

9-30-2009

**Reporter's Verbatim Report of Proceedings, Wednesday,
September 30, 2009, Volume XVII - Sessions 3 and 4 of 4 [Pages
3807-3916] 07-2-02323-2**

Follow this and additional works at: <https://digitalcommons.law.uw.edu/king>

Recommended Citation

"Reporter's Verbatim Report of Proceedings, Wednesday, September 30, 2009, Volume XVII - Sessions 3 and 4 of 4 [Pages 3807-3916]" 07-2-02323-2. *King County Superior Court Documents*. 285.
<https://digitalcommons.law.uw.edu/king/285>

This Transcript is brought to you for free and open access by the School Finance Litigation: McCleary v. State of Washington at UW Law Digital Commons. It has been accepted for inclusion in King County Superior Court Documents by an authorized administrator of UW Law Digital Commons. For more information, please contact cnyberg@uw.edu.

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR KING COUNTY

3 _____

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

16 _____

17 REPORTER'S VERBATIM REPORT OF PROCEEDINGS

18 --oOo--

19 WEDNESDAY, SEPTEMBER 30, 2009
 20 VOLUME XVII - 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--

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CYNTHIA A. KENNEDY, RPR
CSR No. 3005
Official Court Reporter
King County Superior Court
516 Third Avenue, C912
Seattle, Washington 98104

(206) 296-9188

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

--oOo--

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 WEDNESDAY, SEPTEMBER 30, 2009 - Afternoon Session

5 NICHOLAS BROSSOIT (Resumed)

6 Redirect by Mr. Ahearne 3812

Exam by the Court 3843

7 Further redirect by Mr. Ahearne 3857

Recross by Ms. Bashaw 3861

8

9 Petitioner rests subject to admission of
10 transcript designations with associated exhibits
and additional exhibits 3864

11 Witnesses for Respondent:

12 BENJAMIN DOUGLAS RARICK

13 Direct by Mr. Clark 3865

14 Scheduling 3913

15 Adjourned 3916

16

17 --oOo--

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT INDEX

--oOo--

EXHIBIT

ADMITTED

1062

3833

1406

3885

--oOo--

1 SEATTLE, WASHINGTON

2 WEDNESDAY, SEPTEMBER 30, 2009

3 AFTERNOON SESSION - 1:30 P.M.

4 --oOo--

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

7 And I believe we concluded with cross-
8 examination just prior to our noon recess.

9 Mr. Ahearne, if you would like to proceed with
10 redirect --

11 MR. AHEARNE: Thank you, Your Honor.

12 THE COURT: -- examination at this time.

13 REDIRECT EXAMINATION

14 BY MR. AHEARNE:

15 Q. Good afternoon. I'd like to just run through
16 several of the areas of questioning that Ms. Bashaw
17 went over with you.

18 First, if you could look at Exhibit 689,
19 please. If you can, please, look just right behind the
20 tab that says 689, so it would be the first page where
21 it says under Summary Washington State and then
22 Election Year 2008-2009.

23 Do you have that in front of you?

24 A. Yes.

25 Q. And the state's attorney had asked you some

1 questions about the total revenue number that's on the
2 bottom right-hand side of that first page.

3 Do you see the total revenues, the \$9,344?

4 A. Where it's reported on a per-student basis?

5 Q. Correct. You see that?

6 A. Okay. Right.

7 Q. Do you know where the state got those numbers
8 from?

9 A. No.

10 Q. Do you know how the state did their
11 breakdowns for state, federal, local, et cetera?

12 A. No.

13 Q. With respect to the state figure, do you know
14 if that is just the Basic Education Program funding
15 formula amount or all state money?

16 A. I don't know that.

17 Q. If I can ask you to turn to the second page
18 under Total Expenditures where it lists the \$9,267.

19 Do you see that?

20 A. Right.

21 Q. Do you know where the state got those numbers
22 from?

23 A. Not exactly.

24 Q. Do you know how they did the breakdowns that
25 are shown there?

1 A. No. This isn't a document that we produce or
2 that I interact with much. It's just available on the
3 districts to put these displays together.

4 Q. Okay. And Ms. Bashaw asked you some
5 questions about the general gist of them was that
6 Edmonds School District does better on WASL achievement
7 than the statewide average, correct?

8 A. Correct.

9 Q. And at least, according to the numbers that
10 she went through, the Edmonds School District spends
11 less than the statewide average per student, correct?

12 A. Right.

13 Q. Does that mean that resources don't matter?

14 A. No.

15 Q. Why?

16 A. Could you restate the question or --

17 Q. If you spend less than the statewide average
18 and you get better than statewide achievement on the
19 WASL, doesn't that show that the amount of resources
20 you have doesn't affect achievement?

21 A. I don't think that that shows that. It might
22 show that we make a better-than-average use of the
23 resources we have, but it's still way short of what we
24 need to educate all students to the standards for the
25 state.

1 Q. Okay. If I can ask you to turn to tab six,
2 please.

3 Ms. Bashaw asked you some questions about the
4 page that's several pages in that deals with the 10th
5 grade students, the American Indian classification.

6 A. I'm not finding that page. So it's in front
7 of tab --

8 Q. It's after tab six and then there's the two
9 cover pages and then the 10th grade all students, 10th
10 grade White students, 10th grade -- what the state
11 calls, Hispanic students, 10th grade Black students,
12 then 10th grade American Indian.

13 Are you with me?

14 A. Yes, American Indian.

15 Q. And she noted that you have a 96 percent of
16 your, for example, American Indian students pass the
17 10th grade reading WASL, correct?

18 A. Right.

19 Q. And that's of the approximately 30 students
20 you have in your school district of over 20,000 kids,
21 right?

22 A. Right.

23 Q. Does that success rate with the 30 kids show
24 that resources don't matter?

25 A. No.

1 Q. What does it show?

2 A. That that particular group of students was
3 able to meet or exceed standard.

4 Q. And Ms. Bashaw asked you some questions about
5 following up on your analogy with the at-risk or
6 low-income kids being like the horse that can't drink
7 because it's mouth is wired shut.

8 Do you remember that?

9 A. Right.

10 Q. In your professional experience, can you
11 identify those at-risk kids, who they are?

12 A. We know, based on their performance or lack
13 of performance, which students are struggling learners,
14 yes.

15 Q. And, based on your professional experience,
16 do you know how to overcome the challenges of teaching
17 those kids?

18 A. We know how to focus instructional support on
19 those students to help them meet or exceed standard.
20 We don't have the resources to do that.

21 Q. When you say standards, do you mean the
22 state's academic standards in House Bill 1209, those
23 four numbered paragraphs in the Essential Academic
24 Learning Requirements?

25 A. Yes.

1 Q. Ms. Bashaw asked you some questions about
2 people who now need to be locked up and given social
3 services.

4 Do you recall those, generally?

5 A. Generally, yes.

6 Q. To the best of your knowledge, is locking
7 people up or providing social services a paramount duty
8 of the state?

9 A. To my knowledge, the use of the word
10 paramount is only in our Constitution related to public
11 education.

12 Q. Okay. Ms. Bashaw had asked you some
13 questions about the closing of two elementary schools.

14 Do you recall those?

15 A. I do.

16 Q. You mentioned that you had some empty
17 classrooms at the elementary schools. You closed those
18 two and moved the kids to empty classrooms in the other
19 elementary schools, correct?

20 A. Well, the capacity existed in elementary
21 schools near the smaller schools. Had that capacity
22 existed across the district, it wouldn't have worked.
23 So we just had some space in the schools that were
24 adjacent to two small elementary schools, and they're
25 small enough that we're able to absorb the students

1 into the populations of those schools that were nearby,
2 but now those schools are full.

3 Q. Now, why does it matter that they have to be
4 nearby? As long as you've got an empty classroom in
5 the district, can't you just reshuffle kids --

6 A. Yeah, we wish --

7 Q. -- around?

8 A. It would be nice if we could put wheels on
9 our buildings and move them around. It doesn't work
10 that way, because if you try to take students from one
11 part of the district and bus them all the way across
12 the district, besides the time on the bus, you have a
13 big cost issue.

14 So if you're trying to save dollars in the
15 General Fund, you have to be pretty strategic about if
16 you can and where you can make those changes. And we
17 actually just made it work.

18 We have another small school we analyzed. We
19 don't believe we could close it because of the
20 logistics of that change.

21 Q. Okay. Ms. Bashaw asked you some questions
22 about the new high school and the leasing arrangement
23 with the old property.

24 Do you recall that generally?

25 A. Right.

1 Q. If I understand it correctly -- a few
2 questions.

3 Edmonds School District built a new high
4 school on a 40-acre parcel that the school district
5 already owned, correct?

6 A. That's correct.

7 Q. And the matching -- state matching program or
8 so-called matching program that we talked about, does
9 that provide money to buy the site to build buildings
10 on?

11 A. Not to my knowledge.

12 Q. Okay. So this new site was already owned by
13 the school district, right?

14 A. Yes, before I got there -- long before I got
15 there.

16 Q. And then there was the old site, which the
17 school district doesn't need anymore, correct, for the
18 high school?

19 A. Not as a school, right.

20 Q. Okay. And that property down there, do you
21 know if there was any state money at all that was used
22 to buy that property?

23 A. I don't know. I have no idea.

24 Q. Long before you got there?

25 A. Right.

1 Q. Okay. And once you no longer needed it for
2 the high school, you could either sell that property,
3 right?

4 A. Right.

5 Q. And then that cash would go to the school
6 district, correct?

7 A. It would -- any sale of any real property
8 would go into the Capital Projects budget. But, yes,
9 to the district.

10 Q. And the other option was to do this long-term
11 lease arrangement and that cash would go to the school
12 district.

13 A. Again, in the Capital Projects Fund.

14 Q. And why Edmonds choose the long-term lease as
15 opposed to just selling the asset?

16 A. We actually think in terms of being stewards
17 of public resources. By leasing that property, it
18 allows that revenue stream to continue back into the
19 school district. When that lease ends, the district
20 has the option of leasing it again or selling it. But
21 just the concept of a source of additional revenue to
22 offset the cost of taxpayers for school construction
23 and bonding types of projects.

24 Q. And was this similar type of analysis gone
25 through with the bus barn example that Ms. Bashaw

1 brought up?

2 A. Yeah. We're trying to relocate the bus barn
3 and we have about a nine-acre site that, when the
4 economy improves, we'll market to lease it for the same
5 general purposes.

6 But also related, we have some really small
7 sites that don't have the economic value of being
8 leased. There isn't a market for those, and so there
9 are some smaller parcels that have been available for
10 sale, which, again, we're trying to generate -- cobble
11 together the resources to do more capital projects work
12 by using the resources we have instead of just asking
13 for additional dollars from our taxpayers.

14 Q. Okay. If I can ask you to look at 382 and
15 380, please. Those are the two F-196's Ms. Bashaw had
16 asked you about.

17 A. 382?

18 Q. Starting with 382, yes.

19 Do you have that in front of you?

20 A. That's '06-'07?

21 Q. Yes. I'm just going to ask you questions on
22 the specific pages that she asked you questions about.

23 She asked you a question on the cover of the
24 2006-2007, correct, about the General Fund balance? Do
25 you remember that?

1 A. Okay.

2 Q. And it shows there that there's a -- she
3 emphasized that there was a 9.6 ending fund balance in
4 that year, correct?

5 A. Correct.

6 Q. You began that year, though, with a 12.9
7 ending fund balance, correct?

8 A. Right.

9 Q. So that in that one year that she pointed
10 out, your ending fund balance, at least in the General
11 Fund, decreased by over \$3 million, correct?

12 A. Correct.

13 Q. Why did you decrease your ending fund
14 balance?

15 A. We had to use some fund balance to address
16 the operational costs of the district.

17 Q. Okay. The next Exhibit 3 -- or, actually,
18 it's two prior -- Exhibit 380, is that the F-196 for
19 the '07-'08 school year?

20 A. It's in front of the tab 380 or behind it?

21 Q. Behind it.

22 A. There's nothing in the book behind 380.

23 Q. There should be.

24 A. There's 380.

25 Q. You were asked questions about it this

1 morning. Oh, it's in there in front of the tab for
2 some reason.

3 A. In front of the tab. Okay.

4 Q. All right. Is that the F-196 for the '07-'08
5 school year?

6 A. Correct.

7 Q. And she asked you some questions about the
8 General Fund -- fund balance that started with that
9 \$9.6 million amount, correct?

10 A. Correct.

11 Q. And then that year, it went down to 6.1
12 million, correct?

13 A. Right.

14 Q. So that year your ending fund balance
15 decreased by another 3.5 million, correct?

16 A. Correct.

17 Q. Why?

18 A. Same answer as the last question.

19 We've had to use some of our fund balance to
20 operate -- to address operational costs.

21 Q. And Ms. Bashaw asked you -- you've never had
22 a negative ending fund balance while you've been at
23 Edmonds School District, correct?

24 A. That's correct.

25 Q. What happens if your ending fund balance is

1 negative?

2 A. You become insolvent.

3 Q. So, in essence -- you've never gone insolvent
4 yet, correct?

5 A. Correct.

6 Q. Are you aware of any examples of any school
7 districts that have gone insolvent?

8 MS. BASHAW: Objection. Lack of foundation
9 and would call for hearsay.

10 THE COURT: It calls for a yes or no answer.
11 Overruled.

12 THE WITNESS: Restate the question.

13 BY MR. AHEARNE:

14 Q. Yes or no, are you aware of any school
15 districts -- an example of any school districts that
16 have gone insolvent?

17 A. Yes.

18 Q. And how do you know that without saying the
19 name of -- or names of those school districts?

20 A. I was in the Edmonds School District when a
21 school district very nearby had this problem.

22 Q. Could you name the name of that school
23 district?

24 A. I could.

25 Q. Okay. I will ask you what is the name of

1 that school district.

2 MS. BASHAW: Well, again, whatever it is he
3 knows, there's been no foundation laid that he would
4 know whatever it is he knows other than through
5 hearsay, and so I would object.

6 THE COURT: Mr. Ahearne, what would your
7 hearsay exception be? If it's being offered for the
8 truth of the matter asserted, which I assume it is.

9 MR. AHEARNE: Well, actually, I was going to
10 offer it for the truth of the matter asserted because,
11 as the Superintendent of one school district, you
12 become aware of what's happening to your neighboring
13 school districts.

14 THE COURT: But you become aware by someone
15 else telling you that. I mean, you don't have personal
16 knowledge that that school district has gone
17 insolvent. You become aware of that because a third
18 party has told you that, which is the definition of
19 hearsay.

20 BY MR. AHEARNE:

21 Q. Okay. Other than somebody telling you that
22 one of your neighboring school districts has gone
23 insolvent, do you have any other source of that
24 information --

25 A. Like the fact that it was in the newspapers

1 and on TV and --

2 MR. AHEARNE: I'm assuming that that would
3 draw a similar hearsay objection?

4 MS. BASHAW: It would.

5 BY MR. AHEARNE:

6 Q. Were you at the school board meeting at the
7 neighboring school district when it was determined that
8 it was insolvent?

9 A. No.

10 Q. Other than what you become generally aware of
11 in your role as Superintendent of Edmonds School
12 District, other than what people have told you, have
13 you read any reports or any documents, other than the
14 newspaper, that you routinely rely upon that relate to
15 the solvency status of your neighboring school
16 district?

17 A. I'm not aware of having read anything to that
18 extent.

19 Q. Very well. I will ask --

20 THE COURT: Let me just ask this.

21 Isn't this already in evidence?

22 MR. AHEARNE: Well, this is yet a different
23 school district.

24 THE COURT: Oh, it's a different school
25 district.

1 MR. AHEARNE: Yet another one, Your Honor --

2 THE COURT: Okay.

3 MR. AHEARNE: -- which is why I understand
4 the reason for wanting to keep it out.

5 THE COURT: All right. Okay.

6 MR. AHEARNE: I will ask -- I'll draw the
7 objection that I'm going to get --

8 BY MR. AHEARNE:

9 Q. Could you name what that school district is?

10 MS. BASHAW: Objection, Your Honor.

11 THE COURT: Sustained.

12 MR. AHEARNE: Okay.

13 BY MR. AHEARNE:

14 Q. If I can ask you to turn to Exhibit 1041,
15 please. And it's Bates numbered page, in the upper
16 right-hand corner, 115. It's the extra duty salary
17 schedules that Ms. Bashaw had asked you about.

18 A. Okay.

19 Q. And are these the types of extra duties for
20 the co-curricular activities that you testified, in the
21 first day of your deposition, about?

22 A. Correct.

23 Q. Okay. And if I can ask you to turn to
24 Exhibit 1042, which would be the next exhibit. Page
25 Bates 3 in the upper right-hand corner.

1 Do you see that?

2 A. When you say Bates, what does that mean?

3 Q. It's the RTrEx1042.00003.

4 A. Okay. So in the Trust Agreement, it's Trust
5 Agreement page two but --

6 Q. Correct.

7 A. Okay. Gotcha.

8 Q. And Ms. Bashaw had asked you some questions
9 about Section B on that page.

10 Section C then goes on to state, "Solvency,
11 the resources currently available to educate children
12 in the public schools do not allow all expectations to
13 be met with sufficient resources, proven methods exist,
14 to educate children to their full potential. Despite
15 these challenges, we jointly accept the responsibility
16 of doing our best with the resources currently
17 available."

18 Do you see that?

19 A. Yes.

20 Q. The statement that, "The resources currently
21 available to educate children in public schools do not
22 allow all expectations to be met."

23 To the best of your knowledge, is that true?

24 A. Oh, yes, that's true.

25 Q. And by expectations, do you mean the state

1 academic standards?

2 A. Yeah, correct.

3 Q. The statement that, "With sufficient
4 resources, proven methods exist to educate children to
5 their full potential," do you see that statement?

6 A. Yes.

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

8 A. Yes.

9 Q. It goes on to say, "Doing our best with the
10 resources currently available."

11 To the best of your knowledge, is the Edmonds
12 School District doing its best with the resources that
13 are currently available?

14 A. Yes.

15 Q. Does the state provide the Edmonds School
16 District the resources it needs to provide all children
17 residing within the district an effective or realistic
18 opportunity to learn the knowledge and skills in the
19 state standards?

20 A. No.

21 Q. Does Edmonds have the resources necessary to
22 provide all children residing within the district a
23 realistic or effective opportunity to learn the
24 knowledge and skills in the state standard?

25 A. Not all students.

1 Q. If I can ask you to turn to Exhibits 91 and
2 92, please.

3 On Exhibit 91, Ms. Bashaw had asked you some
4 questions about the second-to-last page that says,
5 Classroom Teachers at the top right-hand side.

6 A. Where it says 1,163.

7 Q. Second-to-last page on Exhibit 91 which
8 should be 1,229.

9 A. Right. There's two -- there's two sections
10 in there.

11 Q. Right. But I'm just looking -- so you're on
12 the page that says Classroom Teachers 1,229?

13 A. Correct.

14 Q. And under that it says Students Per Teacher
15 17.5?

16 A. Right.

17 Q. Do you know what is meant on this document by
18 "Classroom Teacher"?

19 A. I don't know what all is included in that
20 category.

21 Q. Do you know who did the categorization for
22 this document?

23 A. I'm assuming the state, since it's a state
24 display.

25 Q. Okay. Then when it says Students Per Teacher

1 17.5, do you see that?

2 A. Right.

3 Q. Is that the class size?

4 A. No.

5 Q. Is that because of the difference between
6 class size and pupil teacher ratio that we've talked
7 about earlier?

8 A. I'd have to speculate, but I don't know
9 what -- I don't know what is in the formula where it
10 says Students Per Teacher. I don't know if that's
11 certificated staff unit or that issue we talked about
12 earlier.

13 Q. Okay. Exhibit 92, Ms. Bashaw asked you some
14 questions about this Form 1497.

15 Do you recall that generally?

16 A. Yes.

17 Q. If I could ask you to turn to what's Bates
18 numbered at the bottom, last four digits 1043.

19 Do you see that?

20 A. Hold on. With -- where I dated it -- signed
21 and dated it October 25th, '07?

22 Q. Yes, sir.

23 A. Okay.

24 Q. And this is one of the pages Ms. Bashaw asked
25 you about, and that's your signature there, correct?

1 A. Yes.

2 Q. And when it says under the certification
3 compliance, "We hereby certify that the Board of
4 Directors has been apprised and that the Edmonds School
5 District meets all the requirements relating to the
6 minimum requirements of state Basic Education Programs"
7 do you see that?

8 A. Yes.

9 Q. What does that mean to you?

10 A. You know, it seems like it's a point -- or
11 the point of dispute in this whole case.

12 All this -- all this form certifies is that
13 we've complied with the program definitions, like where
14 it says number of school days, the ratios, program
15 hours. It would be, like, handing me a carton and
16 having me verify that there's 12 eggs in a dozen. It's
17 like a compliance with a criteria, and we're certifying
18 that we meet those program criteria, but it doesn't
19 address our costs to provide basic education for all
20 students.

21 Q. If I could ask you to turn to the last
22 exhibit, please, Ms. Bashaw was asking you about, which
23 is Exhibit 1062.

24 MR. AHEARNE: And, Your Honor, before we get
25 into that, I've looked at the -- over the lunch break,

1 scanned through the additional pages and would not have
2 an objection to substituting the -- and I'm basing this
3 on -- I'm assuming when counsel said that that page 59
4 is the last page, it really is the last page.

5 MS. BASHAW: That's what I was able to
6 determine.

7 MR. AHEARNE: Okay. So, you know, based on
8 that, we have no objection to substituting the 49-page
9 Exhibit 1062 for the 59-page exhibit that the state
10 provided.

11 THE COURT: All right. 1062, which was
12 previously conditionally admitted is now admitted.

13 EXHIBIT ADMITTED

14 MR. AHEARNE: And, just quickly, Your Honor,
15 how do we -- you have a copy. The state has a copy.

16 THE COURT: I have a copy and the clerk will
17 take care of the official court copy.

18 MR. AHEARNE: Okay.

19 THE COURT: So if you'll give the substituted
20 copy to the clerk, if she doesn't already have it,
21 she'll arrange for that to be substituted.

22 We don't need to do that at this point.
23 We could do it during the recess.

24 MR. AHEARNE: Okay.

25 BY MR. AHEARNE:

1 Q. So if I can ask you to look at what's now the
2 substituted Exhibit 1062, just so the witness knows,
3 it's in the binder clip, it's the black and white
4 copy --

5 A. Okay.

6 Q. -- that Ms. Bashaw handed you this morning.

7 A. Okay.

8 Q. And I have questions on just three of the
9 pages that she asked you about.

10 First, if I could ask you to turn to what's
11 page number two of the actual document, Arabic just 2
12 in the bottom right-hand corner, or at the top it says
13 About the Audit, and then the middle says Audit
14 Results.

15 Do you have that page in front of you?

16 A. My page two says Scope and Limitations.

17 Q. Okay. It's in -- I note that there are two
18 page two's. Actually, the third page of the document
19 with a big 2 as opposed to, later on, where it's got
20 little numbers.

21 Just so the record's clear, this document has
22 some pages in the latter part that, literally, in the
23 bottom right-hand corner are page dash and then a
24 numeral, and then the first part of this document, it's
25 just the numeral without that word page.

1 So I'm looking at, in this exhibit, the third
2 piece of paper in, the bottom right-hand corner, it
3 simply has an Arabic 2.

4 A. It says About the Audit and Audit Results?

5 Q. Yes. We're all on the same page.

6 A. Okay.

7 Q. And under the automatic -- Automated Bus
8 Routing that Ms. Bashaw had asked you a question about
9 that recommendation by the audit, correct?

10 A. Correct.

11 Q. And then it says, on the right-hand side,
12 Cost Savings by District, estimates that Edmonds would
13 save 395,000 a year and over a five-year period, 1.9
14 million.

15 Do you see that?

16 A. Right.

17 Q. As the Superintendent of the Edmonds School
18 District, do you believe that those savings could be
19 achieved by the recommendations by the Cotton & Company
20 that did this audit?

21 A. Not in serving the needs of Special Education
22 students.

23 Q. What do you mean by that?

24 A. Well, as I shared earlier, the positioning of
25 the programs is looking at the whole district, and

1 students don't always live next to the program that
2 they need -- Special Education students. So we
3 transport Special Education students from where they
4 live, which we don't control, to the best positioning
5 of a Special Ed program within our system.

6 And a computer software that would look at,
7 for efficiencies and routing, doesn't take into account
8 the program needs of the student. So, if you
9 disregarded the student and you just sorted them based
10 on geography, you might see that kind of a difference,
11 but you can't do that and meet the program needs that
12 the students have. You have to put the Special Ed
13 students in the school where you have a program that
14 meets their needs.

15 Q. Okay. Moving on to page 33. And this time
16 it's the word Page-33 in the bottom right-hand corner.
17 Cotton & Company LLP in the left-hand side and then the
18 right-hand side Page-33.

19 Are you there?

20 A. Okay.

21 Q. This is the page about the use of purchasing
22 cards?

23 A. Right.

24 Q. And there's a chart there or a table that
25 shows, we respect to Edmonds, it estimates that the

1 annual savings would be \$658,000 and a five-year
2 savings of 3.23 million.

3 Do you see that?

4 A. Yes.

5 Q. As the Superintendent of the Edmonds School
6 District, do you recall if those savings could be
7 achieved with this purchasing card suggestion?

8 A. No.

9 Q. Why not?

10 A. Well, this one really -- really irritated
11 me. When we met with the auditors team and we asked
12 them, and we learned from them how they came up with
13 these projections, they're not plausible in our school
14 system.

15 For those that don't understand, the idea of
16 a procurement card or a purchasing card is intended to
17 replace a purchase order process. So it's like a
18 credit card where you get credit or points for it. And
19 the company that manages that must do something with
20 the money, but, essentially, they give you a rebate on
21 the use of the procurement card.

22 And the performance audit folks were
23 suggesting that, well, if you maximize the use of
24 procurement cards, you get a bigger rebate on using
25 those cards, which we are seeking to do, but we're

1 talking a few thousand dollars' difference in that
2 respect.

3 The assumption built into these numbers,
4 which we learned from meeting with them and asking them
5 directly how did you come up with these projections,
6 they're assuming that we could then lay off every
7 office manager in every school to generate that kind of
8 savings. And we learned that they got this from an
9 assumption they made about how another district could
10 reduce that degree of staffing. Our office managers do
11 a ton of work in schools. They don't just process
12 purchase orders.

13 So what irritates me about it is we
14 confronted them to say, this is very misleading and
15 very deceptive to suggest these kind of savings are
16 available and asked them to either qualify the number
17 or modify how they put that out.

18 In our best assessment, maximizing the use of
19 procurement cards, you might be able to save 50 or
20 \$60,000 per year total in that process.

21 Let's see. What else was related to that? I
22 think that was it.

23 Q. Okay. The last page that I want to ask you
24 about that Ms. Bashaw had asked you about is page 52.
25 At the bottom it says Cotton & Company LLP and then

1 Page-52.

2 Do you see that?

3 A. Oh, I remembered what it was I was trying to
4 remember.

5 Q. Oh. Was there something else with respect to
6 these purchasing cards that --

7 A. Yeah. Because I making it was really
8 ironic. At exactly the same time we're meeting with
9 the Performance Audit Team to go over this
10 recommendation -- I get federal publications on various
11 topics -- there was a warning issued by our -- the GAO
12 Office about using procurement cards because of the
13 concern about making it too easy to use public funds
14 and less accountability, which, to me, I thought was
15 ironic, because we have a real concern about our
16 fiduciary responsibility to manage public funds, and
17 this idea that just handing out procurement cards,
18 which would get these rebates, to us, was, at some
19 point, borderline irresponsible to just give everybody
20 that ability.

21 So, we had some management concerns about the
22 use of procurement cards as well as a false assumption,
23 a false reporting of what would be possible if we did
24 these.

25 Q. Okay. Does Edmonds currently use procurement

1 cards?

2 A. We do.

3 Q. And do you use them to the full extent that
4 you're comfortable with your ability to safeguard the
5 proper use of them?

6 A. Right. And I want to say in answering that
7 question, we welcome input. We welcome suggestions
8 from the performance audit. We would welcome input
9 from anybody who had a suggestion as to how we could
10 better use public resources.

11 So even in that process of the performance
12 audit, we've looked at, we've tried to research and
13 explore any suggestions that were given, including
14 procurement cards, and if we could work smarter with
15 the resources we have, we try to do that.

16 Again, my irritation is this presentation as
17 though, if you just did such and such, you could save
18 all this money, and it's not accurate, it's not
19 correct, and it's very misleading.

20 It makes the public who looks at that say,
21 well, if you only did such and such, you could save
22 these millions of dollars, and it's not true.

23 Q. Okay.

24 A. And this is -- we report on this, by the way,
25 so I don't know if it's part of this document, but

1 there is -- there is a record available of our response
2 on an annual basis to the performance audit, what
3 things we've done, what things we couldn't do and why.
4 And I don't know if it's part of this document or not.

5 Q. Okay. The last -- going back to the page
6 that I was asking about.

7 The first one that says Cotton & Company LLP
8 at the bottom, do you know who that is?

9 A. That was the firm that was hired by the --
10 our State Auditor's Office to perform the performance
11 audit.

12 Q. Is that based in Olympia?

13 A. No. They're -- I don't know the exact
14 location of the official company. But the folks that
15 came in to do the performance audit seemed to be a
16 collection of people from Texas and Florida and various
17 places. Again, as I shared earlier, I had to spend
18 some time actually in conversation with them explaining
19 to them how the State of Washington funds its schools
20 and what some of the variables are that we have.

21 They didn't seem to fully understand some of
22 the basics about funding in the State of Washington.

23 Q. Okay. So going to Page-52 at the top it says
24 Internal auditor function, do you see that?

25 A. Right.

1 Q. Ms. Bashaw had asked you some questions about
2 that. Correct?

3 A. Correct.

4 Q. And this -- the Cotton & Company report
5 suggests that you could save money by using an internal
6 auditor function.

7 My question is, as the Superintendent of the
8 Edmonds School District, do you believe you could save
9 money by hiring an internal auditor?

10 A. As we evaluate this particular
11 recommendation, first of all, the position would be a
12 new position. The salary and benefits are not provided
13 by the state. And, in our analysis of this, we don't
14 believe we could even save the amount of the salary and
15 benefits for the position if we were to have it.

16 This was a recommendation that they made for
17 all the districts, all 10, and they referenced a
18 position in the Tacoma School District to say it was
19 similar to or akin to this -- this idea that an
20 independent auditor could save all these dollars.

21 And as we researched it and we looked at what
22 that position had achieved within the Tacoma School
23 District, we were of the opinion -- or are of the
24 opinion that it doesn't pay for itself. What's alleged
25 as savings doesn't cover this cost of the position

1 itself, so we've not moved forward with that
2 recommendation.

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

5 THE COURT: Ms. Bashaw, any recross?

6 MS. BASHAW: No recross, Your Honor.

7 EXAMINATION

8 BY THE COURT:

9 Q. Dr. Brossoit, before you leave the stand, I
10 do have some questions for you.

11 A. Okay.

12 Q. Why don't we just go backwards here.

13 On the, I think, the F-196, as I recall,
14 Exhibit 92, do you have that?

15 MS. BASHAW: 382 for the F-196.

16 BY THE COURT:

17 Q. Oh, I'm sorry. This is the 1497. Form 1497.

18 A. Well, counsel moved the books. They're all
19 white to me.

20 Q. Okay. You're looking for Volume 10, and it's
21 a white binder.

22 MR. AHEARNE: Which Exhibit, Your Honor?

23 THE COURT: It's 92.

24 THE WITNESS: I'm looking at -- behind tab
25 92?

1 BY THE COURT:

2 Q. Behind tab 92, please.

3 A. All right.

4 Q. And if you look at Bates, which is the number
5 on the bottom where it says Edmonds -- look at 1042 or
6 1043.

7 A. Okay. Yes.

8 Q. There's a 175-day waiver.

9 A. Right.

10 Q. Can you explain to me why there's a 175-day
11 waiver?

12 A. Yes. Our school district applied for and
13 received a waiver from the State Board of Education to
14 take the resources for those five days and to not bring
15 students to school but rather have those be nonstudent
16 days, but to use those resources so provide
17 professional development for our teachers.

18 Q. So you use the resources that would otherwise
19 be used for teaching for professional development.

20 A. To improve the quality of our teachers for
21 professional development.

22 Q. And do you think that that has any impact at
23 all on student achievement?

24 A. Yes.

25 Q. And what's your opinion?

1 A. Well, professional development of our staff
2 is critical. The cost to our school district to
3 provide for one day of training for all certificated
4 teachers is just under \$400,000. So, five days for us
5 to provide that out of our local resources would be
6 nearly impossible.

7 So by offering less student days and using
8 those waiver days to provide the professional
9 development, we're able to do real in depth
10 professional development improving the quality of our
11 teachers. So the 175 days the students are there, they
12 get a better instruction because our teachers are more
13 trained in that respect.

14 Q. Are the students getting any less hourly
15 teaching over those 175 days than they would otherwise
16 if they were receiving 180 days?

17 A. If you take the question literally in our
18 school district, the answer is yes, because there would
19 be five days of less instruction.

20 An interesting part of the question is the
21 length of our instructional time compared to another
22 district in 175 days, comparable or not, that's where
23 it all fits in to the program and it even exceeds the
24 minimum program hours in districts. In fact, we have
25 some schools within our system who might offer a few

1 more hours than others just based on how they do their
2 schedules.

3 So, we look at other factors in building the
4 actual time schedule. Our belief -- it's a hard
5 choice. Our belief is that we have to be able to
6 provide the professional development for our staff,
7 and, because it's so expensive and we don't have
8 another source of resources to do that, this is the
9 vehicle we've chose to do it for.

10 Some school districts do a late arrival once
11 a week or an early dismissal. There's different ways
12 districts try to provide that time, which also affects
13 program time. We've just chose to do it through this
14 vehicle.

15 Q. And does Edmonds School District have a
16 uniform credit hour, or does it use the state's 19
17 hours at this time?

18 A. For graduation purposes?

19 Q. For graduation purposes.

20 A. We have a local district requirement of 22
21 credits, which is more than the state minimum of 19 but
22 less than the CORE 24.

23 Q. Ms. Bashaw referenced, if I understand this,
24 certificated employee ratio statewide of an allocation
25 49 per 1,000.

1 What is your understanding of what a
2 certificated employee is? Is that -- I'm trying to get
3 a handle on it.

4 That's broader than just teachers in the
5 classroom, isn't it?

6 A. Certificated staff, there's -- generally
7 speaking, there are classified and certificated staff.
8 So teachers, librarians, counselors, principals, those
9 are, for the most part, all certificated positions.
10 And classified would be positions that don't require a
11 certificate in the State of Washington to serve in
12 those rolls. And I don't know why Washington does it
13 because it is so confusing.

14 But the formula that's used to allocate
15 resources to school districts, for whatever reason, our
16 state call those certificated staffing units. And
17 there's a formula. And that formula, which is the 49
18 per 1,000 is what, at times, is used in some -- in some
19 legislative cycles what the state uses to allocate
20 resources to schools.

21 And that's just a mathematical allocation
22 model. It doesn't equate -- it doesn't equate to that
23 many teachers, class sizes of that number. It's a real
24 confusing element, and I don't know why it's set up
25 that way.

1 Q. But, is it your understanding the 49 includes
2 librarians and counselors?

3 A. It's just an allocation model the state
4 uses. The state has never really defined what all is
5 to happen within that. That's part of the problem that
6 we have right now, and that's actually something that
7 has been talked about trying to clarify that, what is
8 included in that number.

9 So that's part of our problem, is the state
10 just uses a formula to allocate resources. This is one
11 of those formulas, and then we take it locally and try
12 to make sense out of it and pay for the positions we
13 need to do the work.

14 But the language the state uses in describing
15 the formula and the way it lays it out there doesn't
16 match the reality of what districts have to do with it
17 or how they use it, and it confuses the heck out of the
18 lay person who looks at it and tries to equate the
19 class size for their family or their student versus the
20 certificated staffing unit that you would think should
21 match or correlate and it doesn't.

22 Q. Exhibit 689, Dr. Brossoit.

23 THE COURT: It is Volume 48? Thank you,
24 Mr. Ahearne.

25 Q. Just for completeness of the record, if you

1 look again at the material before tab one, which is the
2 statewide materials.

3 A. Okay.

4 Q. There was some questioning about total
5 revenues and total expenditures, and I believe your
6 testimony was, for the relevant year under the
7 financial data, Edmonds expended, on a per-student
8 basis, less than the statewide average was, I believe,
9 your testimony.

10 So if we look and compare the statewide with
11 tab six -- the first and second page of tab six, I
12 believe that was your testimony.

13 A. Right. Based on what appears to be a state
14 number compared to a district number, not knowing how
15 they drove out the numbers. But assuming it's an
16 apple-to-apple comparison, it does appear that Edmonds
17 spent less per student than the state average.

18 Q. Okay. And if you look at those same numbers
19 under the teaching breakdowns, what is the state number
20 for '07-'08?

21 A. Where it says Classroom Teachers?

22 Q. No. I'm looking at Total Expenditures.

23 A. I'm not seeing what you're looking at.

24 Q. Okay. The second page is the report card.

25 A. Oh, okay. Okay.

1 Q. Okay? If you go to Total Expenditures.

2 A. All right.

3 Q. The penultimate line Teaching.

4 A. Right.

5 Q. What is it?

6 A. 6,415.

7 Q. All right. And would you do the same

8 exercise for Edmonds for the same year.

9 A. 6,513.

10 Q. Okay. Is Edmonds spending more on teaching

11 than state average?

12 A. Again, not knowing how it was determined to
13 put what in each category, and assuming that how it was
14 done for our district matches what was done on the
15 average for the district, it would appear that Edmonds
16 was spending more money on teaching than the average of
17 the state.

18 Q. Thank you.

19 You gave an example of bringing certain
20 students up to standard. And these were students who,
21 apparently, had not initially passed the WASL.

22 You put them into, what appears to be, a
23 smaller class of 18 to 19 students?

24 A. (Witness nods head.)

25 Q. And you provided, what I took my notes as, a

1 concentrated effort.

2 A. Uh-huh.

3 Q. You stated that 95 percent either passed or
4 exceeded the standards.

5 A. Yes.

6 Q. When you said standards, are you referring to
7 WASL or are you referring to Collection of Evidence, or
8 a combination of the two?

9 A. Great question.

10 Just to reframe what we did, we have
11 students -- we had students who didn't meet standard as
12 evidenced by the WASL. So what do we do? We want to
13 help these kids.

14 At one point, the state had something called
15 the Collection of Evidence. That's where that language
16 comes from. And it was an alternate way to show that
17 you could meet or exceed standard. But, really, taking
18 kids who didn't pass the WASL, and just testing them
19 again, you get the same route. You've got to do
20 something different with the kids.

21 So, we did this really focused effort, which
22 came at a cost, because we took that staff out of the
23 system, which is one of those plates that was left with
24 less staff to it, but we just wanted to see what would
25 happen.

1 So we took about 18 students who didn't pass
2 the WASL, put them into -- you know in their schedule
3 where they get an elective, we put them into a class
4 with a teacher who just focused like a laser beam with
5 those kids on their knowledge and skill deficiencies.
6 In this case, it was math.

7 And of that group, in just one semester, not
8 a whole year, just one semester, through the Collection
9 of Evidence approach, they were able to demonstrate
10 that they met or exceeded standard, as adjudicated by
11 the state, because you have to take their work, it has
12 to be reviewed and inspected by the state.

13 To me, it's compelling. If we can focus on
14 the needs of the students with their deficiencies and
15 the way it works for the student, we can get them at or
16 above where they need to go.

17 But, again, this was really expensive to have
18 that concentration within the system, and we are not
19 able to do that for all students.

20 Q. What is the additional expense other than
21 reduced class size?

22 A. In this -- in this instance?

23 Q. In this instance.

24 A. It's just -- it's not all classes. It's that
25 group of students who need more focused assistance.

1 Because some students were able to be in a larger class
2 and meet or exceed standard. But the kids that
3 struggle, the horse with its mouth wired shut --

4 Q. Right.

5 A. -- the students that need extra help, they
6 really need extra help, and you have to do that in a
7 more concentrated manner. More individualized, more
8 focused, more time with the teacher, working with them
9 with their needs.

10 Q. But the greater focus, if you will, with, I
11 assume, perhaps a higher-quality teacher, a teacher
12 that could handle this, what is the additional cost in
13 doing that? Are the teachers spending more time with
14 the students? Are they getting paid more? Or is this
15 simply taking a teacher who would otherwise be teaching
16 25 students and putting him or her into a class of 18
17 to 19 students?

18 A. Well, you're not paying the teacher extra.
19 You're doing it within the student schedule. They're
20 giving up some elective choice in that process. You're
21 having a teacher -- quality teacher focus on a smaller
22 number of students. Didn't really require any special
23 materials, just that situation, but this was math, with
24 math skills.

25 So, for us, that's the success that we had.

1 Q. There were some statements made about the
2 achievement rate of American Indians in your district,
3 and you had questioned its statistical significance
4 because of the small number.

5 Putting aside whether or not it is
6 statistically significant, you had referenced the fact
7 that there is separate funding available for American
8 Indian students.

9 A. Right.

10 Q. Can you describe that a little bit for me and
11 tell me if you know whether it was in play or not in
12 this instance with regard to these achievement results?

13 A. Yeah. I have to speculate a little bit if
14 the students are categorized as such that they would
15 then be eligible for those program dollars.

16 For example, we can't take extra money or
17 money targeted for Native Americans and spend it on
18 students who wouldn't fit that criteria.

19 So, my assumption would be that those dollars
20 were spent programmatically just on that population,
21 which might actually be conceptually parallel to the
22 Collection of Evidence example where you have money
23 specifically -- extra money, a richer funding formula
24 for a certain segment of the population who,
25 apparently, benefits from the way that you're able to

1 provide education and support for those students.

2 Q. Do you know whether, in fact, that's what
3 occurred here or within your school district?

4 A. I'd have to go back and research exactly how
5 the program was delivered to that group. It could be
6 that they were in regular classes for part of their
7 day. I do know that we have a staff person who's paid
8 in part by those funds who works with that group, and
9 does extra things with those students. So they do get
10 special attention based on the way we're funded and the
11 way it's provided.

12 But I couldn't say if a student is full time
13 in a separate location or if they're spread out
14 mainstream with the rest of the students. It might
15 actually vary for each student.

16 Q. Is that staff person a counselor?

17 A. Typically certificated teacher-type but not
18 necessarily in a classroom all day.

19 Q. This goes back to your testimony, actually
20 before today, but you had mentioned that you and your
21 district are members of the WIAA.

22 A. Correct.

23 Q. And that's the athletic association?

24 A. Washington Interscholastic Activities
25 Association.

1 Q. Okay. And you said that the students who
2 belong to districts who are members have to attend
3 class and perform academically.

4 A. Yes. There are -- there are criteria. To be
5 a member of the WIAA as a district and its
6 participating schools, you sign -- you agree that
7 you'll hold your students accountable to the rules of
8 the WIAA.

9 So that has to do with attendance. Within a
10 day, they have to attend so many periods. They have to
11 be passing, at least at a minimum level, so many
12 classes. So you, as a school district, can go -- can
13 have requirements that are above the WIAA minimums.
14 You can say, you know, you have to have a higher GPA
15 than that or you have to attend all your classes.

16 So schools and school districts can, and
17 sometimes do, exceed the requirements for students
18 participating in those activities compared to what the
19 WIAA requires, and some districts maybe just use the
20 WIAA standard.

21 Q. What is the WIAA standard for GPA?

22 A. Yeah, I don't know if it's 2.0 or above 2.5.
23 I think ours has been higher than that. I think we
24 tend to be a district that goes above the WIAA
25 minimums. But I'd have to go back and look at our

1 activities handbook and compare it -- and lay it side
2 by side with the WIAA to verify that.

3 Q. Are you aware that the City of Seattle School
4 District has proposed lowering its pass rate and
5 graduation rate to a D average?

6 A. I'm not aware of that.

7 THE COURT: Okay. That's all the questions I
8 have, Dr. Brossoit.

9 We'll open it up for follow-up by
10 counsel. Mr. Ahearne?

11 FURTHER REDIRECT

12 BY MR. AHEARNE:

13 Q. Just a short follow up on the questions about
14 the certificated employees.

15 Just so the record's clear, a counselor would
16 be a certificated employee?

17 A. Yes.

18 Q. And a librarian would be a certificated
19 employee?

20 A. Yes.

21 Q. Okay. Second, with respect to the focus-
22 like-a-laser-beam program that you mentioned of the
23 kids who needed math assistance, why doesn't Edmonds do
24 that for all kids who need assistance?

25 A. Well, I think three times I've explained

1 about the Japanese acrobats, the spinning -- spinning
2 these various plates.

3 If we take the staff resources away to focus
4 on a smaller group of students in that manner, it
5 means, essentially, taking that staffing away from
6 other students that are being served now. And there's
7 this -- there's this point at which it tips, it just
8 tips over with -- whether it's within a school or
9 within the system. You're literally robbing Peter to
10 pay Paul, in this case, providing more focused
11 instructional support for students who need it and
12 benefit from it, but you're taking it away from other
13 students and then thereby creating, potentially,
14 another category of at-risk students. It's --

15 Q. Currently does Edmonds School District have
16 resources that it needs to provide that focused
17 instruction to all the kids who need it?

18 A. Not for all the kids that need it, no.

19 Q. Okay. Third, with respect to the Native
20 Americans and the funding, is that federal money?

21 A. I'm not sure if it's federal or state.

22 Q. Okay. And with respect to the WIAA program
23 that you were discussing -- or sometimes things are
24 called a carrot approach, sometimes they're called a
25 stick approach, is that, like, more of a carrot and

1 stick approach to keeping kids in school, or how does
2 that work?

3 A. I believe the carrot for students that
4 participate in sports and other co-curricular
5 activities, the carrot is to be able to participate.

6 For myself, for example, I went to high
7 school to play sports. And in that case, you had to do
8 well -- you had to attend and do well in your classes
9 to have the opportunity to play sports. It wasn't that
10 I had this natural love for the subject matter that
11 brought me to school, it was more the access to
12 sports.

13 So, the incentive is to be able to
14 participate, the stick approach is if you don't
15 maintain your attendance and your performance in
16 school, you lose that opportunity.

17 And there are a lot of young people, if they
18 didn't have that opportunity would just walk away from
19 school because they don't -- kids don't bring to what
20 we see as an adult consequence, kind of this lifetime
21 impact of a decision. Kids sometimes don't think past
22 the weekend. I mean, they're not looking at it with
23 the same lens.

24 So, you know, we all could sit here and say,
25 well, you should go to school because you need this

1 education, and they do, but they're looking at it from
2 16, 17 years of life experience, in most cases not
3 having to support themselves or see the consequences of
4 it on an adult basis. So for them, participation in
5 sports is a huge issue, life issue -- life issue for
6 them and we look at it and say, well, no, really, this
7 is a bigger picture that you should be thinking about.
8 But it takes a while just living for people to sort
9 that out.

10 So, as a motivator, to be able to participate
11 in co-curricular activities, is a huge -- a huge issue
12 for students.

13 Q. And, in your experience, is that something
14 that significantly contributes to keeping kids in high
15 school?

16 A. And not only keeping them in school, but
17 those that participate perform better academically than
18 those who don't.

19 And so we actually try -- strategically try
20 to get kids to be involved in co-curricular activities
21 and not just go to school because it gives them a group
22 to identify with, a sense of belonging, some value
23 of -- all kinds of things come out of that that are
24 beneficial for students.

25 MR. AHEARNE: Thank you.

1 THE COURT: Ms. Bashaw.

2 RECROSS EXAMINATION

3 BY MS. BASHAW:

4 Q. One quick question, Dr. Brossoit.

5 The Collection of Evidence class you talked
6 about for math with the 18 or 19 students, even with
7 that concentrated effort, you were not able to get 100
8 percent of them to pass, right?

9 A. Yeah, we were excited to get 95 with only one
10 semester, and it would have taken more time with the --
11 I think it was one or two students at the most who
12 actually, when we evaluated their portfolio, had
13 improved their performance. They were just -- still
14 just barely short of making it. So, in that case, you
15 just go back with those one or two students to get them
16 the rest of the way.

17 MS. BASHAW: Thank you.

18 THE COURT: Is there anything further?

19 MR. AHEARNE: Nothing further, Your Honor.

20 THE COURT: Are you asking this witness be
21 excused?

22 MR. AHEARNE: Yes, Your Honor.

23 THE COURT: Any objection?

24 MS. BASHAW: No objection.

25 THE COURT: All right, Dr. Brossoit, thank

1 you very much for all your patience and returning here
2 on repeated occasions, and you may step down at this
3 time. You are excused.

4 THE WITNESS: Thank you.

5 THE COURT: I think we'll take our afternoon
6 recess at this time before we call the next witness.

7 Who is the next witness?

8 MR. AHEARNE: Ben Rarick?

9 MR. CLARK: We suspect he's going to rest his
10 case, Your Honor, and we'll call our first witness as
11 part of our case outside of his case.

12 THE COURT: Okay.

13 MR. AHEARNE: With respect to the resting, we
14 would have a whole host of deposition designations
15 we've given to the state and they've been going back
16 and forth, and we're not disparaging the state at all
17 because it takes a lot of work to go through this, but
18 we don't have them all back and ready to actually
19 submit.

20 Short of submitting those, which we've
21 given them -- they're going back and forth, and then
22 entering the exhibits, going through the exercise we
23 went with, for example, Superintendent Bergeson, we're
24 done. I mean, we would close but for wrapping up the
25 transcript stuff and exhibit stuff.

1 MR. CLARK: We did --

2 THE COURT: We did and it's on the record and
3 the record reflects that the petitioners may rest but
4 that the court would consider any offer of depositions
5 as part of their case-in-chief.

6 MR. AHEARNE: With the exhibits when we go
7 through the exercise orally offering them. It would
8 either be admitted or denied, but that exercise.

9 THE COURT: Including consideration of any
10 exhibits that are offered through the depositions after
11 petitioners rest.

12 MR. AHEARNE: Okay.

13 THE COURT: That's correct.

14 MR. AHEARNE: Thank you, Your Honor.

15 THE COURT: Mr. Robb has a matter for you.

16 (A discussion was had off the record between
17 Mr. Ahearne and Mr. Robb.)

18 MR. AHEARNE: Can we finish this after the
19 break?

20 THE COURT: Sure. That would be fine.

21 MR. AHEARNE: He can finish telling me what
22 to do.

23 THE COURT: All right. Let's take our
24 afternoon recess. We'll resume in 15 minutes. Court
25 is at recess.

1 (Whereupon a recess was taken.)

2 THE COURT: Please be seated.

3 Mr. Ahearne.

4 MR. AHEARNE: Subject to the transcripts and
5 the associated exhibits, and then also what Mr. Robb
6 reminds me of, is there are some Exhibits 145, 147
7 through 152, which are still subject to our trying to
8 work something out, the state has objections to them.
9 But subject to us working out how those will be --
10 those exhibits will be submitted and the deposition
11 transcripts with the associated exhibits, we rest.

12 THE COURT: All right. Very good. Thank
13 you, Mr. Ahearne.

14 MR. CLARK: For the record, I mean, we concur
15 in those designations and understand that, as to those
16 exhibits that Mr. Ahearne has just identified, there
17 will be on-going discussion with counsel, and if we
18 can't agree, then it will be up to Your Honor to
19 decide, just like everything else.

20 THE COURT: Very good. Thank you, Mr. Clark.

21 MR. CLARK: Shall I call our next witness,
22 Your Honor?

23 THE COURT: Please.

24 MR. CLARK: The respondent calls Mr. Ben
25 Rarick, K-12 Fiscal Analyst with the House of

1 Representatives.

2 THE COURT: Mr. Rarick, if you would please
3 come forward.

4 (Witness sworn in by the court.)

5 THE COURT: For the record, please state your
6 full name and spell for us your last name and give us
7 your contact address.

8 THE WITNESS: My name is Benjamin Douglas
9 Rarick. Last name is spelled R-A-R-I-C-K. And contact
10 address I think it was?

11 THE COURT: Yes, please.

12 THE WITNESS: 9640 Piperhill Drive SE,
13 Olympia, Washington 98513.

14 THE COURT: Thank you. Mr. Clark.

15 BENJAMIN DOUGLAS RARICK,
16 called as a witness herein, having been first duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CLARK:

20 Q. Good afternoon, Mr. Rarick.

21 Would you please state your current
22 employment position.

23 A. I'm a Senior Fiscal Analyst for the House of
24 Representatives, Office of Program Research.

25 Q. All right. And how long have you been in

1 that capacity?

2 A. Roughly four years.

3 Q. Since 2005?

4 A. Just prior to the 2006 legislative session.

5 Q. So that would put us in November, December of
6 2005?

7 A. Yes, thereabouts.

8 Q. Okay. Would you describe the
9 responsibilities of a Senior K-12 Fiscal Analyst with
10 the Office of Program Research?

11 A. Generally speaking, I serve the House Ways
12 and Means Committee, and the House Education
13 Appropriations Committee. The name of that committee
14 has evolved over time. But, basically, there are those
15 two main committees, the Ways and Means Committee and
16 then, generally, a committee dedicated specifically to
17 education appropriations issues.

18 In that capacity, I provide assistance on a
19 nonpartisan basis -- I want to stress the nonpartisan
20 nature of my business -- in developing budgetary
21 information and projections for Democrats, Republicans,
22 or, indeed, anybody who is an elected member of the
23 Legislature serving on those committees.

24 Q. You said budgeting and what other type of
25 information?

1 A. Fiscal information, I think, generally, and
2 the committees have staff dedicated to particular
3 subject areas, so there will be staff for Higher
4 Education and staff for the Department of Corrections,
5 and so my area of focus is the K-12 public school
6 system.

7 Q. All right. Are you an employee of the
8 Washington State House of Representatives?

9 A. I am.

10 Q. You mentioned an affiliation or work with the
11 Office of Program Research.

12 What is the Office of Program Research?

13 A. Well, the House of Representatives has a
14 number of different employees and they kind of divide
15 them into sub-offices, if you will.

16 The Office of Program Research is the entity
17 that provides the nonpartisan kind of technical
18 assistance to members of the Legislature. So, Office
19 of Program Research staff can be both policy staff,
20 they can be counsel, or they can be fiscal staff. I
21 happen to be of the fiscal staff variety.

22 Q. All right. Is the Office of Program Research
23 an arm or extension of the House of Representatives?

24 A. It is.

25 Q. Is it also an extension of the Senate, or is

1 it just the House?

2 A. Just the House.

3 Q. All right. I take it you do a lot of numbers
4 crunching.

5 A. I do.

6 Q. Why don't you give us a brief description of
7 your educational background post-high school.

8 Where did you go to college?

9 A. I went to college at Linfield College in
10 McMinnville, Oregon. Had degrees in political science
11 and English literature. I subsequently achieved a
12 master's degree at Stanford University in educational
13 policy analysis and administration. And then
14 subsequent to that, took some classes, advanced
15 statistical classes at the University of Washington,
16 took some courses to secure my school business
17 administrator certificate in the State of New Jersey.
18 But the masters degree was the highest level of degree
19 I've achieved.

20 Q. Okay. In what year did you obtain your
21 bachelor's degree from Linfield College?

22 A. 1996.

23 Q. And your masters from Stanford in educational
24 policy, when did that occur?

25 A. I believe that was the summer of 1997.

1 Q. Okay. And over what period of time did you
2 take those graduate-level courses at the University of
3 Washington?

4 A. Oh, I worked at the University of Washington
5 for a brief time prior to my employment at the House,
6 and I took the courses while I was there. So, you
7 know, in rough terms, we're saying, like, 2003, 2004,
8 maybe into 2005, took a variety of courses.

9 Q. And had you completed those courses prior to
10 accepting your current position with the Office of
11 Program Research?

12 A. Yes.

13 Q. Can you give me a brief description of your
14 employment history after Stanford.

15 A. Okay. So immediately after Stanford, I
16 worked as a, what was called a Policy and Planning
17 Associate, which I think is just kind of a mid-level
18 administrator, Policy Administrator within the
19 Department of Education in New Jersey.

20 I was within the Office of the State Operated
21 School Districts. I worked in that capacity for
22 approximately two and a half years I believe. And then
23 I was promoted to the office -- or to the position of
24 the director of that office. So I was the Director of
25 the Office of State Operated School Districts. The

1 office that -- New Jersey would take over school
2 districts in either academic or fiscal distress. This
3 was the office that kind of coordinated that particular
4 operation. And I oversaw a small staff of both policy
5 individuals and also auditors.

6 Subsequent to that -- I did that job for, I
7 think, about three years, and I left the State of New
8 Jersey and took a job at the University of Washington.

9 Q. When was that?

10 A. That was -- I believe it was in October of
11 2003, I believe that was.

12 Q. Okay.

13 A. And I was at the University of Washington for
14 about two years. In my capacity there, I was a -- I
15 believe my formal title was Research Coordinator, but,
16 in essence, what I did was the University of Washington
17 Evidence School of Public Affairs received a large
18 grant from the Gates Foundation to look into school
19 finance and to provide assistance to states that were
20 desirous of that assistance in terms of exploring
21 options for how they might redesign their school
22 finance formulas, given certain assumptions.

23 Q. Okay. How long were you at the University of
24 Washington in that capacity?

25 A. I was there roughly two years.

1 Q. Okay. And from there you went to the State
2 Legislature?

3 A. That's correct.

4 Q. And have been there ever since?

5 A. That's correct.

6 Q. Okay. Let's go back to your tenure at the
7 New Jersey Department of Education.

8 You went from working in the Office of State
9 Operated School Districts, if my notes are correct, to
10 being its Director of Policy and Planning?

11 A. Slight modification of the title there. So I
12 was a Policy and Planning Associate and I became the
13 Director of the Office of State Operated School
14 Districts.

15 Q. All right. Did you, in that capacity, have
16 any experience actually running a school district?

17 A. I would say not. It's more of an oversight
18 function. It was the arm of the state that was
19 responsible for, basically, being the liaison between
20 the site-based administrators that the state had placed
21 in those districts and the Governor, the Commissioner
22 of Education, and what's called the Commissioner of
23 Education. And so managing kind of the day-to-day
24 liaison duties of that undertaking.

25 Q. All right. Was this in connection with any

1 school funding litigation pending in New Jersey?

2 A. There was some connection with the Abbott
3 versus Burke court case. And I say some connection
4 because the two were not synonymous, but overlapping.
5 These three districts were the -- I should say the
6 three districts that were state operated school
7 districts are, and I think still are, the three largest
8 school districts in the state. And they were part of a
9 class action, I believe that's a correct term, lawsuit
10 against the state alleging inadequate funding.

11 But it was a select group of districts in a
12 common socioeconomic group making a claim to the
13 state. Of the 28 original districts, three of them
14 were state operated school districts and those were the
15 three I worked for.

16 Q. All right. How old were you at the time that
17 you were, you know, vested with this responsibility in
18 the State of New Jersey?

19 A. When I was promoted to director or --

20 Q. Yeah.

21 A. I think I was 27, 26.

22 Q. Okay. So you were in your late 20's when you
23 became the Director and had these state liaison
24 responsibilities with these three large school
25 districts in New Jersey.

1 A. That's correct.

2 Q. In your current position as a Senior Fiscal
3 Analyst for K-12, what type of assistance do you
4 provide the Legislature or legislators in developing
5 aspects of the state's budget for K-12 education?

6 A. I work with those two committees, the
7 aforementioned committees, the fiscal committees that
8 are responsible for developing a budget.

9 And so in a typical kind of arrangement, I
10 might be asked by a Republican or Democratic to help
11 them take an idea that they have about a bill or a
12 proposal that they want to put together and help take
13 them from the process of an idea to an actual concrete
14 proposal, with some parameters, about what those costs
15 would be and what would be entailed to actually have
16 that proposal come to fruition.

17 So those proposals kind of vetted through the
18 committee process, and then ultimately, in the Ways and
19 Means Committee, I'm the primary staff person that
20 helps the Chair of that committee actually write the
21 public school budget for the House. And then, of
22 course, the Senate has somebody who does something
23 similar.

24 Q. Who currently does that for the Senate?

25 A. Currently it is Alyse Greef.

1 Q. And who proceeded Alyse Greef in that
2 position?

3 A. Bryon Moore.

4 Q. All right. The work that you've just
5 described in terms of budgeting, is that all conducted
6 during the legislative session?

7 A. For the most part.

8 Q. And for the most part, please describe for
9 the court when the legislative session begins and when
10 it typically ends.

11 A. Well, depending upon if it's a supplemental
12 budget or a full biennial budget session, we typically
13 ramp up in January -- early January, and then if it's a
14 long session, it could extend into April. If it's a
15 shorter, 60-day session, it typically closes in mid to
16 early March.

17 Q. What do you do the rest of the year as a
18 Fiscal Analyst for the Office of Program Research for
19 the House of Representatives?

20 A. There's a variety of tasks associated with
21 monitoring the budget. A great deal of my time is
22 taken up with -- what are they called, you know, blue
23 ribbon commissions or task forces or entities that are
24 created under various names, to kind of think about --
25 forward thinking proposals about what the state wants

1 to do in a particular area.

2 Q. Okay. Would one of those be the Basic
3 Education Task Force, for example?

4 A. That would be a good example, yes.

5 Q. And you did, in fact, provide fiscal analysis
6 work for members or perhaps for staff working with the
7 Basic Ed Task Force?

8 A. I did.

9 Q. Okay. How did that work differ, if at all,
10 from the type of budgeting fiscal analysis work you do
11 during legislative session?

12 A. It was similar but more difficult.

13 Q. How so?

14 A. It was similar in the sense that, of course,
15 it's the same topic area. You're dealing with a lot of
16 the same metrics, you know -- I mean, the same general
17 concept of funding public schools and how you do that.

18 It was more complicated in the sense that the
19 membership of that Basic Education Task Force wanted to
20 have a concrete proposal, and I was often working on
21 multiple proposals and the exercise of costing or
22 developing a proposal of the magnitude that would fund
23 public schools in this state is a fairly complex
24 undertaking. And so to be doing simultaneously -- so,
25 you know, it was a fairly arduous undertaking, but

1 similar kind of work.

2 Q. Okay. Do you do any modeling in -- computer
3 modeling in connection with the work you do, either for
4 task forces or the state Legislature?

5 A. I do.

6 Q. Okay. What type of computer modeling do you
7 do, in general?

8 A. Well, as an example, in the Basic Education
9 Task Force, the legislators, both Republicans and
10 Democrats came to me and said, you know, we would like
11 to actually develop a hard proposal and show proposed
12 formulas in our proposal, and so I was asked to assume
13 the role of putting that together for them.

14 Q. Were you able to come up with the information
15 so that they could incorporate actual formulaic
16 approaches to whatever they wanted to do about K-12
17 funding?

18 A. For the most part. One of the struggles was,
19 as you work through a task force of that nature, of
20 course, there's a layering of concentrating-on-the-big-
21 picture issues. And then it's difficult to get down to
22 the minutia that is sometimes important in terms of how
23 money distributes across the system.

24 And so, as a Fiscal Analyst, I had to make
25 some judgments about, you know, what's a big picture

1 issue and what's minutia, and kind of manage what get
2 cued up for the entire group to discuss and what is a
3 typical issue that the fiscal analysts should -- that's
4 part of the technical complexity of doing this job.

5 Q. Okay. Which particular legislators and
6 members of the Task Force did you deal with and provide
7 a fiscal analysis?

8 A. There were a number of them. Representatives
9 Hunter, Anderson -- let's see. On the Republican side,
10 it was Anderson, Priest, for a time Representative
11 Jarett was a Republican. Then on the Democratic side,
12 it was Representative Hunter, Representative Sullivan,
13 Representative Hague for a time. I suppose I'm missing
14 one or two but --

15 Q. Senator Rodney Tom?

16 A. Senator -- actually, I did have some
17 interactions with Senator Tom, but he was -- he's a
18 Senator so I don't work for him, but he was part of
19 this group and we did have some exchanges.

20 Q. Okay. All right. Do you also do modeling --
21 computer modeling to perform your tasks in the
22 legislative session?

23 A. I do.

24 Q. How do they compare the legislative computer
25 modeling you do and what you did for the Task Force?

1 Was it the same? Was it different? How would you
2 describe it?

3 A. It was similar in some respects, different in
4 others. I would say the reason it was more complex and
5 different was that the Task Force wanted to change the
6 primary focus point, if you will, of the financial
7 modeling for schools from the district level to the
8 school level.

9 So if we have 295 school districts, we have,
10 you know, over 2,000 schools. And so the financial
11 modeling associated with doing that is more complex and
12 requires different pieces of data and so forth. But,
13 of course, it's similar in the fact that you're still
14 talking about teachers, you're still talking about
15 issues of compensation and the same general parameters.

16 Q. All right. In this last completed
17 legislative session this year, did you do any computer
18 modeling work with respect to perspective K-12
19 legislation?

20 A. In the last session? Yes.

21 Q. Okay. How did that work differ, or how was
22 it similar to the work you did for the Basic Ed Task
23 Force?

24 A. I would answer similarly in the sense that,
25 you know, I have -- historically, most of the models

1 that the fiscal analysts and K-12 used have been
2 primarily state aggregate models that feed from
3 district-level data in the School Finance Task Force.
4 There was a fundamental shift to trying to look at
5 school-level data.

6 So, again, similar. The last session was
7 using a lot of models doing state-level projections but
8 in the Task Force going to a lower level of analysis.

9 Q. Okay. You also have done some costing-out
10 work for counsel in this case, correct?

11 A. That's correct.

12 Q. And did you use computer modeling to perform
13 that analysis?

14 A. I did.

15 Q. How was that analysis any different from the
16 computer modeling analysis you say you do for the
17 Legislature in session or for task forces like the
18 Basic Ed Task Force?

19 A. I would answer in a similar way. You know,
20 it's the same subject matter, same metrics and
21 variables, but some additional detail and complexity.

22 Q. Do you use the same computer model for these
23 various exercises?

24 A. There is a model that has historically been
25 shared in the legislative environment for public

1 schools that I have and continue to use for some of the
2 statewide aggregate modeling within our current K-12
3 system.

4 I developed a new model, in collaboration
5 with some other colleagues, that attempted to get at
6 this, you know, taking it a step further, if you want
7 to see it that way, in terms of modeling at school-
8 level metrics.

9 And so they are two separate models. They do
10 similar types of calculations, but one is quite a bit
11 more complex than the other.

12 Q. The model you took a step further, is that
13 the one you used for the Task Force?

14 A. Yes, it is.

15 Q. The model you took a step further, is that
16 the one you used for your tasks during the recently-
17 completed legislative session?

18 A. Only to some extent. There's some details
19 there. But some work involved that model, some didn't.

20 Q. Okay. Taking it to the next level model.

21 A. Uh-huh.

22 Q. Is that the model you used in doing the work
23 for counsel in this case?

24 A. It is.

25 Q. Okay. Now, the other model, the one that

1 isn't taken to the next step, is that model used to
2 drive -- drive the formulae that funds the current
3 system of Basic Education?

4 A. It is.

5 Q. Okay. All right. Your work tends to focus
6 on the operation side of K-12, correct?

7 A. That's correct.

8 Q. Do you do any work on capital construction
9 for K-12?

10 A. None.

11 Q. Okay. Do you do any work with regard to K-12
12 pupil transportation issues?

13 A. Very limited.

14 Q. Okay. You've talked about how your work is
15 on the fiscal side.

16 Do you also do work that laps over into the
17 policy side, and, if so, can you give us some examples
18 or describe it for us?

19 A. Sure. I would say, clearly, in the work of
20 these task forces, Basic Ed Task Force, you know, my
21 role is primarily a Fiscal Analyst. There's policy
22 staff for the Education Committee, so we have our
23 respective roles. But the line separating those two
24 realms is not always bright and clear. And there is
25 such a thing as fiscal policy, too.

1 So I would say that given that I have a
2 background in policy, given familiarity with some of
3 the subjects, I probably do involve myself in policy as
4 well. But my primary role is as a Fiscal Analyst.

5 Q. You're a policy-informed Fiscal Analyst, huh?

6 A. I suppose that's a fair characterization.

7 Q. All right. Were you involved in actual
8 presentations to the Basic Ed Task Force?

9 A. I was

10 Q. And how many of those were you involved in?

11 A. I can think of two right away, and there
12 might have been others.

13 Q. All right. Let's go to one.

14 Let's go to Exhibit 1406. And the way this
15 works, if you didn't notice from the prior witness,
16 Mr. Rarick, you stay where you are --

17 A. Okay.

18 Q. -- and I'll bring the books to you.

19 A. Okay. Fair enough.

20 MR. CLARK: I assume I can approach, Your
21 Honor?

22 THE COURT: You may, counsel. You have leave
23 to approach this witness.

24 BY MR. CLARK:

25 Q. 1406 is in here.

1 A. Now, what am I looking up?

2 Q. Exhibit 1406. Have you found it?

3 A. I have.

4 Q. Good. Okay. Could you identify Exhibit 1406
5 for the record, please?

6 A. 1406 appears to be a presentation done for
7 the Task Force that I participated in. I was not the
8 sole author of it, but I remember being part of this
9 presentation.

10 Q. Okay. You say you were not the sole author.
11 Were you a co-author?

12 A. Yeah, I think I worked on the development of
13 the PowerPoint and then my colleague, Bryon Moore, I
14 think, actually delivered the presentation.

15 Q. Were you present during the presentation that
16 Mr. Moore gave.

17 A. I believe I was, yes.

18 Q. Okay. And does this appear to be a complete
19 set of slides for the presentation that was given,
20 apparently, back in October of 2007?

21 A. It looks to be.

22 Q. Okay. Generally speaking, what was the point
23 of this presentation to the Task Force in October of
24 2007?

25 A. I think that the point -- if memory serves,

1 we would have been asked to kind of provide an overview
2 of some key principles of the current system and so, as
3 you'll see there on slide two, we chose to kind of
4 organize it around some key concepts regarding school
5 finance.

6 Q. As of October 2007, Mr. Rarick, at what stage
7 was the Task Force in?

8 A. I think this was one of the first
9 presentations or -- if not the first, probably in the
10 early going.

11 Q. And did you do this work in Exhibit 1406 in
12 connection with your duties as a Fiscal Analyst for the
13 state?

14 A. Yes.

15 MR. CLARK: Your Honor, we would offer 1406.

16 THE COURT: 1406 is offered.

17 MR. EMCH: Well, Your Honor, we don't have an
18 objection as to admissibility, per se. We do have an
19 objection to authenticity. It's unclear whether this
20 document is a draft, whether it's a final, or whether
21 it's merely work in progress.

22 I didn't hear the witness conclusively
23 says that this was, in fact, the final. We don't know
24 what the source was or how this document appeared in
25 this form.

1 THE COURT: All right. Well, I do think he
2 stated he was involved in the preparation of the
3 document. If your objection is that it may be a draft,
4 I suppose we could establish that for the record, if
5 you'd like.

6 BY MR. CLARK:

7 Q. Does this appear to be a final product?

8 A. It does appear to be a final product. I
9 mean, of course, I limited my ability to read 22 pages
10 and recall exactly. But I have no reason to believe
11 this is not a final product.

12 MR. CLARK: All right. We would offer it,
13 Your Honor.

14 THE COURT: All right. I think a sufficient
15 foundation has been laid. The court admits 1406.

16 EXHIBIT ADMITTED

17 MR. CLARK: Thank you.

18 BY MR. CLARK:

19 Q. You mentioned slide number two in a prior
20 answer. Slide number two states that it's an
21 overview.

22 And what was the point of providing the
23 overview to the Task Force?

24 A. Well, I think the leadership of the Task
25 Force kind of laid out what they wanted to hear about,

1 some general concepts, and I think it was primarily
2 supposed to be an educational document as to the
3 general background on K-12 finance.

4 Q. Okay. Let's turn to the next page of the
5 exhibit, which has slides three and four.

6 The top-most slide with the pie chart, why
7 don't you tell us -- rather than have me try to tell us
8 through my question, why don't you tell us what this
9 depicts.

10 A. The slide labeled number three?

11 Q. Yes, please.

12 A. That appears to be a pie chart displaying
13 total K-12 spending by revenue source, and it appears
14 to convey the general message that about 70 percent of
15 what is spent comes from state revenues, about 16
16 percent from local revenues, about 10 percent from
17 federal revenues, and about four percent from other
18 revenues.

19 Q. This is reported spending for the school year
20 '05-'06?

21 A. It is.

22 Q. Thank you. And it's spending by whom?

23 A. I'm sorry?

24 Q. Spending by whom?

25 A. Spending by school districts.

1 Q. Now, the slide below it contains some basic
2 numbers or information about school districts across
3 the state, the configuration of the system, as it were
4 and the student characteristics.

5 I don't have any specific questions. I'll
6 just note that that is the case.

7 Let's go on to the next page, which contains
8 two slides that I'd like you to identify and describe
9 for the court, please.

10 A. Okay. Both slides five and six?

11 Q. Yes.

12 A. Okay. So slide five appears to be an
13 analysis that picks a point in time, in this case 1980,
14 and follows the trajectory of state funding over the
15 course of about 25 years -- a little more than 25
16 years -- to see the relationship between state funding
17 to two commonly-used inflationary adjustments applied
18 to that original base of a fixed point in time.

19 So if you, basically, took the state funding
20 figure in 1980 and applied an inflationary -- the
21 implicit price deflator or the Seattle Consumer Price
22 Index, where would that land you in 2000 and -- it
23 looks like 2008 that's used here, and how would that
24 compare to what the state is currently doing.

25 So the difference between slide five and

1 slide six is, it appears that slide five focuses on
2 state funding and then in slide six it looks at total
3 funding. So it's rolling in, not only state funding,
4 but also federal and local revenues as well. And it
5 uses the same inflationary adjustment factors.

6 Q. I was hoping that putting the top-most slide
7 up there would help with the legibility on the numbers,
8 but it doesn't help me very much.

9 I think the upper number -- can you identify
10 what the outer column number is?

11 A. Oh, the total spending?

12 Q. No. Actually, this is growth in state
13 funding per student, which I believe is on the top.

14 A. The slide five, the top figure there is
15 6,237.

16 Q. Okay.

17 A. And then on slide six, the number is 8,962.

18 Q. Okay. And there's slide six.

19 In both instances, these slides indicate
20 that, assuming the effect of two inflationary indexes
21 over time, these are the levels of state funding and
22 total funding with lines that indicate what those
23 dollar values are applying the inflationary indices.

24 A. With 1980 as your starting point, yes.

25 Q. Okay. Now, before we leave that page, both

1 graphs stop with year 2006, but is the final column
2 intended to be 2007?

3 A. I can't say that for certain.

4 Q. Okay.

5 A. It appears that it is intended to do so.

6 Q. Okay. Now, let's turn to the next page.

7 And the bottom slide has the word ampleness
8 on it. And I take it that marks a subject matter break
9 or portion of the presentation, correct?

10 A. It's does.

11 Q. What was the discussion of ampleness with the
12 Task Force as far as you recollect it on this occasion?

13 A. Well, I think in this presentation, we were
14 trying to hit some major highlight concepts and making
15 a distinction between ampleness and equity. One
16 talking about how money distributes between districts
17 versus whether the amount that's distributed can be
18 considered ample or not regardless of how it
19 distributes --

20 Q. Okay.

21 A. -- between districts.

22 So ampleness was more about, of course,
23 pulling from the constitutional language about ample
24 provision, talking about how much and what the
25 threshold should be for determining how much is enough

1 or how much is, in fact, ample.

2 Q. Okay. Would you turn to the sixth page of
3 Exhibit 1406, which has, I think, slides 11 and 12 on
4 it. And please identify for the court what slide 11
5 depicts.

6 A. Slide 11 is a chart that provides a very
7 rough high-level breakdown of the programs that are
8 considered Basic Education and the programs or
9 expenditures that are considered Non-Basic Education.
10 And so it conveys the general point that about 81
11 percent of the total budget is considered to be in this
12 Basic Education category and the remainder not.

13 Q. All right. Now, are both these displays, the
14 one for Basic Education Programs and the lower one that
15 deals with Non-Basic Education K-12 programs, is this
16 actual data from the 2007-'09, biennium?

17 A. Yeah, it appears to be -- it appears to be
18 based on the 2007-2009 biennium budget. In other
19 words, it's not a projection. It's based on an actual
20 first budget.

21 Q. Okay. And the 2007 biannual funding
22 legislation would have been earlier in the year than
23 this was presented.

24 A. Right.

25 Q. Thank you.

1 Down below that slide, it talks about the
2 findings from the Miller Report, and then it has this
3 depiction with arrows on it.

4 And, generally speaking, what is that a
5 depiction of, this district enrollment, et cetera, et
6 cetera?

7 A. In slide 12?

8 Q. In slide 12, yes.

9 A. Slide 12's general purpose is to try to take
10 some pretty complex concepts and make them linear and
11 understandable for the members of the Task Force, some
12 of whom may be well-versed in them and some of them may
13 not.

14 So all it does is it tries to say that state
15 General Apportionment allocations and the one you --
16 you've used the term state General Apportionment.
17 General apportionment is the primary means by which the
18 state allocates money.

19 Q. That is the Basic Ed allocation.

20 A. That is most of the Basic Ed allocation to
21 districts. That's comprised of -- or it's driven by
22 four factors; the enrollment of the district, the
23 formula staff units that are generated as a result of
24 that enrollment. And I heard a discussion earlier
25 about certificated staff, administrators, classified

1 staff; and then the salaries and benefits that are
2 attributed to those staff units that are sent to these
3 districts; and then a nonemployee-related cost factor
4 that is driven as a result of the number of staff
5 units -- certificated staff units that are sent.

6 So it was a linear way of walking through,
7 for members of the Task Force, how a vast majority of
8 money is sent to school districts.

9 Q. Okay. That was true in 2007 --

10 A. Uh-huh.

11 Q. -- correct?

12 Is it true today?

13 A. It is true today for the system in place for
14 the current school year.

15 Q. Why do you qualify your answer in that
16 regard?

17 A. Because the Legislature passed, the Governor
18 signed, and it became law, Gross Substitute House Bill
19 2261, which proposed -- I shouldn't say proposed. It
20 implemented a new funding methodology which would take
21 effect beginning of the 2011-2012 school year, subject
22 to the adoption of technical details by the
23 Legislature.

24 Q. Okay. But until that happens for the
25 2011-2012 school year, is this depiction what will

1 continue to drive the large portion of the Basic Ed
2 allocation?

3 A. It is.

4 Q. You mentioned that, in addition to the
5 discussion of ampleness, there was a discussion of
6 equity.

7 Would you please turn to page eight of
8 Exhibit 1406?

9 And does this, in fact, confirm that there
10 was a discussion of the issue of equity?

11 A. It confirms that a portion of the
12 presentation entitled Equity was presented to the Task
13 Force.

14 Q. Okay. Let's go to the next page, and
15 particularly the slide 18.

16 Do you see where I'm referring to?

17 A. Yes.

18 Q. It says, "The Basic Education Programs are
19 designed to provide funding for 'Challenge' to allow
20 equal education opportunity."

21 What message is being conveyed by that
22 statement?

23 A. Well, earlier in the presentation we talked
24 about that -- that conceptual overview that says here's
25 the four major components of General Apportionment.

1 And so this page kind of completes the picture a little
2 bit to say there are other parts of the formula that
3 are considered Basic Education, and that there are
4 additional revenues that are provided to students that
5 are confronted, perhaps, with certain educational
6 challenges, like students for whom English is a second
7 language, students who have special education needs,
8 for example.

9 Q. And also bilingual?

10 A. Yes.

11 Q. And learning assistance, struggling students
12 as well.

13 A. Yes. These are all examples of kinds of
14 additional amounts beyond General Apportionment, which
15 is kind of the foundation of Basic Education.

16 Q. And these are all Basic Education Programs,
17 are they not?

18 A. Yes, they are.

19 Q. Why did you hesitate?

20 A. Well, I just wanted to make sure.

21 Q. Okay. All right.

22 There is Funding Per Student reflected in a
23 column here. Your younger sturdier eyes may be able to
24 make them out better than I can --

25 A. Uh-huh.

1 Q. -- but my question is this. For what year
2 are these funding amounts or dollar amounts taken?

3 A. I believe they would probably reflect -- I
4 can't be completely certain, but, if it's consistent
5 with the other charts in the presentation, I would
6 expect this to be true of the 2007-2008 school year,
7 because that would have been the first year of that
8 biannual budget that had just recently been completed
9 prior to this.

10 Q. Okay. Let's assume -- that may be correct or
11 that it may be an earlier year. I'm not sure it makes
12 much difference.

13 But, to use an example, apportionment. From
14 that, do we determine that for every one of our million
15 or so students, a district received that much per
16 student?

17 A. Can you ask the question?

18 Q. Do you want me to try that one again?

19 A. Please.

20 Q. Okay. The General Apportionment amount, is
21 that the amount that the State of Washington provided
22 per student to every school district?

23 A. On average.

24 Q. On average. All right.

25 Now, if the student was also a Special Ed

1 student between the ages of five and 21 I believe,
2 would that student get both the apportionment that's
3 averaged here plus the Special Education amount that
4 applies to a student in that age group as depicted on
5 this chart?

6 A. In almost every case, yes.

7 Q. All right. So, again, my reading may not be
8 perfect, but let's just say that the apportionment is
9 roughly 40 -- I don't know, 48 or \$4,900.

10 A. Uh-huh.

11 Q. Actually it might be 4,899 now that one eye
12 focuses.

13 In the example I just gave you, we would --
14 for the Special Ed student between the age of five and
15 21, the district for that student would get 4,899 in
16 General Apportionment plus the, on average, \$4,562 for
17 the Special Ed student. I mean, for that same Special
18 Ed student.

19 A. Yeah, and I want to stress that would be on
20 average.

21 Q. On average.

22 So, on average, a kid in Special Ed between
23 the age of five and 21, for the year that this
24 information was current, would get, you know, 93,
25 \$9,400 in state funding provided to his school or her

1 school district.

2 A. On average and roughly, yes.

3 Q. Okay. And if the student were not Special
4 Education but were bilingual, would we go through the
5 same addition to find out, on average, what that
6 student would draw in state funding for the district?

7 A. Yes. In concept, yes.

8 Q. And the same concept and mathematics that
9 applies to a struggling student or a Learning Assistant
10 Program student, correct?

11 A. Not entirely, no.

12 Q. Not entirely, no.

13 A. No.

14 Q. Why would that differ?

15 A. LAP is not a program generated by a specific
16 child.

17 Q. How does that work?

18 A. LAP is a program generated by what's called
19 LAP units, and LAP units are calculated on a poverty
20 factor. So I don't want to over-complexify this. I
21 mean, the fact of the matter is, that, for the most
22 part, it's generated on a kid basis, but there are some
23 kids that count for more than one. For example, if you
24 reside in a district that has a concentration of
25 poverty, then the same kid can actually count as two

1 LAP units, if you think of it that way.

2 So it's not strictly on a student-per-student
3 basis, I guess, is the clarification I would make.

4 Q. Okay. Okay. Now, in addition to the
5 apportionment funding, there's transportation operating
6 funding listed here as well.

7 And do I take it that, in addition to the
8 General Apportionment funding per student, there is
9 also a per-student component for transportation
10 funding?

11 A. There is.

12 Q. Okay. And how does that work?

13 A. Well, for the record, I am not the analyst
14 responsible for transportation. I'm happy to answer
15 questions about it, but there is somebody at the
16 Legislature who's job it is to do transportation.

17 And so, the way that that works is that there
18 is a -- there are route miles that are generated by
19 district, and those route miles generate a certain
20 number of units and a certain number of units are
21 attributed to a certain dollar amount, and that is the
22 manner in which funding is allocated to the school
23 districts.

24 Q. Okay. I think I understand that as well as
25 I'm going to this afternoon.

1 Let me move on to another question, still
2 with the same graph though.

3 Suppose we have a student and he or she is
4 both Special Education and bilingual. Do they then get
5 three types of funding associated with that student?

6 A. They do.

7 Q. Okay. So we would add up the apportionment,
8 the Special Ed component, the bilingual component for
9 that example, and we would have whatever amount -- it
10 looks like it would be something approaching 10,000 or
11 more for that student.

12 A. They are not mutually exclusive.

13 Q. Okay. Just so the record is clear, too.
14 What are institutions? Are you familiar with that
15 aspect of Basic Education funding?

16 A. Yes, so students that are kind of in
17 nontraditional settings, but nevertheless have a right
18 to an education, are provided an education and the
19 funding formulas for those students are slightly
20 enhanced.

21 Q. Okay. Now, let's turn to the next page, page
22 10, Exhibit 1406.

23 And I want to touch briefly on the basics of
24 the Levy Lid Act and why that was part of the
25 presentation to the Task Force that day.

1 Can you fill us in in that regard?

2 A. Well, again, kind of referring back to the
3 themes of the presentation. One of them was amplexness,
4 one of them was equity, and one of the -- one of the
5 components of the Washington system that, arguably,
6 helps provide equity between districts is the existence
7 of a Levy Lid.

8 Q. How does that help to provide equities among
9 districts?

10 A. Well, I think -- first of all, I don't want
11 to make the assertion that it does or doesn't provide
12 equity, but I would say that probably the original
13 sponsors of the legislation intended for it to do so.
14 And the idea is that there would be limits to what
15 local communities can raise from their voters, from
16 their local citizen taxpayers in an effort to restrict
17 the local role in the total pot of K-12 funding so that
18 significant disparities between communities are at
19 least minimized.

20 Q. Okay. Are you familiar with how the levy
21 base is factored into this category and the operation
22 of the Levy Lid percents? Are you sufficiently
23 familiar with those to explain it to the court?

24 A. Sure. I'd also like to make the same
25 statement I made with transportation. There is a

1 person whose job it is at the Legislature to do this.
2 I happen to be familiar with this subject matter. I'm
3 happy to answer the questions.

4 The general premise here is that local
5 communities are limited in what they can raise from
6 their local taxpayers. That limit is established by
7 the imposition of a Levy Lid. For most school
8 districts in the state, that Levy Lid is 24 percent of
9 their levy base. Okay? You can think of their levy
10 base as most of their state and federal revenue.
11 Okay?

12 So, I'm just going to use some round numbers
13 here. So let's say a school district has about, you
14 know, \$9,000 a pupil in total revenues. All right?
15 But some of that's federal money. Some of that's local
16 money. Some of that's state money. All right?

17 So if you took just the state and federal
18 components of that and excluded the local, let's say
19 that puts you in the, I don't know, 6,000 range or
20 something thereabouts. Okay? That pot is now the
21 basis for your levy base. That's where you start.
22 Okay? Then you multiply that by, in most cases, 24
23 percent. Okay?

24 Now, the important exception here is that
25 there are a number of districts, I think roughly 90 at

1 last check, that are grandfathered to a higher level
2 extending all the way up to I think about 33, 34
3 percent. But I'm going to stick with the core example
4 here. All right?

5 As you multiply that levy base by 24 percent,
6 that gives you a levy authority. That's what you can
7 go to your local voters and ask for in the way of a
8 special axis levy. But I think at the time there was a
9 recognition of the fact -- or -- and I won't speculate
10 as to who recognized what, but we'll just say that one
11 aspect or one implication of this is that certain
12 communities may have more property wealth than others
13 and so it costs taxpayers quite a bit more to raise the
14 same sum of money when you're looking at per \$1,000 of
15 assessed value. If you live in Shaw Island or Bellevue
16 or some more affluent areas and the property wealth is
17 significant, then you don't have to raise very much per
18 1,000 to raise the same amount that you would have to
19 in Mabton, Washington or Connell, Washington.

20 So levy equalization, which is a -- is the
21 kind of the second step in this process, is a Non-Basic
22 Education funding source that helps mitigate the
23 differences in property wealth between districts, and,
24 therefore, provides some tax relief to the property
25 poor school districts.

1 Q. All right. Let's turn next to page 12 of
2 Exhibit 1406. And I want to talk about the top-most
3 slide. I think it's slide 23.

4 A. Okay.

5 Q. School District's Authority. Do you see
6 that?

7 A. Yes.

8 Q. Okay. What is the message being -- or
9 messages being conveyed by this particular slide that
10 was presented to the Task Force?

11 A. The issue, I think, at the heart of this
12 slide is one of salary compliance.

13 Q. What do you mean by salary compliance?

14 A. Salary compliance is, can school districts
15 pay staff whatever they want, or are there certain
16 parameters under which they have to meet certain
17 standards or conditions. And so what this --

18 Q. Is it the former, the later, or combination?
19 I mean, can they pay whatever they want, or are there
20 parameters?

21 A. And the way I tend to describe this is it's
22 kind of two separate -- two separate realms. One realm
23 is classified administrators, and the other realm is
24 certificated instructional staff. And the answer is
25 different for these two realms.

1 So for classified staff and administrative
2 staff, the state makes an assumption about a salary
3 rate in General Apportionment. It publishes that
4 salary rate for all to see and the LEAP schedules, and
5 then that money goes to the school district. And,
6 really, school districts have almost complete freedom
7 in terms of how many administrators or classified staff
8 they're going to hire, under what conditions, and,
9 indeed, what they're going to pay them.

10 That is not true in this other realm, the
11 certificated instructional staff. And in this realm of
12 certificated instructional staff, we have something
13 called salary compliance where we actually have a
14 teacher salary -- I shouldn't say teacher. It is
15 actually certificated instructional staff salary grid,
16 and school districts have to stay on that grid for the
17 most part. They have to pay a minimum of the minimum
18 of what the salary reflects and they cannot exceed an
19 average of what the salary schedule average reflects.

20 Now, TRI pay is, of course, exclusive of this
21 compliance, presents different issues and is not part
22 of the description I just provided.

23 Q. Okay. Let me stop you there and ask a few
24 follow-up questions.

25 With regard to the classified staff, their

1 ability to hire whatever numbers of that type of staff
2 they want to hire, they can only hire so many that are
3 stated funded though; is that correct?

4 A. Can you restate the question?

5 Q. Yeah. While they may be able to choose the
6 number of classified staff that a school district wants
7 to hire --

8 A. Yes.

9 Q. -- the number of classified staff for which
10 the state provides compensation --

11 A. Yes.

12 Q. -- is limited, is it not?

13 A. That's correct. So that --

14 Q. Okay.

15 A. So that both the state salary assumption and
16 the number of staff assumption is set in the budget or
17 in statute, as the case may be, and that is the
18 baseline the drives how much money goes to districts.
19 But then the districts can hire above that, they can
20 pay higher salaries, and, in deed, they can pay lower
21 salaries, although I imagine that's less the case than
22 the inverse, but --

23 Q. That's classified.

24 A. That's correct.

25 Q. Okay. Let's now go to certificated

1 instructional so we understand here.

2 The state funds a certain number of
3 certificated staff, does it not?

4 A. That's correct.

5 Q. And does that certificated staff number,
6 include more than certificated instructional staff?

7 A. I want to revise my statement and say the
8 state funds certificated staff units --

9 Q. Okay.

10 A. -- not specific teachers.

11 Q. Okay.

12 A. Okay? And then the answer to the second
13 question is, certificated instructional staff is what
14 applies to the teacher salary guide. The other
15 certificated staff or administrators, and they were
16 part of this other structure we were talking about. So
17 it's limited to certificated instructional.

18 Q. Okay. Now, certificated instructional staff
19 and the salary graphic or schedule or whatever it was
20 that you described it as, is an example of that chart
21 24 -- or excuse me, slide 24 in Exhibit 1406?

22 A. It is.

23 Q. Okay. And that is what is known as the
24 state's base salary model for teachers?

25 A. That's correct.

1 Q. Going back to slide -- no, before we go back
2 to slide 23 and staying on this certificated
3 instructional staff.

4 While the state only funds a certain amount
5 of certificated units --

6 A. Uh-huh.

7 Q. -- whatever you use --

8 A. Yep.

9 Q. -- are the districts free to hire more
10 certificated units than what the state funds?

11 A. They are.

12 Q. Were they confined to paying those
13 certificated units only in compliance with the salary
14 schedule on, an example of which is slide 24, or can
15 they pay more?

16 A. They can pay more under the conditions of the
17 TRI (Time, Responsibility, and Incentive) pay statute.

18 Q. Okay. And that is a state statute that
19 governs the ability to and circumstances under which
20 TRI or supplemental contract compensations pay?

21 A. That's correct.

22 Q. Now, going back to slide 23. All right?

23 The first bullet indicates, "Salaries for
24 most K-12 employees subject to collective bargaining at
25 the local level."

1 That is correct, is it not?

2 A. It is.

3 Q. Is that true today as well?

4 A. It is.

5 Q. The second point, "Certificated
6 administrative and classified staff salaries are
7 subject to local control and collective bargaining."

8 Is that true today, too?

9 A. It is.

10 Q. What's the difference between local control
11 and collective bargaining then? Why are they stated as
12 they are here?

13 A. Well, the distinction is -- when we're
14 talking about these two realms, one realm for
15 certificated instructional staff, and another realm for
16 classified and administrators. And in the certificated
17 instructional staff realm, we're talking about the
18 issue of local control. They can't just pay whatever
19 they want, whenever they want. That is compliance as
20 it relates to the schedule. Okay?

21 And that's the distinction that's made there
22 in the first and the second bullet.

23 Q. Okay.

24 A. Okay? So that -- and the second bullet's
25 saying administrators and classified staff, there's

1 collective bargaining, of course, but there's also this
2 broad local control. They don't have the salary
3 compliance issue to deal with in the same respect that
4 they do for certificated instructional staff.

5 Q. All right. And the collective bargaining
6 process that's referred to in this slide, is that
7 collective bargaining process, as far as you know,
8 involve the State of Washington?

9 A. It doesn't. The State of Washington is not a
10 party in the contract between the local teachers and
11 the district.

12 Q. Okay. Now, the third point on slide 23
13 indicates some of the information you've already
14 provided about salaries for a certificated
15 instructional staff, correct?

16 A. Yes.

17 Q. And the third point that says, "CIS salaries
18 can exceed the average salary limitation, only by
19 separate contract provision Time, Responsibilities, or
20 Incentive (TRI)."

21 Is that a reference to the statute you
22 referred to earlier as the TRI or a supplemental
23 contract statute?

24 A. It is.

25 Q. Okay. Do you know -- well, I wouldn't expect

1 you to recite it, but do you know, generally, what that
2 statute provides?

3 A. The so-called TRI statute?

4 Q. Yeah.

5 A. So my understanding of that statute is
6 that -- it says that a school district is limited by
7 certain conditions in what it can pay certificated
8 instructional staff, most of whom are teachers, but if
9 there are activities that are outside Basic Education
10 that are, indeed -- TRI stands for Time,
11 Responsibility, or Incentives, if they're kind of
12 extraneous to or supplemental to that, then they can
13 receive additional pay for those activities as
14 distinguished from the core basic educational function.

15 Q. Let's go to page 14, slide 28, which
16 discusses Accountability in Washington state, what is
17 the status.

18 What is the message being conveyed by this
19 slide?

20 A. I'm sorry. 28?

21 Q. Yes.

22 A. Okay. So I think the message here was just
23 to provide a high-level overview of some issues with
24 regards to the relationship between the state and
25 school districts with regards to funding.

1 And the point here is that, unlike some other
2 states, Washington doesn't actually intervene in
3 failing schools or school districts in the way that,
4 for example, New Jersey might. That a great deal of
5 the funding that goes to school districts through
6 General Apportionment is for allocation purposes only
7 and grants, you know -- and this is a judgment one has
8 to make on their own. But in a fair amount of
9 discretion about how that money is deployed, how many
10 classified staff they want to hire under what
11 circumstances, what they want to pay those classified
12 staff, and that -- you know, the -- I guess the last
13 bullet is about the while No Child Left Behind is going
14 to change the landscape for accountability nationwide.

15 Washington continued to have a voluntary
16 system of intervention where, if you're a failing
17 school district, unless you seek that assistance, the
18 state does not have the authority to go in and remove
19 administrators or order certain redirections.

20 Q. All right. Does that account for the state
21 accountability in Washington state today, as far as you
22 know?

23 A. I think generally speaking, yes, it is.

24 MR. CLARK: Your Honor, I'd like to finish
25 with this exhibit. I know we're pushing up against

1 4:00. But I have one more page to go to.

2 THE COURT: That's fine.

3 BY MR. CLARK:

4 Q. And it asks the question, Where do we go from
5 here? It's on page 18. And there are two slides on
6 page 18.

7 The question, I take it, was posed as
8 something that the Task Force should consider at this
9 point, I take it, correct?

10 A. Yeah. It was -- typically at the end of a
11 presentation like this, I'd try to wrap up with
12 questions that I think are relevant to the questions
13 that I will be answering, you know, as legislators --
14 and get them to think into the future about how some of
15 these issues tie together. So I offer -- and I think
16 Bryon and I mutually did this slide, five questions for
17 general consideration.

18 Q. Okay. And I'm interested in the third one
19 about, How can ample be quantified. But also it goes
20 on to say, And how will we know that it will produce
21 the desired outcomes.

22 Were these, in fact, policy questions that,
23 from your experience with the Task Force, they wrestled
24 with throughout their proceedings?

25 A. Yes, I think that's correct.

1 Q. And, also, the next point about, What do you
2 see as the appropriate balance of state and local
3 control in the funding structures, was that an issue
4 that the Task Force was trying to come to grips with,
5 as far as you knew, throughout its proceedings?

6 A. They did discuss it.

7 Q. And the same with the last point that's
8 there. Given that teacher quality is one of the
9 strongest school-base factors in determining student
10 outcomes, what is your assessment of the current
11 quality and how do you want to improve it, was that an
12 issue that was discussed and, frankly, in the forefront
13 as the Task Force continued its deliberations after
14 October of 2007?

15 A. It was a point of emphasis.

16 MR. CLARK: Okay. Your Honor, I'll stop
17 here, if you want me to. If you have more time, I'll
18 keep going.

19 THE COURT: I do not. I have commitments
20 this evening --

21 MR. CLARK: All right.

22 THE COURT: -- up at the Seattle University,
23 so we'll conclude here. We'll pick up with Mr. Rarick
24 tomorrow morning.

25 MR. CLARK: That's an issue that we should

1 discuss with counsel.

2 THE COURT: All right.

3 MR. CLARK: His availability is kind of
4 slender tomorrow. He's not available the whole day or
5 even the whole morning. So we have maybe a little bit
6 of Rarick, maybe not, but Julie Salvi's coming back.
7 So we'll have a full plate, I'm sure, no matter. So
8 show up hungry, Your Honor.

9 THE COURT: All right.

10 MR. CLARK: We'll have a full plate.

11 THE COURT: So we have all of tomorrow, and
12 the next week we only have one day, next Thursday, and
13 then a full week the following week.

14 MR. CLARK: That's correct, Your Honor.

15 THE COURT: So that's our schedule. I think
16 Marci's kept you all up to date.

17 MR. CLARK: We're already talking about it.

18 THE COURT: Excellent. All right. I will
19 see counsel tomorrow morning. We'll get started at
20 9:00 a.m.

21 Yes, Mr. Ahearne.

22 MR. AHEARNE: Is it possible to get sort of
23 an update on our running clock?

24 THE COURT: I have not calculated the numbers
25 since --

1 MR. AHEARNE: I have the last count, but --

2 THE COURT: Yes. I think the 24th is the
3 last; is that correct? I forget.

4 So I have 40.6 for petitioners as of the
5 24th.

6 MR. AHEARNE: Is that the end of the day the
7 24th?

8 THE COURT: That was the end of the day on
9 the 24th was 40.6. And respondent was 27.7. And I
10 haven't added up either yesterday or today as yet.

11 MR. AHEARNE: Thank you, Your Honor.

12 THE COURT: So I will get you that
13 information --

14 MR. AHEARNE: Thank you, Your Honor.

15 THE COURT: -- hopefully, by the end of the
16 day tomorrow.

17 All right. We'll be adjourned until
18 tomorrow morning 9:00 a.m.

19 (Proceedings adjourned.)

20 --oOo--

21

22

23

24

25

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

OFFICIAL COURT REPORTER

25