL, Transportation, SpEd?

13 A. (Reviewing.) Try it again. Sorry.

14 Q. Okay. There's -- you see there's a third
15 column called Basic Education, correct?

16 A. Yes.

17 Q. And my question is, are the numbers there the
18 General Allocation funding formula amounts only, or
19 does it also include the other Basic Ed Program funding
20 formulas such as LAP, ELL, Bilingual, SpEd,
21 Transportation?

22 A. I don't know.

23 Q. Okay. And there's a -- the first footnote
24 says, "Each program includes administration
25 expenditures but not abatements."

1 Do you see that?

2 A. Yes.

3 Q. Can you tell me what that means?

4 A. No.

5 Q. On the next page under Program Expenditures
6 and Financing Sources, do you see that?

7 A. Yes.

8 Q. The first line where it said, Basic Education
9 and there's a total expenditure of \$4.2 almost \$4.3
10 billion, do you see that?

11 A. Yes.

12 Q. And then on the far left-hand side where it
13 says, Local and Other Funding, there's \$775 million, do
14 you see that?

15 A. Yes.

16 Q. Could you tell me what that local funding
17 component is that relates to Basic Education?

18 A. I would think that those -- that would --
19 probably be primarily local levy money.

20 Q. Okay. And then the next page, there are a
21 series of columns starting from the third one over, it
22 says, Unit Administration, Central Administration,
23 Teaching Activities, Teaching Support, and Other
24 Supportive Activities, do you see those columns?

25 A. Yes.

1 Q. Could you briefly tell me what each of those
2 headings means?

3 A. No.

4 Q. Okay. And the last question -- there are
5 Bates numbers on these. It ends in 6. There's a
6 heading that says, Special Levies For Maintenance and
7 Operation.

8 Do you see that?

9 A. Sorry. What page were we on?

10 Q. A bunch of zeros and then 6.

11 A. 6. Special Levies, Maintenance and
12 Operation?

13 Q. Yes, sir.

14 A. Okay.

15 Q. If I understand this table correctly, these
16 are just the maintenance and operation levies but not
17 tech or capital levies or the construction bonds; is
18 that correct?

19 A. I'm not sure about that, it doesn't include
20 tech levies, but I think maybe Miss Salvi can answer
21 that.

22 Q. Okay. And then --

23 A. I know it doesn't include construction.

24 Q. Okay. And then does this show at all whether
25 these various levies are at the lid?

1 Do you know what the levy lid is?

2 A. Yes.

3 Q. Okay. And does this show which levies have
4 passed or actually at their full capacity, the lid in
5 which they're actually under?

6 A. No.

7 Q. If I could ask you -- you mentioned in your
8 testimony in the introduction, that part of what OFM
9 does and your office does is forecasting and
10 demographic work, correct?

11 A. Yes.

12 Q. Could you, briefly, just explain what kind of
13 forecasting and demographic -- what does that mean?

14 A. We do state population. We do local
15 jurisdictional population, so when we talk about incorp
16 -- you know, populations of counties versus
17 unincorporated areas versus cities and towns, we do --
18 we do that. We do data on personal income.

19 I mean -- I'm sorry. How far do you want me
20 to describe it?

21 Q. Just the general kinds of information.
22 You're collecting a bunch of information.

23 A. Right.

24 Q. And that's part of what you look at when
25 you're doing your budget forecasting, et cetera?

1 A. Right. Right.

2 Q. Okay. And, actually, if I can ask you to
3 turn to Exhibit 348, please.

4 Exhibit 348 is a collection of several types
5 of information that is collected as part of that
6 forecasting and demographic work by OFM?

7 A. It appears.

8 MR. AHEARNE: Your Honor, we would move to
9 admit Exhibit 348.

10 THE COURT: 348 is offered.

11 MR. CLARK: No objection, Your Honor.

12 THE COURT: 348 is admitted.

13 EXHIBIT ADMITTED

14 BY MR. AHEARNE:

15 Q. And I've got questions on only -- actually
16 I've got three questions on these and how they relate
17 to education.

18 And what you have to do to figure out the
19 page I'm talking about, if you look at the bottom under
20 the HTTP, the last lines will be, like, figure --
21 FIGFO6.AST.

22 A. Were you at the beginning of this or --

23 Q. It's, like, two-thirds of the way in.

24 A. Okay. Figure what?

25 Q. 605.AST.

1 A. Okay.

2 Q. It's a big pie chart.

3 A. Okay. The top is the last three digits 083?

4 You don't have that on yours.

5 Q. Unfortunately I don't.

6 A. Okay.

7 Q. Is the title of it State and Local Government

8 Expenditures By Function? Do you see that?

9 A. Yes.

10 Q. Could you just briefly explain what this

11 chart is showing?

12 A. I think that this is a description of -- it's

13 pretty self-explanatory, but this includes both state

14 funds and local funds and divides them into, again,

15 functional areas of expenditure.

16 Q. And when it's talking about local funds, are

17 these all local governments in Washington, cities,

18 towns, school districts, fire districts, the whole --

19 A. I'm not familiar with the data that comes to

20 create -- you know, that is put into creating this

21 chart, but that would seem a reasonable assumption.

22 Q. Okay. Sitting here today, you don't know --

23 nothing jumps to your mind as being major exceptions to

24 what would be excluded?

25 A. No.

1 Q. If I can ask you to turn several pages more
2 when you get the FIG509, please. There's a chart K-12
3 Education Expenditures Per Capita.

4 A. Okay.

5 Q. Do you have that in front of you?

6 A. Yes.

7 Q. And Washington is the dark blue line on that?

8 MR. CLARK: I need a page reference, I'm
9 sorry, Your Honor.

10 (There was an off-the-record discussion
11 between counsel.)

12 THE COURT: And, for the record, there are
13 numerous pages that are, I guess, that are fake --

14 MR. AHEARNE: Your Honor, I've been told the
15 Bates number is 093.

16 THE COURT: Okay. Thank you.

17 BY MR. AHEARNE:

18 Q. And on 093, that dark line is Washington,
19 correct?

20 A. Yes.

21 Q. And, if I understand this correctly, it shows
22 that Washington spent more per capita on K-12 education
23 in the '90s than the national average, correct?

24 A. That's what the graph is showing.

25 Q. And now, though, it's dipped down to below?

1 A. That's what it shows here.

2 Q. Okay. If I can ask you to turn to one last
3 graph. It says FIG510 at the bottom, and it should be
4 098 I think is the Bates number.

5 A. Yes.

6 Q. Yes. It says, "K-12 Education Expenditures
7 Per 1,000 Personal Income."

8 Do you see that?

9 A. Yes.

10 Q. Is that the same type of graph that shows
11 that Washington used to be above the national average
12 in the '90s but has now dipped below that?

13 A. That's what the graph shows.

14 Q. Okay. If I could ask you to please turn to
15 the next exhibit that Mr. Clark asked you questions
16 about, 352.

17 Is this another example of the type of
18 document that the public can read and comprehend so
19 they can hopefully understand what the government's
20 doing?

21 A. Yes.

22 Q. And what's laid out in this document, it's
23 not the final budget. It's the Governor's proposal,
24 correct?

25 A. Correct.

1 Q. And, actually, for the '07-'09 years, this is
2 just one of several related documents.

3 If I can ask you to look at 353 and 354, do
4 those relate to specific aspects of the budget and
5 policy highlights of the Governor's proposal?

6 A. Yes.

7 MR. AHEARNE: Your Honor, we'd move to admit
8 Exhibit 353 and 354.

9 MR. CLARK: No objection, Your Honor.

10 THE COURT: 353 and 354 are admitted.

11 EXHIBITS ADMITTED

12 BY MR. AHEARNE:

13 Q. And Mr. Clark asked you some questions about
14 a pie chart on page 2 -- I should say numbered 2 at the
15 bottom left. There are two pie charts that show K-12
16 education numbers.

17 A. Are you in Exhibit 352?

18 Q. 352, yes, sir.

19 A. Page 2?

20 Q. Yes.

21 A. I'm there.

22 Q. Pie charts? A quick question. On the K-12
23 education numbers, are those the Basic Education
24 Program funding formula money alone, or does that also
25 include what we call the discretionary monies?

1 A. All General Fund expenditures for Basic Ed
2 and the discretionary programs for K-12.

3 Q. And Mr. Clark asked you some questions on
4 page 4.

5 A. Yes.

6 Q. And there's that bar graph on the left-hand
7 side on Change in Per Student State Funding Biennium.

8 Do you see that?

9 A. Yes.

10 Q. And this was then -- the dark blue line is
11 the 2007-2009 biennium proposal of the Governor,
12 correct?

13 A. Yes.

14 Q. Now, were some of these increases then cut in
15 the '09-'11 budget?

16 A. You know, I'm thinking, overall, the funding
17 was still higher in '09-'11. So to -- so if there
18 was -- if there was going to be another bar here --

19 Q. Uh-huh.

20 A. If the question was would the bar be
21 negative, I don't think that's -- I don't think that
22 would be the case.

23 Q. So your testimony is the bar -- the amount of
24 money spent on the K-12 education system in the '09-'11
25 biennium is not less than in the '07-'09 biennium?

1 A. I'm not positive because I'm not sure of the
2 enrollment numbers, so --

3 Q. All right. This 14 percent increase figure,
4 does that include fully funding I-728 in that
5 particular year?

6 A. Yes.

7 Q. Does it include fully funding the I-732 COLA
8 that particular year?

9 A. I believe so, yes.

10 Q. And does that also include the levy
11 equalization monies as well?

12 A. That includes all K-12 funding upon a per
13 student basis.

14 Q. And with respect to professional development,
15 that includes the two learning improvement days?

16 A. Yes.

17 Q. Later on in that same page under, World Class
18 Education, second paragraph down, a third of the way
19 down that paragraph it says, "In fact, 71 percent of
20 men and 83 percent of women in the state prison system
21 score at less than a 9th grade education level."

22 Do you see that?

23 A. Yes.

24 Q. Is that true?

25 A. I believe so.

1 Q. And how does that effect -- like, impact the
2 budget and policy highlights?

3 A. I think it simply describes a fact and would
4 drive, to a certain extent, I think, a rationale for
5 the investments that the Governor made in education.

6 Q. And would part of that rationale be in that
7 next sentence that says, "By investing in education,
8 mentoring and workforce training, you can save taxpayer
9 dollars, improve our communities, keep people out of
10 prison, and prepare all of our citizens for good
11 jobs"?

12 A. Yes.

13 Q. The next paragraph starts and says, "Since
14 taking office, Governor Gregoire has increased total
15 investment in education by over 3.9 billion."

16 Do you see that?

17 A. Yes.

18 Q. Is that 3.9 billion just the K-12 system, or
19 does that include Early Learning and Higher Ed?

20 A. I think, if I'm reading after the comma, it
21 talks about "from Early Learning, K-12, and college and
22 workforce training," so it is much more inclusive than
23 just K-12.

24 Q. Okay. On the next page, there's another bar
25 chart. Is that a stack bar chart? Is that what these

1 are called?

2 A. Actually, these are just bar charts here.

3 Q. Okay. And the individual --

4 A. I can show you another example of a stack bar
5 chart later, if you need one.

6 Q. A stack bar chart is, basically, it's more
7 just --

8 A. Yeah, it's a vertical --

9 Q. -- boxes right on top of each other?

10 A. Yeah, virtually stacked boxes is a stack bar
11 chart.

12 Q. Okay.

13 A. All right.

14 Q. Individual Benefit with Increased Education
15 Average Income, do you see that box?

16 A. Yes.

17 Q. Okay. What does information like that have
18 to do with the budget and policy highlights of the
19 Governor's proposal?

20 A. The Governor's just describing that the more
21 opportunities for education for the citizens, the data
22 shows that they have, generally, a higher earning
23 potential -- or actually earnings. Not potential but
24 actual earnings.

25 Q. At the bottom right-hand side, there's a box

1 that says, "Each year Washington spends \$6,237 on
2 educating each student and \$28,632 on incarcerating
3 each prisoner."

4 Do you see that?

5 A. Yes.

6 Q. Is that true to the best of your knowledge?

7 A. To the best of my knowledge, yes.

8 Q. What does that have to do with the budget and
9 policy highlights in the Governor's proposal?

10 A. I think she's talking about the investment in
11 education if it keeps people out of prison is a better
12 bargain.

13 Q. Okay. So if I can ask you to jump ahead to
14 page 12, please. Under Education there's a quote,
15 "Education is the single most important investment we
16 can make for our children, our state, our country, and
17 our future."

18 A. Yes.

19 Q. Does that tie into the point you just made?

20 A. I think the Governor thinks that -- that it
21 has the most -- that it's the best investment in public
22 money.

23 Q. Okay. Ask you to turn to then page 14,
24 please, under the page titled Governor Gregoire's
25 Budget for K-12.

1 Again, this is the '07-'09 budget proposal,
2 correct?

3 A. Yes.

4 Q. And then under Improvement, the third
5 paragraph "Continues to reduce class sizes, reaching
6 the intended \$450 per student funding for Initiative
7 728 in the 2007-'08 school year and increases per
8 student funding by inflation in subsequent years."

9 Do you see that?

10 A. Yes.

11 Q. In the '07-'09 budget, 728 was fully funded,
12 correct?

13 A. Yes.

14 Q. Did that full funding continue in the '09-'11
15 budget?

16 A. No.

17 Q. A few paragraphs down under, Expands All-Day
18 Kindergarten, do you see that paragraph?

19 A. Yes.

20 Q. The last sentence says, "Students who attend
21 all-day kindergarten are more likely to read at grade
22 level, have adequate attendance, and do well in
23 school."

24 Do you see that?

25 A. Yes.

1 Q. To your knowledge, is that true?

2 A. Yes.

3 Q. Is that primarily low-income kids that
4 all-day kindergarten benefits?

5 A. The all-day kindergarten that the state was
6 funding here was primarily -- was focused on low-income
7 districts.

8 Q. And why is that?

9 A. Because they're -- we were trying to find a
10 way to focus the money since we weren't going to be
11 able to afford all-day kindergarten throughout the
12 school districts so we had -- so we've -- we tried to
13 focus the money where we thought it would do the most
14 good.

15 Q. And that would be the low-income kids?

16 A. Low income, right.

17 Q. The next paragraph -- or a few paragraphs
18 down under Coordinates Instruction for English Language
19 Learners, do you see that paragraph?

20 A. Yes.

21 Q. It say, "Creates a pilot program to evaluate
22 emerging best practices and provide time for bilingual
23 education teachers and classroom teachers to
24 coordinate."

25 Do you see that?

1 A. Yes.

2 Q. Could you briefly summarize what's that
3 about?

4 A. No.

5 Q. Okay. Was the bilingual education project
6 cut in the '09-'11 budget?

7 A. I'm not -- I'm not sure.

8 Q. Next page under the second paragraph, "Raises
9 teacher pay and provides more equity between school
10 districts," do you see that section -- or that
11 paragraph?

12 A. Yes.

13 Q. And it talks about, "Increases salaries for
14 teachers and other K-12 staff consistent with
15 Initiative 732."

16 Do you see that?

17 A. Yes.

18 Q. And in the '07-'09 biennium budget, the 732
19 Cost-of-Living-Adjustment for fully funded; is that
20 correct?

21 A. That's my understanding.

22 Q. And were they -- were there any Initiative
23 732 Cost-of-Living-Adjustments in the '09-'11 budget?

24 A. No.

25 Q. The last question on this page.

1 There's a chart at the bottom, it says,
2 Global Challenge States, How Washington Measures Up.

3 A. Yes.

4 Q. Could you explain what this is signifying and
5 how it relates to the budget and policy highlights in
6 the Governor's proposal?

7 A. I think the global challenge states were
8 developed through the Washington Learns process
9 identified -- I don't know if it's a peer group. I'm
10 not exactly sure how they pick these states. But they
11 did create a set of compares -- of states for
12 comparative purposes. This shows our ranking on a
13 variety of measures.

14 Q. Okay. And, as a member of the Washington
15 Learns Steering Committee, is it your general
16 understanding that these global challenge states are
17 states with which Washington competes in the global
18 economy?

19 A. I'm not sure.

20 Q. Okay. Last question on this document.

21 If I can ask you to turn to page 41, there's
22 a bar chart that Mr. Clark asked you some questions
23 about.

24 A. The stack bar chart?

25 Q. Okay. So this one is a stacked. The dark

1 blue and the light blue is a stacked bar chart.

2 A. Got it.

3 Q. Stacked because the -- for example, if you
4 look at the '07-'09 year, you've got 1.117 billion for
5 Higher Ed instruction, and the 809 million for K-12,
6 correct?

7 A. Correct.

8 Q. And then it adds up to 1.926 billion total,
9 right?

10 A. Yes.

11 Q. Mr. Clark asked you some questions about the
12 809, the K-12.

13 Does the money that the state funds for K-12
14 capital projects, does that pay for all of the school
15 district construction costs?

16 A. No.

17 Q. Does it pay for more than half?

18 A. I think it depends on the district as to
19 whether or not it pays. I think we pay anywhere from
20 20 to 80 percent of the cost of a project.

21 Q. That's what you were referring to earlier
22 when you said this was their sliding scale based on
23 property poor or property rich districts?

24 A. And whether or not they're building above
25 standard or to standard. So if they build above

1 standard, the state's not going to pick up the standard
2 as identified in statute.

3 Q. Okay. Standard, that would include, for
4 example, the dollars per square foot that you
5 mentioned?

6 A. Dollars per square foot and per square foot
7 per student.

8 Q. Okay. And how was that dollars per square
9 foot figure determined?

10 A. You know, I'm not -- I'm not really sure. I
11 think there's -- I would surmise there was some
12 industry standards out there and they were applied to
13 the statute. And I think there's actually an inflator
14 in the statute to inflate that over time.

15 Q. And sitting here today, do you know one way
16 or the other whether that dollar per square foot is the
17 actual construction cost in today's world?

18 A. I don't know for sure if that's the truth.

19 Q. Okay. And the square feet per student
20 figure, could you explain how that was determined?

21 A. No.

22 Q. Now, with respect to the 20 percent to 80
23 percent, that's matching funds, correct?

24 A. Yes.

25 Q. What if a school district cannot pass a

1 construction bond, how much does the state fund for
2 school construction?

3 A. I don't believe they have -- they don't have
4 a project. There may be circumstances where the state
5 is -- has a role. But in terms of how students are --
6 maybe a fire, but I'm not saying that with any
7 certainty.

8 Q. Okay. If I can ask you to look at Exhibit
9 353, please.

10 A. Okay.

11 Q. If I can ask you to turn to the second page,
12 please, the right-hand column. The last paragraph
13 where it says, "All-day kindergarten in 10 percent of
14 our schools would give children more time to learn.
15 Focus first on schools with high poverty levels," do
16 you see that?

17 A. Yes.

18 Q. How was the determination made to fund 10
19 percent of the schools?

20 What I'm really getting at, was there a
21 determination that it was only 10 percent of the
22 schools needed all-day kindergarten, or was it the
23 amount of money there was to spend, or something else?

24 A. No. I think it's a combination of how much
25 money was available to spend on this item. And, also,

1 I think to see the results, to see how the program was
2 implemented, to see if it needed to be changed, if
3 there were implementation issues, if there was no kind
4 of a seamless flow from the all-day kindergarten into
5 the rest of the grades, you know, whether there were
6 problems with building, you know, with capacity and the
7 schools. I think all those things dictated to what
8 extent we were going to implement the program.

9 Q. And when you say approximate capacity, are
10 you referring to -- talking about it's hard to have
11 all-day kindergarten if you don't have enough physical
12 space for all-day kindergarten?

13 A. It could be. It could be a consideration.

14 Q. Okay. Sitting here today, do you know what
15 the results were of that 10 percent in the '07-'09
16 biennium?

17 A. The results? I think since it probably took
18 effect in fiscal year eight, we're in fiscal year 10, I
19 think it's pretty tough to see the results, at least
20 from an academic point of view.

21 Q. Okay. Next page, on the left-hand side under
22 the heading, Helping of Struggling Students, do you see
23 that?

24 A. Yes.

25 Q. And the second sentence says, "All students

1 must meet high standards and we must make sure they
2 have the tools and the opportunities to do so."

3 Do you see that?

4 A. Yes.

5 Q. Do you know what's being referenced when it
6 talks about high standards. Is that where it states
7 that Essential Academic Learning Requirements?

8 A. I assume we're talking about the WASL and --
9 I think it's the WASL.

10 Q. Okay. When it says, "All students must meet
11 those standards," does all mean all?

12 A. I'm not sure.

13 Q. Okay. And when it says, "had the tools and
14 the opportunity to do so," does that mean, like, just a
15 theoretical opportunity or a realistic and effective
16 opportunity?

17 A. I think it's not theoretical. I think it's a
18 realistic opportunity.

19 Q. Okay. Under the top of the right-hand side
20 where it says, K-12 Equity and System Changes, do you
21 see that?

22 A. Yes.

23 Q. And the first sentence, "For over 25 years,
24 Washington has treated teachers and staff in 296 school
25 districts differently, a long standing equity problem

1 that must be addressed."

2 Do you see that?

3 A. Yes.

4 Q. What's that referring to?

5 A. Probably the grandfathered school district
6 salary schedules. Some districts have different salary
7 schedules than other school districts.

8 Q. And --

9 A. And administrative as well.

10 Q. The administrative salary schedule. Is that
11 what you are referring to?

12 A. I'm more informed about the teacher's salary
13 schedule.

14 Q. Okay. And has that issue been fixed?

15 A. There's been progress made toward it, but I
16 still think there's differences between the school
17 districts and their salary schedules.

18 Q. When you say differences, do you mean, like,
19 disagreements among the school districts, or do you
20 think that the salaries are actually different?

21 A. Well, they're different because a variety of
22 reasons. The state funded salary schedules are
23 different.

24 Q. Different numbers?

25 A. Yes.

1 Q. If I could ask you to turn to the next page.
2 under, Train for a High Demand Job, do you see that
3 reading?

4 A. Yes.

5 Q. And the second paragraph starts, "Employers
6 in Washington need more qualified workers in math- and
7 science-related, high-demand fields such as
8 engineering, health care, and construction."

9 Do you see that?

10 A. Yes.

11 Q. Is that true?

12 A. Yes.

13 Q. The last question on this page.

14 On the bottom right-hand side there's a chart
15 with titles and numbers, like Improving Math and
16 Science, 166.2 million, do you see that?

17 A. Yes.

18 Q. And totals then 1.271 billion. Do you see
19 that?

20 A. Yes.

21 Q. What's that chart showing? Are these
22 increases that the Governor was proposing? Are these
23 maintenance levels? What is this?

24 A. I'm not sure whether these are including
25 maintenance-level changes. I think this is the

1 increase in funding for a variety of these programs.
2 To the extent that includes enrollment increases, et
3 cetera, I'm not sure.

4 Q. Okay. If I can ask you to quickly turn to
5 Exhibit 354.

6 A. Yes.

7 Q. And the third paragraph down on the first
8 page, the second sentence starts, "Jobs in the skill
9 trades, from construction to automotive repair, require
10 sophisticated math and science skills. Employers in
11 fields from health care to high tech are demanding more
12 and more careers in science, engineering, math and
13 logic skills."

14 Do you see that?

15 A. Yes.

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

17 A. Yes, it is.

18 Q. How, if at all, does that relate to the
19 budget proposal the Governor was making in the '07-'09
20 biennium?

21 A. I think there was a particular focus on math
22 and science, both in terms of more resources for math
23 and science classes in the K-12 system, but also to
24 provide more math and science teachers.

25 Q. If I can ask you to please turn to Exhibit

1 350, if I understand you correctly, is the '09-'11
2 version of 352; is that correct?

3 A. Yes.

4 Q. Mr. Clark asked you some questions about page
5 3 -- numbered 3 on this exhibit. At the top it says
6 "We cannot cut"?

7 A. Yes.

8 Q. Okay. And then it refers to Basic Education
9 and then federally mandated Medicaid.

10 A. Yes.

11 Q. When it's referring to Basic Education is
12 that those program funding formulas we were talking
13 about?

14 A. Yes.

15 Q. And then what does federally mandated
16 Medicaid mean?

17 A. The Medicaid program is a federal program
18 that we participate in the funding with the feds --
19 federal government. But, to a large degree, we are
20 required to provide a certain level of medical care to
21 low-income citizens.

22 Q. And, just so I understand, the federal
23 government mandates that the state must provide that,
24 or is this a program that the state opts into?

25 A. Actually, the state can opt out of Medicaid

1 entirely, but if they opt in, then they are subject to
2 the federal law.

3 Q. Okay. The next page, page four. And another
4 page that Mr. Clark asked you about and this is
5 focusing on services that matter most.

6 And there's a 1, 2, 3, 4, 5. There's a
7 paragraph under that, and then there's a paragraph
8 under that that says, "We are still preparing."

9 Do you see that?

10 A. Yes.

11 Q. It says, "We are still preparing more than
12 8,200 low-income kids for school through the Early
13 Childhood Education because it is the best investment
14 we can make for our children."

15 Do you see that?

16 A. Yes.

17 Q. Why is this saying it's the best investment
18 we can make?

19 A. I think through the Washington Learns work, I
20 think that the investment in Early Learning shows the
21 biggest return on the dollar in terms of avoiding
22 future costs.

23 Q. And could you explain briefly what the
24 process was to determine that it should be only 8,200
25 low-income kids needed this Early Learning in

1 Washington?

2 A. Well, I think it's a prioritization process.
3 This was a budget which had significant reductions in
4 it. I think we were trying to make the point that we
5 were protecting those programs in this budget --

6 Q. Okay.

7 A. -- and not cutting -- and not cutting the
8 program.

9 Q. Okay. Was there any assessment of whether
10 more than 8,200 or 8,300 low-income kids in our state
11 needed this kind of Early Learning education?

12 A. I think it was on the table. In the end, it
13 was -- it wasn't something we could afford.

14 Q. Okay. If I can ask you to turn to page five,
15 please. And there's a chart under, Percentage Cut from
16 Maintenance Level by Area, do you see that?

17 A. Yes.

18 Q. It says, K-12 5.6 cut in maintenance level.

19 A. Right.

20 Q. I'm assuming that that's what you were
21 calling the discretionary programs, not the Basic
22 Education Program funding formula, correct?

23 A. We didn't cut any of those -- any of the
24 Basic Ed.

25 Q. Any of the funding formulas?

1 A. Right.

2 Q. Okay. And if I can actually -- if I could
3 ask you to turn to Trial Exhibit 56, please.

4 Trial Exhibit 56 is a document that shows the
5 maintenance level for the K-12 education with the
6 '09-'11 budget?

7 A. Yes.

8 Q. And what --

9 MR. AHEARNE: Actually, Your Honor, we'd move
10 to admit Exhibit 56.

11 THE COURT: 56 is offered.

12 MR. CLARK: No objection.

13 THE COURT: 56 is admitted.

14 EXHIBIT ADMITTED

15 BY MR. AHEARNE:

16 Q. And could you -- we talked about maintenance
17 level a little bit. But could you explain what this
18 \$15.074 billion number is when it shows the '09-'11
19 maintenance-level budgets?

20 A. This is our estimate of the cost of funding
21 both the Basic Ed mandatory programs and the existing
22 policy and funding levels for the nondiscretionary
23 items as well.

24 Q. So if I understand your prior testimony about
25 what maintenance level means, if I understand Trial

1 Exhibit 56 correctly, if the state were to continue
2 doing whatever it was doing in K-12 education in the
3 '09-'11 biennium that it was doing in the prior
4 biennium, the cost would be \$15.074 billion.

5 A. That's a reasonable estimate.

6 Q. Round numbers.

7 A. Yes.

8 Q. And then what's shown underneath that are
9 adjustments, either positive or negative in the
10 Governor's proposal, which brings it down the 14.2
11 billion, correct?

12 A. That's correct.

13 Q. And if I could ask you to turn to the second
14 page.

15 Is this just a further breakdown of
16 adjustments that are being, I guess, all reduced in the
17 Governor's proposal at least?

18 A. Yes. This is a -- kind of an itemization of,
19 probably, part of an item on the previous page. So --
20 and it might be -- I'm trying to think where we are.
21 K-12 programming changes would be probably the category
22 on the previous page, and then what this does is then
23 describes that cut in detail.

24 Q. And, actually, if I add up the 42, 232, and
25 the 6,104 that's on the second page, it does add up to

1 48,336 in K-12 program changes.

2 And you're nodding. That means you did the
3 math quicker than me.

4 If I can just ask you to look, for example,
5 on page two there under the Building Bridges Grants and
6 then there's a 5 -- that's actually a \$5 million --

7 A. \$5 million.

8 Q. -- figure.

9 Does that mean that's a reduction in '09-'11
10 biennium of \$5 million of Building Bridges Grants that
11 were in the '07-'09 budget?

12 A. Well, probably, but these are reductions from
13 the maintenance level. So, if there was, for instance,
14 if the Building Bridges Program was started in the
15 second year of the biennium, the actual amount may have
16 been -- this is a reduction from the maintenance level.
17 Okay?

18 Q. Okay. Just use that example to make sure.

19 If, for example, the Building Bridges Program
20 was starting on the second year of the biennium, and it
21 was only 2.5 million --

22 A. Right.

23 Q. -- the maintenance level for the '09-'11
24 biennium would be 5 million --

25 A. Yes.

1 Q. -- although the actual cut from the money
2 that was spent would only be 2.5, but the maintenance
3 cut would be 5 million.

4 A. That's right.

5 Q. Okay.

6 A. As long as it was -- I'm sorry, counsel.

7 As long as there was an understanding this
8 would be an on-going program.

9 Q. Okay. And so, for example, if the Building
10 Bridges Program in the prior biennium was a one-shot
11 deal, we're going to do \$5 million and that's it --

12 A. Right.

13 Q. -- the maintenance amount in '09-'11 would be
14 zero.

15 A. Correct.

16 Q. So what this is showing is that the prior
17 budget had actually anticipated continuing Building
18 Bridges into the '09-'11 but adjustments have to be
19 made, and this one was one of your adjustments.

20 A. That's right.

21 Q. If I could ask you, please, to look at
22 Exhibit 6 --

23 A. I'm sorry. Because I'm reading my titles
24 correctly, because these are eliminations, then I'm
25 thinking that this is the entire amount that was in the

1 maintenance level, because I see we make a distinction
2 between program eliminations and program reductions.

3 Q. Okay. I see.

4 And just since you pointed out the title,
5 what's the difference between an elimination and a
6 suspension?

7 A. I think there was some sensitivity as to what
8 was going to be an on-going reduction and what was
9 going to be a temporary -- a suspension of a program in
10 the hopes that if the -- when the economy recovers, we
11 could resume the program.

12 Q. Okay.

13 THE COURT: Mr. Ahearne, we're going to take
14 our afternoon recess a little early because of our
15 hours this afternoon. So since we'll be concluding at
16 3:30, why don't we take our recess now for 15 minutes
17 and we'll continue with Mr. Moore.

18 MR. AHEARNE: Thank you, Your Honor.

19 THE COURT: Thank you, counsel.

20 court will be at recess.

21 (Whereupon a recess was taken.)

22 THE COURT: Please be seated.

23 Mr. Ahearne. Mr. Moore.

24 BY MR. AHEARNE:

25 Q. Okay. We were talking about Exhibit 56

1 earlier, but I'd like to go back to Exhibit 617,
2 please.

3 This is one of the exhibits Mr. Clark had
4 asked you questions about. And the top part of Exhibit
5 617 where it says, 2009-'11 Basic Education Programs,
6 those programs are the ones that correlate with those
7 Basic Ed Program funding formulas we've been talking
8 about?

9 A. Yes.

10 Q. And then when it shows the \$12.218 billion
11 amount there?

12 A. Yes.

13 Q. If I understand your testimony correctly,
14 there was not any cut in the maintenance level from the
15 prior year for those programs, correct?

16 A. In the maintenance level?

17 Q. Correct.

18 A. The only change that might have happened is
19 because salary and benefits are part of the Basic Ed.
20 If we change a funding rate for pensions, for instance,
21 it's the only thing I could think of that might -- that
22 the cost of a benefit would change.

23 Q. Okay.

24 A. We'd make that adjustment, but otherwise no.

25 Q. Okay. And then moving down to the box below

1 it where it says, Non-Basic Education Programs, these
2 are what you would call discretionary monies because
3 they're not in that program funding formula set?

4 A. Yes.

5 Q. And the levy equalization number there,
6 \$252.9 billion, do you see that?

7 A. Yes.

8 Q. That was a cut from the prior year, correct?

9 A. I believe so.

10 Q. Was the prior year about 424 million?

11 A. I'm not sure exactly the number.

12 Q. Actually, if I could ask you to look at
13 Exhibit 211 at the same time, please.

14 A. Okay.

15 Q. Page 43. Page 43 of Exhibit 211 has a chart
16 similar to -- strike that.

17 Page 43 of Exhibit 211 is a chart for the
18 '07-'09 biennium that is similar to Exhibit 617 for the
19 '09-'11 biennium, correct?

20 A. Yes.

21 Q. All right. If I'm looking at Exhibit 211 for
22 the levy equalization amount, there's a \$423.7 million
23 amount, correct?

24 A. Yes.

25 Q. And then in the 2009-'11 biennium, that was

1 cut to 252.9 million, correct?

2 A. Yes.

3 Q. Are you aware of any education-related reason
4 for that cut?

5 A. Education-related reason?

6 Q. Yes.

7 A. No.

8 Q. And can I ask you then to look at the next
9 line on Exhibit 218, that chart. Initiative 732 COLA
10 and other comp increases, there's half a billion
11 dollars, correct?

12 A. Yes.

13 Q. And was that completely eliminated on the
14 '09-'11 budget?

15 A. Well, actually, the raise would be folded
16 into the -- into the base. It would be part of the
17 maintenance level, so what we're describing here is the
18 cost of salary increase.

19 Q. Right, but --

20 A. So if the question is, was there a salary
21 increase in '09-'11, the answer is no --

22 Q. Okay.

23 A. -- from state funds.

24 Q. All right. And then the first line on the
25 '07-'09 chart is Student Initiative Achievement Fund

1 I-728, \$868.3 million.

2 Do you see that?

3 A. Yes.

4 Q. And in the '09-'11 biennium, that was cut to
5 \$104 million, correct?

6 A. Yes.

7 Q. Are you aware of any education-related reason
8 for that cut?

9 A. No.

10 Q. And one last example. If I'm looking at the
11 '07-'09 biennium, it shows two learning improvement
12 days. Do you see that?

13 A. Yes.

14 Q. Was that part of the Governor's emphasis on
15 science and math using those two learning improvement
16 days for science and math?

17 A. I'm not sure because it may have shown up in
18 another one of these categories because there's --
19 there's a distinction, I think, between the learning
20 improvement days and the math and science -- excuse me,
21 the learning -- I'm sorry. Now I've confused myself.

22 Start over?

23 Q. Okay. Well, I'll tell you exactly where I'm
24 going. My recollection, from reading through the
25 budget documents, is one of the emphases in the '07-'09

1 biennium on science and math was focusing the two
2 learning improvement days on science and math.

3 A. Yes.

4 Q. I'll confess, I may be wrong, but that was my
5 recollection. So I'm asking you whether you understand
6 those two learning improvement days in the '07-'09
7 biennium to be focusing on science and math.

8 A. I'm not sure when the learning improvement --
9 because I think -- if I'm reading the other exhibit,
10 there's still one learning day, whether or not it was
11 still a math and science learning day or not. But
12 perhaps another witness could --

13 Q. Okay.

14 A. -- clarify that for you.

15 Q. What I'm doing is focusing on '07-'09.

16 A. Okay.

17 Q. There were two learning improvement days,
18 correct?

19 A. Yes.

20 Q. And then if I move to the '09-'11 biennium,
21 it looks like it's cut to one learning improvement day,
22 correct?

23 A. Correct.

24 Q. Are you aware of any education-related reason
25 for reducing the learning improvement days from two to

1 one?

2 A. No.

3 Q. If I look at the -- on Exhibit 617 for the
4 '09-'11 biennium, if I look at the total state funds,
5 it shows \$13.3 billion amount, correct?

6 A. Yes.

7 Q. And when we went through Trial Exhibit 56 it
8 showed a maintenance level of 15.1 billion, correct?

9 A. Right.

10 Q. So is it accurate to say that the '09-'11
11 biennium actually had a cut in overall K-12 education
12 funding from the maintenance level?

13 A. The one part that I'm not sure about is our
14 use of the Federal Recovery Act funds. For some of the
15 nondiscretion -- for -- excuse me -- for some of the
16 discretionary programs, discretionary expenditures.

17 Q. Okay. And are you saying that the total
18 state funds in Trial Exhibit 617 does or does not
19 include the stimulus money that was used to fill some
20 of the gaps?

21 A. I don't see it in here. If I'm looking at
22 the asterisk which talks about near General Funds
23 estimates?

24 Q. Uh-huh.

25 A. So I don't see the Federal Recovery Act funds

1 in that total. So to the extent we used federal funds
2 for K-12 education, they wouldn't be in here.

3 Q. And would that be federal funds solely the
4 stimulus funds or would that be any form of federal
5 funds?

6 A. Well, what I'm -- I know that the state
7 reduced some of the K-12 funding and replaced it
8 with -- made some reductions in K-12 programs and then
9 put back in Federal Recovery Act funds.

10 Q. Okay. When you're talking about Federal
11 Recovery Act funds --

12 A. Recovery Act funds, which is separate from
13 federal funding for Special Ed or for food service or
14 kind of the more --

15 Q. Title One type stuff?

16 A. Yes.

17 Q. And these are the --

18 A. In fact, Title One and Special Ed dollars
19 actually were drastically increased under the Recovery
20 Act bill.

21 Q. Okay. And this is the stimulus, the one- or
22 two-year stimulus package?

23 A. It's three years, yes.

24 Q. Three years?

25 And does that include the Race to the Top?

1 A. The Race to the Top has not been awarded by
2 the federal government at all.

3 Q. And is Washington able to compete for the
4 Race to the Top money?

5 A. I think we're going to submit an application
6 to the federal government.

7 Q. Are you aware of the restrictions on the Race
8 to the Top money?

9 A. Yes, I am.

10 Q. And does Washington satisfy those
11 restrictions?

12 A. All of them?

13 Q. Yes, sir.

14 A. I don't believe so.

15 Q. What was the total budget for the '09-'11
16 biennium?

17 A. Which would include federal, as well?

18 Q. Well, why don't we take them one step at a
19 time.

20 What's the total General Fund? What's the
21 operating budget?

22 A. In total?

23 Q. Yes.

24 A. I think about \$32 billion.

25 Q. Okay. If I can ask you to go back to Exhibit

1 350, which is where we were when we sort of took this
2 little diversion, which is the '09-'11 Budget Policy
3 Highlights publication.

4 A. 350?

5 Q. Yes. Let's rush through some of these
6 pages.

7 Page 10, Mr. Clark asked you some questions
8 about the Early Learning and its cuts there.

9 Do you recall that page?

10 A. The cuts to Early Learning?

11 Q. Yes, the Early Learning topic. Do you
12 remember that generally?

13 A. Yes.

14 Q. This is the same kind of Early Learning that
15 we talked about early from the Washington Learns
16 report?

17 A. Yes.

18 Q. The next page on page 11 under K-12
19 education, there's, "Goals: Maintain Basic Education
20 Funding For Schools."

21 A. Yes.

22 Q. And then "What we invest in K-12 Basic
23 Education services."

24 Do you see that?

25 A. Yes.

1 Q. And is the Basic Education being referred to
2 there, those program funding formulas we talked about?

3 A. Yes.

4 Q. And then when it later on says, "Several
5 programs outside the K-12 Basic Education area." Are
6 those referring to programs that are outside those
7 program funding formulas?

8 A. Yes.

9 Q. And then on the next page, Mr. Clark asked
10 you some questions about the How to Achieve Savings
11 section.

12 A. Yes.

13 Q. And you said something along the lines of
14 they weren't Basic Education.

15 Are these savings areas not Basic Education
16 because they're outside of those program funding
17 formulas?

18 A. That's the definition.

19 Q. Is that a yes?

20 A. That's a yes. They're outside of the Basic
21 Ed funding.

22 Q. All right. If I could ask you to turn to
23 pages 15 through 17.

24 There are several pages on a variety of
25 public safety programs that the state funds.

1 Do you see those?

2 A. Yes.

3 Q. Is the state's role, with respect to public
4 safety, inferior to the state's constitutional duty to
5 make ample provision for the education of all children
6 residing within our state?

7 A. Yes.

8 Q. If you look at pages 18 through 20, there's a
9 description of a variety of Human Services programs
10 that the state funds.

11 Do you see those?

12 A. Yes.

13 Q. And is the state's role, with respect to
14 Human Services, inferior to the state's constitutional
15 duty to make ample provision for the education of all
16 children residing within our state?

17 A. Yes.

18 Q. Turn to pages 21 through 22. There's a
19 variety of health care programs and things that the
20 state funds.

21 Do you see those?

22 A. Yes.

23 Q. And is the state's role, with respect to
24 health care, inferior to the state's constitutional
25 duty to make ample provision for the education of all

1 children residing within Washington?

2 A. Yes.

3 Q. And if you -- starting on page 23, there's a
4 series of programs that the state funds relating to
5 natural resources.

6 Do you see those?

7 A. Yes.

8 Q. And is the state's role, with respect to
9 natural resources, inferior to the state's
10 constitutional duty to make ample provision for the
11 education of all children residing within Washington?

12 A. Yes.

13 Q. If I can ask you to turn to -- let's see --
14 pages 27 through 29.

15 There's a description of a variety of
16 transportation programs and things that the state
17 funds, correct?

18 A. Yes.

19 Q. And you had mentioned in response to
20 Mr. Clark's questions, the fact that gas tax revenues
21 are a special type of revenue in our state, correct?

22 A. Yes.

23 Q. If you pull out gas tax revenues, is the
24 state's role, with respect to transportation, inferior
25 to the state's constitutional duty to make ample

1 provision for the education of all children residing
2 within our state?

3 A. Yes.

4 Q. Last, if I can ask you to turn to page 30.

5 Mr. Clark asked you several questions about the capital
6 construction and local assistance programs that are
7 listed there. Correct?

8 A. Okay.

9 Q. And if I understand you correctly, the state
10 pays for some K-12 construction under the matching
11 program that was discussed?

12 A. Yes.

13 Q. And the state also has some multi-year
14 construction contracts that it pays for, correct?

15 A. Right.

16 Q. And if you take out the public school
17 construction in that matching program, and you take out
18 prior contracts, is the state's role, with respect to
19 capital construction and local assistance, inferior to
20 the state's constitutional duty to make ample provision
21 for the education of all children residing within
22 Washington?

23 A. We're excluding the contractual obligation of
24 the debt service --

25 Q. Yes.

1 A. -- of the previously issued debt --

2 Q. Prior contracts, yes.

3 A. -- and the K-12 construction program?

4 Q. The matching program, yes.

5 A. Then the answer's yes.

6 Q. Okay. And are you aware of -- with respect
7 to these prior contracts, are you aware of any that
8 were entered into before 1980?

9 A. Let's see. That would be -- I would be hard
10 pressed to think that we have any bonds outstanding
11 that were issued prior to 1980.

12 Q. And Mr. Clark then asked you under the What
13 We Invested In, there's a sentence that says, "The
14 state funds all K-12 projects needed to match local
15 funds."

16 Do you see that?

17 A. Yes.

18 Q. Could you explain what that sentence means?

19 A. When the school districts send in their
20 request for funds through OSPI, we then apply the
21 statute -- the Capital Construction Statute in terms of
22 what to calculate the state's share and we fund all the
23 projects that are submitted through the process, to the
24 best of my knowledge.

25 Q. And when you're talking about the statute,

1 you're talking about the matching --

2 A. Yes.

3 Q. -- program?

4 And Mr. Clark asked you some questions about
5 what would happen if the state fully funded school's
6 construction costs and you said something along the
7 lines of buildings would all be standardized throughout
8 the state.

9 Is that your testimony?

10 A. Yeah. I'm thinking that if the state -- if
11 the state was running the program, that there would
12 be -- that if you -- if you're running an efficient
13 program, there would probably be a lot more
14 standardization in terms of the building programs, the
15 building design among districts.

16 Q. Okay. So is it your testimony that the
17 design for building in, let's say, the west part of the
18 state, Seattle, would be the same as drier parts of the
19 state? I mean, the other side of the mountains?

20 A. No, I'm thinking that all the dry parts of
21 the state would probably look the same, and all the wet
22 parts would probably look a lot the same.

23 Q. Same thing for all the temperate places
24 around Puget Sound that don't need a lot of
25 air-conditioning or heat. They would not be the same

1 as, for example, on the other side of the mountains
2 where you have very hot August, Septembers and late
3 school years and very cold middle school years?

4 A. Yeah, I think that would make sense.

5 Q. And can school districts build the school
6 buildings they need with stated funds alone?

7 A. I don't think it's set up to be an entirely
8 state funded program. The statute provides for local
9 participation.

10 Q. And let's say there is no -- and by local
11 participation, you mean, for example, voters approve a
12 construction bond?

13 A. Right.

14 Q. Say the voters don't approve a construction
15 bond, can the school district build the buildings it
16 needs with the state program alone?

17 A. I'm not actually sure of the answer to that.

18 Q. Mr. Clark had asked you some questions about
19 local control, and you said school districts love local
20 control, correct?

21 What's the basis for that?

22 A. I think the school districts have always
23 had -- at least from my experience of them coming to
24 the Legislature and testifying, in testimony I've
25 heard, in conversations I've had, that they would --

1 that if the question is whether they would prefer state
2 control versus local control, and that the use of
3 discretion by their local elected school officials,
4 school boards, they are very much in favor of
5 discretion by the local school boards.

6 Q. And is that discretion, for example,
7 discretion to spend resources in a way that the locals
8 believe would best educate their kids as opposed to the
9 way Olympia tells them to spend it?

10 A. I think they would prefer to have much more
11 discretion.

12 Q. Okay. And when you say the school districts
13 love local control, do they love the fact that the
14 state doesn't fully fund their construction costs?

15 A. I don't think that was part of the question.

16 Q. Did the local school districts love the fact
17 that the state doesn't fully fund the school district
18 operating costs?

19 A. I don't think that was part of the question
20 either.

21 Q. The last thing, Mr. Clark showed you a -- he
22 put up on the Elmo thingo a sheet. In the bottom
23 listing of that sheet was "Reform Basic Education is
24 also accomplished via state laws HB 1209 and 2261."

25 And then you also testified about the fiscal

1 note.

2 Do they have to do a fiscal note for 2261?

3 A. Yes.

4 Q. And could you just briefly outline the
5 process OFM went through to do the fiscal note for
6 2261?

7 A. I think 2261 required a series of studies of
8 groups to be formed to meet a variety of activities
9 specifically to do additional analysis and make
10 recommendations. And so what we -- what we did was --
11 and maybe -- I think SBI was part of the process
12 because they were also involved.

13 We did estimates of the costs of meeting
14 those requirements in the legislation for those groups
15 to convene, produce reports.

16 Q. Okay. When you were saying -- so you
17 determined a cost for what was required by the
18 legislation?

19 A. In terms of direct activity.

20 Q. Okay. And by direct activity you mean the
21 work groups and study groups?

22 A. Correct.

23 Q. Did OFM determine a cost for increasing,
24 let's say, hours from 1,000 to 1,080 for 7th through
25 12th graders?

1 A. I don't think that was part of the -- I'm not
2 positive, but I'm not sure that was a requirement under
3 the bill.

4 Q. Did OFM, as part of the fiscal note,
5 determine the cost for transitioning from half-day
6 kindergarten to all-day kindergarten?

7 A. Unless it was a specific mandate in the bill,
8 then we did not calculate that cost.

9 Q. Did OFM calculate a cost for transitioning to
10 the CORE 24 approach?

11 A. If it was not specifically mandated in the
12 bill, then we did not estimate the cost.

13 Q. Would my assumption then be correct that OFM
14 did not do any cost -- determine any cost for the
15 revised funding formulas that might come out of 2261?

16 A. Well, it would -- no. Unless there was a
17 specific funding formula mandated in the bill, we did
18 not.

19 Q. Okay. With respect to their -- the bill
20 talks about starting to implement a new transportation
21 funding formula, correct?

22 A. Yes.

23 Q. Do you know if OFM determined the cost under
24 2261 that would be required by that part of 2261, the
25 transportation funding formula?

1 A. Unless the bill was specific as to what the
2 funding formula would look like with transportation, we
3 would not do a cost estimate.

4 MR. AHEARNE: Thank you. That's all I have.

5 THE COURT: Thank you, Mr. Ahearne.

6 Mr. Clark, redirect examination.

7 MR. CLARK: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. CLARK:

10 Q. Mr. Moore, do you still have Exhibits 211 and
11 617 handy up there? I've opened the book to 211 for
12 you. I want to compare some information on 211 and
13 617.

14 On Exhibit 211, please turn to page 43, which
15 is the same type of display of information on Basic
16 Education and Non-Basic Education programs.

17 Have you got them both?

18 A. Yes.

19 Q. Okay.

20 MR. CLARK: Page 43, Your Honor, in Exhibit
21 211.

22 THE COURT: Thank you.

23 BY MR. CLARK:

24 Q. All right.

25 A. I'm multi-tasking here.

1 Q. I know. I'll wait for you to pour your
2 water.

3 The tally for Basic Education programs on
4 Exhibit 211 indicates that the subtotal for Basic
5 Education programs is just a little in excess of a
6 billion dollars for that year?

7 A. For that biennium.

8 Q. That biennium?

9 A. Yes.

10 Q. The '07-'09 biennium, whereas Exhibit 617 has
11 a subtotal for Basic Education programs for the
12 '09-2011 biennium of 12 billion 218 million dollars,
13 correct?

14 A. Yes.

15 Q. That would indicate that the state did
16 increase funding for its Basic Education programs
17 despite the fact that we were facing a severe economic
18 downturn.

19 A. Yes.

20 Q. So the cuts that occurred with regard to K-12
21 education for the '09-2011 were all in the Non-Basic
22 Education discretionary programs, correct?

23 A. Yes.

24 Q. Do you also have Exhibit 353 handy? It's the
25 only way I get my exercise.

1 Exhibit 353 is World Class Education, Making
2 Changes Families Can Count On. You were asked
3 questions about it during cross-examination.

4 Have you found the document?

5 A. Yes.

6 Q. Okay. On the cover page underneath, Real
7 Change for Washington Students, Exhibit 353 states in
8 the second sentence, "Since taking office, Governor
9 Gregoire has invested over \$3.9 billion to improve
10 education, and she continues to call for accountability
11 and other results."

12 On direct examination I believe I asked you
13 if you had a ballpark figure for the increased
14 investment that Governor Gregoire has made in education
15 since taking office.

16 Do you recall that I asked you that question?

17 A. Yes.

18 Q. Does this refresh your recollection, at least
19 as of the '07-'09 biennium, as to how much Governor
20 Gregoire invested in education since taking office in
21 2005?

22 A. Yes.

23 Q. And that would be the \$3.9 billion?

24 A. Yes. For Earlier Learning, K-12, and Higher
25 Education, and Vocational Education.

1 Q. Okay.

2 MR. CLARK: No further questions, Your Honor.

3 THE COURT: Mr. Ahearne?

4 RECROSS-EXAMINATION

5 BY MR. AHEARNE:

6 Q. I just want to follow up on this last exhibit
7 to make sure I've got my numbers right.

8 The 3.9 billion amount that's referred to
9 in -- this is 353, correct?

10 A. Yes.

11 Q. That is Early Learning, K-12, and Higher Ed
12 all combined, correct?

13 A. Yes.

14 Q. And with respect to K-12, that's the Basic
15 Education Program funding formula amount and the
16 discretionary -- what you call the discretionary
17 amount?

18 A. Yes.

19 Q. And then so if you look at the next
20 paragraph, the second sentence, where it states
21 "Governor Gregoire's commitment to fully fund two
22 initiatives that were overwhelmingly passed by the
23 voters but not previously funded, I-728 and I-732."

24 Do you see that?

25 A. Yes.

1 Q. That's the discretionary money that you were
2 referring to?

3 A. That's part of -- those two items are both
4 discretionary.

5 Q. All right. And the 732, there was no 732
6 increase in the following biennium, correct?

7 A. That's right.

8 Q. And the 728 monies were significantly cut,
9 correct?

10 A. Correct.

11 MR. AHEARNE: Thank you.

12 THE COURT: Mr. Clark, your witness.

13 MR. CLARK: No further questions, Your Honor.

14 EXAMINATION

15 BY THE COURT:

16 Q. All right, Mr. Moore, I just have a few
17 questions for you.

18 You had testified that capital construction,
19 in general, is discretionary, but K through 12 are
20 prescriptive.

21 Could you just explain to me what you mean by
22 the word prescriptive?

23 A. I'm not real familiar with that part of the
24 law, but I think that --

25 Q. It was your word.

1 A. Yes, I know -- that the practice has been --
2 and, I guess, I would -- I -- I actually asked what
3 would happen if we didn't fully fund this project list,
4 and I was told that they would be put on the waiting
5 list, which we haven't done for some time.

6 So I guess the word prescriptive was -- was
7 not accurate in the sense that I think I was given the
8 option, unlike Basic Education, that -- that perhaps I
9 had an option to put them on a waiting list, which
10 we -- which we did not do and have not done for some
11 time.

12 Does that help?

13 Q. It does. It does.

14 So, it sounds -- well, I'm clear as to
15 whether it's mandatory or discretionary or somewhere in
16 between.

17 A. I think you found it somewhere in between
18 there. There's someone that's probably going to answer
19 your question.

20 Q. And if I were a school district wanting to
21 construct a building, would there be some formula
22 somewhere that would tell me how much the state would
23 contribute to the project? In other words, the \$12
24 million construction project, and I am the Yakima
25 School District, does the Superintendent of the Yakima

1 School District have someplace where he can go and say
2 I need to raise X number of dollars in a levy to build
3 a \$12 million school building?

4 A. I'm not sure if I could tell you exactly
5 where the Superintendent would go. But I do know that
6 once the project has been submitted, we are able to
7 calculate what our portion of that project would be.
8 And I don't know why that information wouldn't be
9 available to the Superintendent as well.

10 Q. Can you do it beforehand? In other words,
11 can the Superintendent come to OFM or wherever he would
12 go and say, how much do I need to raise for a \$12
13 million project? He knows from RFP's that the building
14 is going to cost \$12 million.

15 A. I would think that OSPI would be able to
16 provide that information. I know that -- I don't
17 believe that we have that kind of interaction with the
18 school districts, so I'm thinking it comes -- comes
19 through OSPI.

20 Part of the determination is if they're
21 building above standard, if they're adding amenities to
22 a building that the state -- at least that the statute
23 does not provide for. So, it's not simply a matter of
24 what percentage of the -- well, it depends on what
25 they're building and if they're building beyond the

1 cost-allocation model and beyond the square footage.

2 And I think that's all known. If they know
3 what their design is, then I think we can apply those
4 standards -- or OSPI can apply those standards to the
5 building and figure out how much the state's going to
6 pick up. And it also includes their ability to -- I
7 think their relative property values and their ability
8 to finance it through local levies.

9 Q. There was some testimony that some school
10 districts build out their libraries at the same time
11 they construct a new building or remodel a building.

12 So, in other words, if the building is 20
13 years old and they have 10-year-old books or 20-year-
14 old books at the time of the new building or renovated
15 building, they will want to replace those books.

16 Is there some provision for that in terms of
17 funding under capital construction costs?

18 A. I'm not aware of that.

19 Q. Do you have Exhibit 344 available to you,
20 please?

21 The last one, always.

22 MR. CLARK: It's easy for me to pick it out.

23 THE WITNESS: Yes.

24 BY THE COURT:

25 Q. If you could turn to page one.

1 A. Yes.

2 Q. If you look at page one, the second category
3 which was discussed on examination, it says, Current
4 Activity, General Apportionment.

5 A. Yes.

6 Q. And then the state funds are 9.848. The
7 total funds are 9.842. I was not a math major when I
8 went to college, but it would appear to me that the
9 state funds are greater than the total funds, which is
10 inconsistent with, I believe, every other category in
11 here.

12 Do you have any explanation?

13 A. I don't, but there's probably someone that
14 would follow me that would be able to help you out,
15 judge.

16 Q. Okay. All right. And I think, lastly, if I
17 could refer you back to Exhibit 1407.

18 It's a black one. It should be a black one.

19 THE CLERK: Volume 12.

20 MR. CLARK: Somebody put it in the wrong
21 place. Nobody leave the room.

22 THE WITNESS: 1407?

23 BY THE COURT:

24 Q. 1407, page Bate stamp 003.

25 So we're looking at program expenditures and

1 financing sources for K-12 --

2 A. Yes.

3 Q. -- '05-'06.

4 Under the programs, the first program listed
5 is Basic Education.

6 Do you know what that is?

7 A. No, I don't, because -- I know this is
8 produced by the Superintendent of Public Instruction
9 because I see Special Education is listed separately
10 and we always included Special Ed in Basic Education.

11 The only thing I'm thinking is that it
12 perhaps is some subgrouping and maybe it's general
13 apportionment and some other programs. But this is a
14 title that's used by OSPI which is not one that I'm
15 familiar with. So I'm not sure what's -- because, as I
16 said, Special Ed is part of Basic Ed and why -- so I'm
17 not sure what the Basic Ed designation means.

18 Q. Is transportation part of Basic Education?

19 A. Parts. Part.

20 Q. Parts are.

21 A. Parts are.

22 Q. So the academic portions of transportation
23 are part of Basic Education?

24 A. I'm not going to be able to help you out on
25 that.

1 Q. Okay. All right. And then do you have any
2 understanding of what this represents, that there are
3 portions of Basic Education that are not paid by the
4 state?

5 A. I'm thinking that the state defines Basic
6 Education and the activities and what those activities
7 are, for at least how that money goes out. And I'm
8 just surmising that if a local school district puts in
9 local levy money for a similar activity, that it would
10 then be -- at least in this chart, it would be grouped
11 under Basic Education.

12 Q. Can you give me an example?

13 A. No.

14 Q. No?

15 A. Unless it's just adding -- adding teachers,
16 classroom teachers or any other activity --

17 Q. I see.

18 A. -- within Basic Education. Within the Basic
19 Education definition, if the formula provides a certain
20 number of teachers, if they decide to hire additional
21 teachers to do similar work. I'm only -- I'm only
22 surmising here.

23 Q. Or it might include additional salaries
24 beyond that which is funded by the state.

25 A. Yeah. Yes, it could. Otherwise I don't know

1 where you would account for that extra salary money.

2 THE COURT: Thank you.

3 Mr. Clark, follow up?

4 MR. CLARK: No follow up, Your Honor.

5 THE COURT: Mr. Ahearne?

6 MR. AHEARNE: Nothing, Your Honor.

7 THE COURT: Mr. Clark, are you asking that
8 this witness be excused?

9 MR. CLARK: Yes. Yes, Your Honor, we are.

10 THE COURT: Any objection?

11 MR. AHEARNE: No objection, Your Honor.

12 THE COURT: Mr. Moore, you are excused. You
13 may step down at this time. Thank you for your
14 availability.

15 THE WITNESS: Okay.

16 THE COURT: Ms. Bashaw.

17 MS. BASHAW: Yes, Your Honor.

18 THE COURT: Respondent's next witness.

19 MS. BASHAW: Respondents called the Senior
20 Budget Analyst for K-12 education, Julie Salvi.

21 THE COURT: Ms. Salvi, good afternoon. Thank
22 you for your patience.

23 (Witness sworn in by the court.)

24 THE COURT: For the record, please state your
25 full name and spell for us your last name and give us

1 your contact address.

2 THE WITNESS: Okay. Julie K. Salvi,
3 S-A-L-V-I. What contact address are we using? Is it
4 the work?

5 THE COURT: You may use work.

6 THE WITNESS: It's PO Box 43113, Olympia
7 98504-3113, and that's Office of Financial Management.

8 THE COURT: Thank you.

9 Ms. Bashaw.

10 JULIE K. SALVI,
11 called as a witness herein, having been first duly
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. BASHAW:

15 Q. Is that also the insurance building?

16 A. That is.

17 Q. We've only got a short period of time left
18 today, so, clearly, you'll have to come back,
19 Ms. Salvi. But my first question is, is there any way
20 to make the budget fun and exciting?

21 A. Oh, I'll try.

22 Q. Okay. Could you please give us your
23 background starting with undergraduate?

24 A. Okay. With undergraduate. I went to Oregon
25 State University, graduated with a political science

1 degree in 1991. Following that I worked for Project
2 BoatSmart which was a non-profit organization at Oregon
3 State University. And then I moved to the Tacoma,
4 Pierce County area and worked in Project Safe Place,
5 which is with the Pierce County Alliance.

6 In both of those two positions I was a
7 volunteer coordinator so I was working and training
8 volunteers who worked in the programs.

9 I went back to graduate school at the
10 University of Washington. I'm trying to get my years
11 correct. So I started in '95. Graduated in '97 with a
12 masters in public administration. Had two short-term
13 jobs with King County, one in the budget and planning
14 office on the planning side, and another working for
15 the council assisting for a short period of time in
16 their budgeting process and then I started with the
17 state December of '97, working for the House
18 Appropriations Committee. I worked there for three
19 sessions. And then in the summer of 2000, I moved over
20 to the Office of Financial Management in the K-12
21 assistant role. In 2005, moved to senior budget
22 assistant role in education section.

23 Q. In your position with OFM in the K-12 budget
24 role, what were your responsibilities -- so before you
25 were a senior analyst.

1 A. Right. At that point in time I was more
2 specifically focused on K through 12 education
3 funding. I was still focused on that in my current
4 position, but I also work now with the Early Learning
5 and Higher Education budget.

6 So in that role, I worked directly with the
7 analysts in the House and Senate who worked on the K
8 through 12 budgets as well as the State
9 Superintendent's Office and their financial person.

10 So I was responsible at OFM for helping to
11 cost things out, run the modeling of how the
12 maintenance level for the budget was calculated, to
13 help construct the costs of policy-level decisions. I
14 help review fiscal notes that the Superintendent's
15 Office would send in that would reflect the cost of
16 legislation. Work with the Superintendent's Office on
17 reviewing the allotment, which was their monthly
18 expenditure plan. So it ran the gambet of legislation
19 down to the allotment level.

20 Q. And in the position that you're in now, what
21 are your responsibilities?

22 A. I supervise three staff. One who is the K-12
23 budget analyst, one who is the Higher Education
24 analyst, and then a third who has Early Learning, other
25 education responsibilities, as well as she has the

1 assignment of reviewing the court's budgets as well at
2 the state level.

3 And so I am in a little more of a
4 coordinating role in that position where the analysts
5 are doing much of the actual -- in the Excel
6 spreadsheet costing things out, and I'm helping
7 coordinating the work of the section, any briefings we
8 would have to do, things like that.

9 Q. When you were with the House, were you
10 involved with any of the education committees?

11 A. In the 2000 session, I was a K-12 analyst for
12 House Appropriations Committee and so I would work with
13 the policy staff on those Education Committees.

14 Q. Okay. And so can you give the court an idea
15 of the time frame for which you've been involved in one
16 capacity or another around K-12 funding-related issues?

17 A. Yeah. It would have started probably late
18 fall of 1999 when I changed assignments and became the
19 K-12 analyst in the House, and I worked there that
20 session, which was a short session, supplemental budget
21 year and then moved and continued in the K through 12
22 area.

23 Q. In any of the work that you've done in any of
24 these capacities relating to the K-12 education, have
25 you ever gone out to school districts or interacted

1 with school district staff around funding issues?

2 A. Yes.

3 Q. Can you describe that for us.

4 A. It's happened in a number of ways. I've just
5 gone out on site visits to go visit school districts
6 around the state, get a feel for how schools operate,
7 not just, you know, in and around Olympia but across
8 the state in various student demographic populations.

9 I've gone to school business manager
10 meetings, so I've interacted with a number of the
11 financial managers in the school districts, those type
12 of meetings.

13 I've been involved in Washington Learns
14 where, again, school districts were involved in the
15 K-12 side of that work, and have interacted in that
16 type of role.

17 So it's varied from just going out and
18 touring a school, seeing a program that they have, to
19 meetings where business managers are either learning
20 about things or coming to talk about issues and
21 interacting with them in that way.

22 Q. And why did you have those kinds of
23 experiences or interactions out in the field, if you
24 recall? Why did you do that?

25 A. I have always found that that is a very

1 useful way to learn and to get -- both to test and
2 understand. You might read things -- reading up on an
3 issue area, but to actually go out and see it in
4 operation is very helpful. I did that in different
5 roles, not just when I worked in education but with
6 other programs in the state.

7 Q. All right. In terms of OFM's role in
8 relation to state agencies, say OSPI, what's your --
9 what is OFM's versus OPSI's role around funding issues?

10 A. And that is a little unique compared to maybe
11 some other state agencies because OSPI is not -- is
12 under a separately-elected official, so it's not a
13 Cabinet agency under the Governor.

14 In terms of budget issues, it still works
15 like many agencies do in that the Superintendent's
16 Office will develop some proposal. I'm just thinking
17 about biannual budget requests. I'm not thinking about
18 the other fiscal note or other processes we have. But
19 the Superintendent's Office will develop a budget
20 request. It will then be reviewed by our office, and
21 we will provide briefings to the Governor on the issues
22 where she will be deciding her own budget.

23 When I -- it differs a little from Cabinet
24 agencies. At different points in time, OFM will give
25 direction on guidance of what an agency should use for

1 a criteria for, say, a supplemental budget.

2 The Superintendent's Office may or may not
3 choose to follow that type of direction where Cabinet
4 agencies probably have a bit more pressure to follow
5 the Governor's request for criteria.

6 Q. In practice, does OFM change in any way the
7 budget proposal that the separately-elected official,
8 in this case, Mr. Dorn, provides to OFM?

9 A. Yes. Especially as it relates to policy-
10 level decisions, much of what has been discussed, in
11 terms of the maintenance-level budget, is a fairly
12 automatic, understood, agreed upon, operating
13 procedure.

14 But then at the policy level where OSPI may
15 be proposing a new program or an increase in funding or
16 some other change to a program, that's often reviewed
17 and possibly done differently.

18 In addition, the Governor often has, in this
19 case, her own ideas about new programs that she may
20 want to see or an area of emphasis that she would like
21 to focus on. And so there's often a difference between
22 the two.

23 Q. So the budget that OSPI might propose to the
24 Governor may have some changes as it relates to the
25 policy-related issues, right?

1 A. Correct.

2 Q. Does that in any way preclude OSPI from
3 talking to the Legislature or advocating for policy
4 changes that, say, Mr. Dorn might want versus what the
5 Governor wants?

6 A. So, if I understand what you're asking, if
7 OFM -- if the Governor's budget had something different
8 from what OPSI requested, no, there's not anything that
9 would stop their office from going and continuing to
10 ask for those types of proposals, even if they weren't
11 included in the Governor's budget. And I would say
12 that's quite common.

13 Q. Okay. What about for Cabinet-level state
14 agencies? Can a Cabinet-level state agency go and
15 advocate for something different than what the Governor
16 has put in her proposed budget?

17 A. Generally they follow what is in the
18 Governor's budget.

19 Q. In your experience, how do agencies, when
20 they're providing proposed budgets for OFM's review,
21 how do they go about establishing what they might want
22 in their budget? Do they ask for more than what they
23 want? What's your experience in that regard?

24 A. My experience is that I would say most
25 agencies probably ask for what they want, not

1 necessarily what they need, and probably ask for more
2 than what they actually expect that they would receive
3 funding for in the end.

4 Q. Are you familiar with the statutes and
5 regulations and the case law, say, for example, the
6 Seattle School District case around K-12 funding?

7 A. I am.

8 Q. Okay.

9 THE COURT: Ms. Bashaw, that sounds like
10 we're moving into a new area of inquiry, so --

11 MS. BASHAW: Yes.

12 THE COURT: We have another matter that's
13 waiting in the hallway, and we need to switch court
14 reporters.

15 So we are going to adjourn this matter until
16 9 o'clock tomorrow morning. We'll be picking up
17 Ms. Salvi's testimony then. Is that correct? No?

18 MS. BASHAW: Mr. Brossoit in the morning?

19 MR. AHEARNE: Well, I promised Mr. Brossoit a
20 set time that he could come back again to finish up, so
21 --

22 THE COURT: All right. We'll finish up
23 Mr. Brossoit and then Ms. Salvi --

24 MS. BASHAW: Ms. Salvi will come on Thursday,
25 Your Honor.

1 THE COURT: All right. Very good.

2 All right. We will adjourn this matter,
3 take a brief recess so counsel can collect their
4 things, and we'll switch court reporters.

5 Ms. Salvi, you may step down. We will
6 see you on Thursday.

7 MS. BASHAW: Thank you, Your Honor.

8 THE COURT: We will see counsel tomorrow
9 morning at 9:00.

10 Court will be at recess.

11 (Proceedings adjourned.)

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1 REPORTER'S CERTIFICATE

2

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

5

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

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

20

21 Dated: _____

22

23

24

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