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**Reporter's Verbatim Report of Proceedings, Thursday, Oct. 8,
2009, Volume XIX - Sessions 1 and 2 of 4 [Pages 4135-4262]
07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR KING COUNTY

3

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

16
17 REPORTER'S VERBATIM REPORT OF PROCEEDINGS

18 --oOo--

19 THURSDAY, OCTOBER 8, 2009
20 VOLUME XIX - Sessions 1 and 2 of 4

21 --oOo--

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

25 --oOo--

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

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

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

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CHRONOLOGICAL INDEX

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THURSDAY, OCTOBER 8, 2009 - Morning Session

CALVIN BRODIE

Direct by Mr. Clark

4141

Noon recess - change in court reporters

4162

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EXHIBIT INDEX

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EXHIBIT

ADMITTED

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4161

1470

4247

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1 SEATTLE, WASHINGTON

2 THURSDAY, OCTOBER 8, 2009

3 MORNING SESSION - 9:00 A.M.

4 --oOo--

5 THE COURT: Good morning. Please be seated.

6 We are on the record in the matter of
7 McCleary versus State of Washington. This is King
8 County cause number 07-2-02323-2 Seattle. And we are
9 in the petition's case in chief.

10 Are there any preliminary matters before
11 we begin the morning session?

12 Mr. Ahearne, good morning.

13 MR. AHEARNE: I think you meant the
14 respondent's.

15 THE COURT: I'm sorry. I meant respondent.
16 Thank you for that correction. I've been gone for two
17 days. I meant respondent's. My brain was saying
18 respondent and my mouth said petitioner. Thank you for
19 that correction.

20 Anything else besides that?

21 MR. CLARK: I don't think we have any
22 preliminary matters this morning.

23 THE COURT: All right. Very good. Well,
24 let's welcome everybody back.

25 And, Mr. Clark, if you'd like to call

1 either your next witness or any of the witnesses that
2 we are continuing with.

3 MR. CLARK: I'll call our next witness. We
4 call Cal Brodie, the Director of School Apportionment
5 and Financial Services for OSPI.

6 THE COURT: All right. Very good.
7 Mr. Brodie, if you would please come to the stand.

8 (Witness sworn in by the court.)

9 THE COURT: For the record, Mr. Brodie,
10 please state your full name and spell for us your last
11 name and give us your contact address.

12 THE WITNESS: Okay. My full name is Calvin
13 Wade Brodie. The last name is spelled B-R-O-D-I-E.
14 I'll give you my home address, which is in Puyallup.
15 The address is 2718 Fifth Street SW and, as I said,
16 that's Puyallup, and the Zip code is 98373.

17 THE COURT: Thank you.

18 Mr. Clark.

19 MR. CLARK: Thank you, Your Honor.

20 CALVIN WADE BRODIE,
21 called as a witness herein, having been first duly
22 sworn, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CLARK:

25 Q. Good morning, Mr. Brodie. Would you state

1 your current employment, please?

2 A. I am currently employed by the State of
3 Washington under the Superintendent of Public
4 Instruction, Randy Dorn. My position is Director of
5 School Apportionment and Financial Services.

6 Q. And how long have you held that position?

7 A. Current estimate would be about eight years.

8 Q. All right. Could you describe for us your
9 post high school educational background?

10 A. Okay. After high school I attended the
11 University of Haven in New Haven, Connecticut and
12 received a bachelors degree in financial accounting. I
13 earned my CPA in Washington State. I've done numerous
14 continuing education classes throughout the years.

15 Q. All right. Could you trace for us your
16 employment history after you get out of college?

17 A. Okay. Immediately after college I had my
18 first professional job in Boston. I worked for a small
19 CPA firm called Reef Watchmaker. They were in Boston.
20 I was employed there for about two and a half years.
21 After that I moved to the west coast. I was employed
22 by Pannel Kerr Foster. We were out of Seattle for
23 about a half a year. And then I moved over to Moss
24 Adams, which was a regional firm out of Seattle, CPA
25 firm again. From Moss Adams, I moved over to the state

1 side and started working for the State Auditor's
2 Office. I was employed in both their Tacoma office,
3 their Seattle office. My initial employment was
4 working with computers doing something called EDP
5 auditing.

6 After about two years of that, I moved to the
7 regular field auditor in Tacoma, and the type of
8 entities I audited would be all local municipal
9 governments, cities, counties. The office was also
10 responsible for weed control districts, fire districts,
11 just about everything you can think of. I primarily
12 worked on school districts and the City of Tacoma in
13 that capacity.

14 After that I was employed by the
15 Superintendent of Public Instruction as an enrollment
16 supervisor and held that position, oh, for about five
17 years. After that I was promoted to Director of School
18 Apportionment and Financial Services.

19 Q. Who's your immediate superior at OSPI?

20 A. My immediate supervisor is Jennifer Priddy.

21 Q. Please describe for us what School
22 Apportionment and Financial Services does at OSPI.

23 A. Okay. We have two distinct areas of
24 responsibility. The apportionment side deals with
25 operationally funding schools, so we take what's in the

1 legislative budget, the rates provided, we create
2 rules, as needed, to implement those requirements of
3 the Legislature, and we provide monthly funding under
4 the state formulas for school districts and ESDs,
5 technical colleges, and institutional programs.

6 To do that we collect enrollments, we collect
7 information called staff mix factor, which is a
8 composition of all the individual employees in a school
9 district as of October 1st, various other information
10 as required to make the formulas work.

11 On the other side of the house is financial
12 services. In that capacity, we do more of an annual
13 operating cycle. We have three major areas we deal
14 with. The primary or the legal one is that we are the
15 accounting guidance office for school districts. We
16 define the standards under which school districts must
17 report to the states for both budgeting and the year-
18 end financial reporting.

19 Subservient to that, we also define
20 individual budgeting standards. We operate a system
21 that collects all budgets -- annual budgets, excuse me,
22 from the school districts in a prescribed format and we
23 also collect the year-end financial statements in a
24 prescribed format.

25 Q. How familiar are you with the budgetary and

1 accounting documents that school districts provide the
2 state?

3 A. I would consider myself to be an advancement
4 expert, knowledgeable person.

5 Q. All right. The budgetary document is the
6 F-195?

7 A. That is correct.

8 Q. And the annual financial statement is the
9 F-196?

10 A. That is correct.

11 Q. Does your area apportion to districts both
12 state and federal monies?

13 A. We apportion the state monies and are, you
14 know, intimately involved in all those calculations to
15 make that work. When we go over to the federal side,
16 it kind of breaks down in two different areas. You're
17 going to have federal monies that are entitlement, such
18 as Title One or the federal IDEA money. We typically
19 work with a program office on most of those programs
20 through creating that allocation dealing with the
21 federal rules and regulations and work with the program
22 office. And there will also be competitive monies that
23 typically we don't do anything operational with that.

24 All of these monies are pulled together into
25 our section to be paid each and every month to school

1 districts.

2 Q. The competitive monies you're referring to
3 are grants?

4 A. Yes.

5 Q. Okay. The Title One federal money you
6 referred to is for students who are struggling
7 academically?

8 A. That is correct.

9 Q. Okay. And I think you mentioned IDEA federal
10 money as well?

11 A. Yes.

12 Q. And what does that pertain to?

13 A. So IDEA is the acronym for the individual --
14 I can't -- stop for a minute. The Individuals with
15 Disability Education Act of the federal government, and
16 it focuses on children that are being served with IEPs,
17 referred to as Special Education.

18 Q. All right. Now, on the state side, is your
19 area responsible for apportioning the General
20 Allocation monies?

21 A. Yes, we are.

22 Q. Are you also responsible for apportioning the
23 state categorical funding for programs such as Special
24 Education, Learning Assistance, Transitional Bilingual?

25 A. Yes, we are.

1 Q. How is it that your group or area or you
2 personally know what amount of money to apportion to
3 any particular school district?

4 A. Generally the formulas or pretty well laid
5 out in the budget, and the Legislature establishes
6 certain rates to put into those formulas, such as
7 salary rates or benefit rates, et cetera.

8 What we do is we operationalize that every
9 month based on the information that the school
10 districts provide us, such as enrollment. Each month
11 they're providing us a student FTE enrollment, and the
12 formulas as they operate throughout the year will
13 eventually fund a school district based on the annual
14 average of that enrollment also adjusted for the staff
15 mix factor, which is a very simple number attempting to
16 capture the experience level and the educational level
17 of the instructional staff that the district hires.

18 Q. All right. Now, the funding formula that you
19 referred to in your prior answer, are those all
20 contained in state statutes, as far as the state money
21 is concerned?

22 A. Right. Most of them come out in the budget.
23 Details are -- I'm trying to think of any of them that
24 actually come down to a state statute. There may be
25 some such as I-728 that will say, say, an FTE times a

1 rate, and that rate is established annually in the
2 budget. When you actually deal with the Basic Ed
3 formulas, I believe most of those, although there may
4 be some pieces in statute, most of them, operationally
5 are in the budget every year.

6 Q. When you refer to the budget, are you
7 referring to the Appropriations Acts that the
8 Legislature passes and Governor signs?

9 A. That is correct.

10 Q. Okay. And those are state statutes, too, are
11 they not?

12 A. Technically, yeah, I think you're right. I
13 don't think of them that way, but you are correct.
14 Yeah.

15 Q. Okay. What responsibilities, if any, does
16 the School Apportionment and Financial Services area
17 have for local funds raised by local authorities for
18 school districts?

19 A. Okay. The primary responsibility we have is
20 each September we do a calculation to establish the
21 levy base that each school district has, and we also
22 establish the ceiling amount of local dollars they
23 collect from their local taxpayers.

24 Q. Okay. And the source of your agency's
25 authority, as it were, to set levy amounts, does that

1 derive from state statute as well?

2 A. It does.

3 Q. Okay. What responsibility, if any, does your
4 area have for the expenditure of local funds for K-12
5 schools?

6 A. When you talk about the local funds and the
7 expenditures, you're going to have a number of
8 different areas, and, actually, you're going to want to
9 cover all of them. You're going to have a general
10 maintenance and operation levy in which we set that
11 cap. That, generally, is money that can be spent just
12 about anywhere a district wants to.

13 You're going to have other types of money,
14 such as technology levies that are more limited as far
15 as how they can be spent.

16 To the extent that there are statutes out
17 there, we may create rules beyond that or rules that
18 define further how those monies can be spent. You'll
19 also have -- you can have capital levies. You're going
20 to have local bond money, which is intended for the
21 construction of new buildings or major remodeling.
22 We're going to have rules in place for those as well.

23 Q. All right. Does OSPI observe any control
24 over how school districts spend those state funds?

25 A. Their state funds?

1 Q. Yes.

2 A. As we operationalize the formulas, the
3 Legislature may have language that is carried over
4 recovery restrictions. We will do a calculation. We
5 will establish the rules as far as what are acceptable
6 expenditures within those programs. For example, I'll
7 pick on vocational programs for a moment.

8 We've operationalized that in black in our
9 rules as far as how those monies can be spent. To the
10 extent that they can carry over a certain amount of
11 money, and operationalize that for carryover -- excuse
12 me, for recovery if they don't spend all their money in
13 the program and exceed their carry-over limits.

14 When we talk about how they spend state
15 monies, a variety of different programs, something like
16 Basic Ed, we have almost no rules defining how they
17 spend that. Something like Special Ed, we're going to
18 have more rules as far as what's appropriate, what is
19 not appropriate. Vocational will be another one.
20 There's always a variety of different programs. As you
21 get more and more categorical programs funded by the
22 state, the Legislature typically has an intent on what
23 it's going to be spent on. And in consultation with
24 legislative staff and others, we may develop rules
25 bringing that high concept down to an operational

1 level.

2 Q. All right. And does OSPI exercise any
3 responsibility, vis-a-vis how the school districts
4 spend their federal monies?

5 A. We have an oversight responsibility to ensure
6 that they meet the federal requirements for things such
7 as time and effort, doing suspension and department
8 checking for vendors, Cash Management Act. But it's
9 all instituting federal law. We don't embellish beyond
10 that.

11 Q. Okay. And just as an example, you mentioned
12 time and effort. What --

13 A. Yes.

14 Q. -- does that concept or principle mean under
15 federal law vis-a-vis K-12 schools?

16 A. You may have teachers or staff that work in
17 multiple areas. For example, you could have a teacher
18 that spends their morning being a Special Ed teacher.
19 In the afternoon they're doing something else.

20 The federal rule requires that they keep
21 track of their time in a time sheet fashion as far as
22 how much time they're spending in the federal program
23 versus how much time they're spending in something
24 else.

25 There's a variety of different ways to meet

1 that but that's called time and effort.

2 Q. Okay. And is the time and effort
3 requirements something you have to look into because
4 the federal government is providing the monies to
5 employ the teacher, for example, who's putting in the
6 time and effort on the federal program?

7 A. That is correct.

8 Q. Okay. What role, if any, does OSPI have in
9 determining the amount the state provides for Basic
10 Education programs, services, or staff?

11 A. Those decisions are made by the Legislature.
12 In that process they may ask us for information. In
13 the aggregate level, they'll ask us for caseloads. Is
14 enrolling going up? Do we need to provide more money
15 for additional students?

16 The last question is about staff mix. You
17 know, what is staffing with the teacher's experience,
18 is it going up or down.

19 They may ask for a variety of analyses on
20 different concepts that they're considering, but the
21 decision rests with the Legislature.

22 Q. Okay. There are non-Basic Education programs
23 for which OSPI's responsible for apportioning funds to
24 the districts, are they not?

25 A. There is.

1 Q. Okay. Can you tell us, for example, what
2 non-Basic Ed programs you have responsibility for?

3 MR. AHEARNE: Your Honor, at this point --
4 I've been sitting here letting Mr. Clark do the
5 introduction for his witness, but at this point he's
6 starting to go beyond the scope of what this witness
7 was called for.

8 And what I'm referring to is their 30B6
9 Notice which you agreed to identify him as a witness
10 who was being called as a witness solely for the
11 subject of their 30B6 Notice.

12 THE COURT: What does the 30B6 Notice
13 designate, Mr. Ahearne?

14 MR. AHEARNE: Actually, it's Trial Exhibit
15 21. And I understand counsel's allowed to go into
16 background to, you know, introduce this, but I think
17 we're now getting beyond that.

18 THE COURT: So this was your request for the
19 state to designate a 30B6 witness and they produced --

20 MR. AHEARNE: Mr. Brodie.

21 THE COURT: -- Mr. Brodie to respond to this
22 area.

23 MR. AHEARNE: Yes.

24 THE COURT: And in their identification of
25 witnesses for trial, did they state that this would be

1 the scope of his testimony?

2 MR. AHEARNE: Actually, I -- since it was
3 vague as to what the scope was going to be on August
4 3rd, I sent Mr. Clark an e-mail saying I'm sending this
5 e-mail to make sure we both have the same
6 understanding. I listed a bunch of witnesses and then,
7 "With respect to Cal Brodie, my understanding is that
8 he is on your list only in the 30B6 capacity of his
9 dep. Please let me know if I'm wrong. Thanks, Tom."
10 And Mr. Clark responded, "Tom, I've reviewed these
11 items below. I believe we concur with all but two of
12 them," and then he identified Ben Rarick and Sam Reed.

13 So my understanding is that Mr. Brodie was
14 being called today solely for the subject of this 30B6
15 dep.

16 THE COURT: And was --

17 MR. AHEARNE: And I have copies of the
18 e-mails.

19 THE COURT: Was his deposition taken?

20 MR. AHEARNE: Yes, Your Honor.

21 THE COURT: Is this beyond the scope of the
22 testimony he gave at his deposition?

23 MR. AHEARNE: I think we're starting to get
24 beyond what is on here, yes, Your Honor.

25 THE COURT: Well, not what's on the

1 document. I want to know what he testified to in his
2 deposition because, obviously, if you inquired into
3 areas in his deposition under the auspices of 30B6 and
4 obviously this is the scope of the witness's
5 testimony. So I need to know what he testified to in
6 his deposition.

7 MR. CLARK: Can I be heard, Your Honor?

8 THE COURT: Yes, Mr. Clark.

9 MR. CLARK: Well, all I want to say is that
10 the F-196s and the F-195s, the various accounting
11 manuals and documents that are listed in here encompass
12 many sources of funds and many types of expenditures
13 both for non-Basic Education programs, Basic Education
14 programs, state and federal.

15 These are all accounting type matters, Your
16 Honor. And so if I'm going to talk to this gentleman
17 about this aspect of the Basic Ed funding or this
18 aspect of the accounting for Basic Ed expenditures, and
19 the same types of inquiries for non-Basic Ed programs.
20 It's all in the mix, Your Honor.

21 So this is background to be sure, but it's
22 necessary to an understanding of the documents, and I
23 know we've come a ways and you have an understanding of
24 it, but I don't think this testimony is cumulative of
25 what's come in so far, and I don't think it strays

1 beyond the 30B6 parameters.

2 We called him to talk about the accounting
3 side and the apportionment side. That's who he works
4 for. So there's apportionment and accounting, and I
5 don't see that it strays from this subject matter of
6 either the deposition or this 30B6 Notice.

7 MR. AHEARNE: The subject matter of the
8 deposition under 30B6 is the reporting requirements in
9 these specific documents, not the apportionment side
10 things or who determines Basic Education Program as
11 opposed to non-Basic Education Program. I think we are
12 getting beyond the general background.

13 MR. CLARK: He asked him about the
14 apportionment side, Your Honor, in his deposition.

15 MR. AHEARNE: I don't recall that, Mr. Clark,
16 but if I'm wrong, I readily admit that I don't recall
17 things a hundred percent.

18 THE COURT: But I think I may have lost the
19 question. I know it had to do with supervision over
20 non-Basic Education programs; is that correct?

21 MR. CLARK: I think I asked him first about
22 do you apportion monies for that and he answered.

23 THE COURT: Right.

24 MR. CLARK: And then I asked what are the
25 non-Basic Education, or can you give me some examples

1 of the non-Basic Education programs that you
2 apportioned.

3 THE COURT: Well, if nothing more, that
4 certainly is foundational. You know, with 30B6, I
5 think that the purpose of disclosure of witnesses is to
6 avoid surprise, and if this is within the scope or
7 related to the scope of the testimony that Mr. Brodie
8 gave in his deposition, I'm inclined to let him testify
9 on the stand as to those subject matters he testified
10 to at his deposition.

11 Moreover, the pending question is really
12 fairly foundational. I don't know how far Mr. Clark is
13 going to go, but the pending question I would find
14 objectionable, but it strikes me that eventually we're
15 going to have to address this issue.

16 So, I really don't know where to go with this
17 other than to overrule this objection, allow the answer
18 to his question. And, Mr. Ahearne, my ruling would be,
19 just for what it's worth, I suppose it's advisory at
20 this point. But my intent would be not to allow the
21 witness to testify beyond the general subject areas to
22 which he testified to in his deposition, and you can
23 make your objections accordingly.

24 MR. AHEARNE: Thank you, Your Honor.

25 THE COURT: You're welcome.

1 All right. Mr. Brodie, do you know what
2 the question is, or would you rather --

3 THE WITNESS: Please restate the question.

4 THE COURT: All right.

5 BY MR. CLARK:

6 Q. I think what I asked was, can you give us
7 some examples of the non-Basic Education programs for
8 which you have apportionment responsibilities.

9 A. Okay. Examples of current and some past
10 programs. We have a program called Middle School
11 Vocational, which is providing current technical
12 education to 7th and 8th graders.

13 We've had, historically, a program called
14 PAS, which is Promoting Academic Success, which was
15 focusing on providing additional services to students
16 that had failed the 10th grade WASL.

17 My mind is going blank beyond that, but there
18 are a number of programs such as that.

19 Q. Okay. Now, you've described a little bit
20 about what the School Apportionment and Financial
21 Services area does on the financial services side. For
22 example, we've identified the budgetary document, the
23 F-195s, correct?

24 A. That is correct.

25 Q. And each school district, each of our 295

1 school districts, submits that document annually, does
2 it not?

3 A. That is correct.

4 Q. Okay. Similarly, each of our 295 school
5 districts submits an annual financial statement, the
6 F-196.

7 A. You are correct.

8 Q. Does OSPI have any documents that describe
9 the budgetary process and the financial statement
10 process so that the school districts know what to do?

11 A. We have two primary documents we work with.
12 Annually in the spring we typically publish something
13 called the ABFR. That stands for Administrative
14 Budgeting and Financial Reporting. It's a handbook of
15 sorts, a collection of different information starting
16 with an interpretation of the budget that just came
17 out, giving districts information on how to budget that
18 information, given the formulas or drivers that will be
19 used to determine their funding level.

20 There are other sections that talk about it
21 in a section on the F-196. There is information on how
22 to prepare that, more of a process level than, say, a
23 handbook on the detail. We'll have information on the
24 F-195 process. And, once again, more process piece
25 than anything else. There are sections in there on how

1 districts would do a budget extension, how they could
2 potentially ask for an apportionment advance if they
3 need money faster than we would normally apportion it.
4 How they could go on -- well, a variety of different
5 areas there. That would be the ABFR.

6 I say typically. It's something that many of
7 the sections are repetitive year to year without
8 significant change, and we've had a history,
9 occasionally, when we're overloaded, of getting key
10 information out to school districts without necessarily
11 publishing the entire handbook.

12 Q. All right. Let me place before you Exhibit
13 26. I'll take that away from you.

14 A. So I have in front of me Exhibit 26.

15 Q. All right. Could you identify Exhibit 26 for
16 us, please.

17 A. Exhibit 26 is the ABFR dated May 2006, and
18 this would cover budgeting for the 2006-2007 school
19 fiscal year.

20 MR. CLARK: I'm trying to verify if anybody's
21 offered 26, Your Honor. And, if not, we would do so.

22 THE CLERK: Nobody has.

23 THE COURT: I don't have it. Theresa?

24 THE CLERK: It's not admitted.

25 THE COURT: It's not admitted.

1 MR. CLARK: We would offer 26, Your Honor.

2 THE COURT: 23 is offered.

3 MR. ROBB: No objection, Your Honor.

4 THE COURT: 26 is admitted.

5 EXHIBIT ADMITTED

6 BY MR. CLARK:

7 Q. Next I'm going to show you Exhibit 30 and
8 ask that you -- that takes up the whole volume. Open
9 the cover, and would you identify Exhibit 30 for the
10 record, please.

11 A. Exhibit 30 is the Annual Accounting Manual
12 for public school districts in the State of
13 Washington. It is a publication that my section is
14 responsible for. It is dated September 2007. This
15 would be effective for the 2007-2008 school fiscal
16 year.

17 MR. CLARK: Okay. We would offer Exhibit 30,
18 Your Honor.

19 THE CLERK: 30 is already admitted, Your
20 Honor.

21 THE COURT: 30 is previously admitted,
22 counsel.

23 MR. CLARK: Oh. All right.

24 BY MR. CLARK:

25 Q. What use, if any, does OSPI make of the F-196

1 documents it receives from the school districts each
2 year?

3 A. There are a number of different uses we do
4 with that.

5 First, I've spoken earlier about recovery and
6 carryover calculations. So, for example, when we look
7 at vocational expenditures on the F-196, we evaluate
8 these versus the funding that we provided to the school
9 district. If those expenditures are below the funding
10 level, they can carry over up to 10 percent of the
11 unspent money, and if it's significantly below that
12 level or any of the level below there, we would have to
13 recover the excess. And there's a number of programs
14 we do that for.

15 The F-196 is also used in determining a
16 district's indirect rate for federal and state
17 programs, and this would be the allowance that each
18 program is allowed to provide funding for the general
19 district operating costs.

20 Q. All right.

21 A. Okay?

22 Q. When you say the indirect rate, are you
23 talking about a factor that represents indirect
24 overhead cost versus direct overhead cost that they're
25 allowed to factor in in their accounting?

1 A. If I can explain it differently.

2 When you talk about a district program, many
3 of them are focused on a particular area. So the
4 direct cost is going to be those people assigned to
5 that program, actually working with students or working
6 directly with that program.

7 Whether a district cost of housing those
8 people, facility costs, there are district costs
9 associated with making sure their payroll is processed,
10 making sure their purchasing requisitions are
11 processed, that they receive the services. They're
12 going to need heat, lights, and utilities, and a number
13 of expenses that are very difficult to determine the
14 exact expenditure level that they do.

15 So in many operations, you'll create
16 something called an indirect rate, which is an attempt
17 to give an allowance for those somewhat difficult
18 expenditures to allocate back. So when you talk about
19 the federal restricted rate, it is something that's
20 established by federal rule on how we calculate that
21 and it tends to run about three percent of the program
22 expenditures.

23 There is also a federal unrestricted rate
24 that's used only for the food service program, to my
25 knowledge. It might be slightly higher than six or

1 seven, and that is a separate calculation that we do
2 for the state recovery rate, which is a rate we allow
3 them when we're doing carryover recovery calculations.
4 Typically, about 18 percent but it can vary widely by
5 district based upon the particular practices and
6 economies of scale.

7 Q. Okay. Does OSPI do any auditing function
8 with respect to the F-196?

9 A. We have no auditing function.

10 Q. Okay. You once worked for the State
11 Auditor's Office?

12 A. I did.

13 Q. And you were responsible when you were with
14 the State Auditor's Office for auditing school
15 districts?

16 A. I was.

17 Q. Okay. I take it you were familiar due to
18 your job back then with the practices and procedures
19 for State Auditor's Offices auditing of school
20 districts.

21 A. Yes, I was.

22 Q. Okay. What review or analysis does OSPI
23 conduct with regard to the F-195s?

24 A. Districts filing the F-195s are divided into
25 two different classifications. You're going to have

1 Class I districts that have 2,000 or more students. We
2 simply accept their budgets.

3 When we get below 2,000 students that are
4 Class II district, and for those we do a rather high
5 level of review. I don't want to give the appearance
6 that we certify numbers, but we do a reasonableness
7 check and we look at expected patterns, are they
8 following through.

9 If we had a small district that went from 200
10 kids and now they're budgeting 1,000, that would raise
11 some eyebrows and we'd ask questions of them.

12 Q. Okay. Do you work with the State Auditor's
13 Office in your current position --

14 A. I do.

15 Q. -- with regard to school districts?

16 A. I do.

17 Q. And give us some examples of where it is that
18 you interface, interact with the State Auditor's Office
19 on school district matters?

20 A. Okay. While we publish the Accounting Manual
21 annually and we have primary responsibility for that,
22 it's a responsibility shared with the State Auditor's
23 Office. And we are supported by a working group of
24 school district ESD personnel that help support us, and
25 we have members of the State Auditor's Office there.

1 So we have regular conversations and
2 interactions with members of the State Auditor's Office
3 as far as what is appropriate accounting policy for
4 school districts.

5 Q. Okay. In your current position today, are
6 you still familiar with the procedures and processes
7 whereby the State Auditor's Office audits F-196'?

8 A. Yes, I am.

9 Q. Describe what you know from your experience
10 with the SAO as to the type of auditing that is done by
11 that office of the school district financial
12 statements?

13 MR. AHEARNE: Your Honor, at this point I
14 think it's, clearly, going beyond the scope, not only
15 the 30B6 but what we discussed in the dep.

16 MR. CLARK: This was discussed in the
17 deposition, Your Honor.

18 MR. AHEARNE: If Mr. Clark can point me to
19 the spot, I'd be ready to confess my lack of memory.

20 MR. CLARK: All right. Your Honor, I'm not
21 going to be able to, like, do exegesis on the
22 deposition transcript to justify every point I'm making
23 in the deposition. I'm simply not prepared to do
24 that.

25 However, his experience with the State

1 Auditor's Office and discussion about what goes on with
2 auditing F-196s was covered in the deposition. And
3 this foundation for him to give the testimony, now
4 we're just simply trying to keep it out on the grounds
5 that it wasn't covered in the 30B6 Notice or in the
6 deposition, and I'm, frankly, a little frustrated at
7 that approach because I believe it was discussed in the
8 deposition. And even if it were not discussed, these
9 are matters that relate to accounting practices of the
10 district that this man is familiar with, both in his
11 current capacity and in the capacity they used to have,
12 as well as what he does now, in conjunction with the
13 State Auditor's Office.

14 I'm not going to spend a lot of time on it,
15 but I don't think that that's material to whether or
16 not I get to ask the questions and he gets to provide
17 the testimony. There's no surprise here.

18 THE COURT: Mr. Ahearne.

19 MR. AHEARNE: I was expecting the witness to
20 testify on the 30B6 designation because that's what I
21 understood the witness was testifying on.

22 Can I come up with the questions to ask
23 on cross? Probably. Am I as well prepared as I would
24 have been if I had known that he would be testifying on
25 what the State Auditor's actual requirements are, et

1 cetera? My recollection of the deposition was it was
2 as simple as, hey, do you guys do auditing? Oh, no,
3 that's the State Auditor's job. Not, what does the
4 auditor do, what are his processes, et cetera, which is
5 what is understood the question to be.

6 THE COURT: That is my understanding also,
7 which is, you're asking this witness's understanding of
8 the procedures at the State Auditor's Office.

9 What do you have in his deposition,
10 Mr. Clark?

11 MR. CLARK: If you'll give me a minute, Your
12 Honor, I'll have to see if I even have the transcript.

13 THE COURT: The concern and the objection
14 here is that this witness is testifying not about OSPI
15 at this point but about the State Auditor's Office and
16 it is potentially beyond the scope of this witness's
17 disclosure as well as his role at OSPI.

18 MR. AHEARNE: Your Honor, I have what I think
19 is the one section that Mr. Clark is referring to, but
20 I guess what we should do is publish the deposition and
21 then I can read it or --

22 MR. CLARK: Your Honor, I'd like to go to the
23 deposition notice itself that asked for us to produce
24 someone from the State of Washington -- it wasn't
25 OSPI. It was the State of Washington -- who was going

1 to testify regarding the following education accounting
2 and budget documents, and that includes the F-196.

3 I've already established that this
4 gentleman is familiar with the documents. He's
5 familiar with what OSPI does. He's familiar from his
6 past employment at the SAO about the Auditor's Office
7 and he has current responsibilities at OSPI that
8 require him to interface and interact with the SAO when
9 it comes to dealing with the school districts and their
10 financial documents.

11 I don't see that strays outside the
12 scope of the deposition at all.

13 THE COURT: Mr. Ahearne.

14 MR. CLARK: The scope of the deposition
15 notice, anyway.

16 THE COURT: Mr. Ahearne.

17 MR. AHEARNE: One, I disagree, but, two, the
18 state has on their witness list Lou Adams from the
19 State Auditor's Office. If they want to have someone
20 come in and testify as to what the state auditor does,
21 I would think that would be the State Auditor's Office
22 person.

23 But, again, I don't want to waste -- eat
24 up -- chew up the time clock on it if it's purely
25 foundational, but I do want to keep the testimony

1 confined to what it was disclosed to be.

2 THE COURT: Are you calling someone from the
3 State Auditor's Office?

4 MR. CLARK: I don't think we're going to have
5 time, Your Honor. I mean, frankly, we're going to have
6 the same problem there because they asked for Lou Adams
7 who was the designee from SAO. But they asked for a
8 state witness to come in and talk about the performance
9 audit that Your Honor's already heard some testimony
10 about in connection with the Edmonds School District.
11 And we proposed her to testify about that.

12 There were some general questions of her
13 by Mr. Ahearne about the State Auditor's function, but
14 I'm afraid if we're to call her in and then he'll stand
15 up and say, well, this is supposed to be about the
16 performance audit but not the other stuff. And I'm
17 trying to use my time economically. I'm trying to use
18 it with witnesses who have first-hand knowledge, and I
19 would submit that he does.

20 And so the only issue is whether or not
21 this falls within the scope of a deposition or a
22 disclosure of testimony that relates to the accounting
23 and budgetary documents that the school district submit
24 to the state. And I submit that it clearly does.

25 We're taking an extremely narrow view of

1 this deposition notice much more narrow than I thought
2 we were dealing with when I produced the person most
3 knowledgeable about these documents and this process.

4 Now, we're taking a very narrow view of
5 it in an attempt to keep out testimony, frankly, that
6 the petitioner's just don't want to hear.

7 MR. AHEARNE: Well, I haven't heard what the
8 testimony is so I don't know if I want to hear it or
9 not.

10 I don't want to be chewing up
11 Mr. Clark's time clock on purely foundational things,
12 but, without getting into the substance that's
13 beyond -- or outside the scope, that's where my
14 objection really would be, Your Honor, and --

15 THE COURT: Well, the 30B6 was with respect
16 to the F-195, the F-196s. So this individual has
17 knowledge of those documents based on his experience
18 both, not only at OSPI in his current position at OSPI,
19 but his prior position at the State Auditor's, and the
20 interface of those agencies with regard to those
21 documents. I don't think that appears to beyond the
22 scope.

23 The objection is overruled.

24 MR. CLARK: Thank you.

25 THE COURT: You may proceed, Mr. Clark.

1 MR. CLARK: I apologize. I've forgotten the
2 question myself now. Perhaps the reporter could
3 refresh me.

4 (A discussion was had between the court and
5 court reporter.)

6 MR. CLARK: Perhaps if it's too complicated I
7 should just start over.

8 THE COURT: Yeah, I think you were talking
9 about his familiarity with the F-195s based upon his
10 work on behalf of OSPI with the Auditor's Office.

11 MR. CLARK: Okay.

12 THE COURT: That's --

13 MS. BASHAW: I thought I went beyond that so
14 let me see if --

15 MR. AHEARNE: Let me see if I can help you.

16 I think your question was that, based on
17 his experience with that State Auditor's Office and
18 prior job, what does the Auditor's Office do with
19 respect to the F-196s.

20 THE COURT: Oh, 196s? Okay.

21 MR. CLARK: Yeah. And I would amend the
22 question, and maybe I should just simply restate it.

23 BY MR. CLARK:

24 Q. I would like him to relate what he knows of
25 the auditing practices of the State Auditor's Office

1 not just based upon his prior experience there but
2 based upon his current interaction and relationship
3 with that office when it comes to auditing the F-196s
4 submitted by the school districts.

5 And that may not have a question mark at the
6 end of it, but it's more or less a question. And if
7 you understand it, can you answer it?

8 A. I will do my best.

9 Q. Okay.

10 A. You asked about how they -- the auditing
11 practices for the 196s.

12 Q. Correct.

13 A. I'll focus on only that area.

14 The auditors cover a bunch of different areas
15 when they audit. If there's a federal compliance
16 issue, there's going to be a state compliance issue.
17 Did they follow the rules. And then they're going to
18 have a financial statement audit, which is a piece of a
19 larger audit process.

20 When they look at the F-196s they focus on
21 the district-wide summary, which is approximately the
22 first 13 pages in the report. They do not audit the
23 detail beyond that point. They do not issue an opinion
24 on the pages beyond that point. They go into the
25 detail program levels.

1 They may look at some of those areas as part
2 of just a general transactional testing but to see that
3 all expenditures are being approved appropriately and
4 charged to the same area. But it's a very small sample
5 basis to test a system rather than to opine on the
6 adequacy of those individual programs, whether the
7 appropriateness of what was reported in the programs.

8 When they issue a financial statement
9 opinion, very similar to the industry, they issue an
10 opinion that says that they are fairly stated, not
11 exact, not precise. And within that concept of fairly
12 stated, there's a concept of materiality, that in a
13 layman's perspective can be a very wide margin of
14 error. For something like Seattle, it could be a \$5
15 million error in the aggregate picture, not the
16 individual programs. Since they're not auditing
17 programs, I'm not even going to give an opinion on that
18 level.

19 So, hopefully, that covers the area in which
20 we were trying to get with the question.

21 Q. Okay. I think in your deposition, you
22 referred to the F-196s as a high level of accounting-
23 type document.

24 Do you recall that phrase or testimony in
25 connection with the F-196?

1 A. I do not recall, but I, quite honestly, may
2 have said that. They are a high-level document.

3 Q. Okay. Let's assume you did say and use the
4 phrase high level. What do you mean by high level of
5 accounting when you're discussing something like the
6 F-196?

7 A. You're taking very large, multi-million
8 dollar corporations and you're trying to break it down
9 into key areas.

10 For example, you can have a variety of
11 different programs that we've defined in the Accounting
12 Manual. You're going to have the granddaddy of all of
13 them, which is the Basic Ed Program, this Program 01,
14 different than the legal definition of Basic
15 Education. You're going to have --

16 Q. Let me stop you there. What do you mean
17 different than the legal definition of Basic Education
18 when it comes to category 01?

19 A. When we have the term Basic Education, you
20 always have to understand what the person is using that
21 term for. There's a legal definition of Basic
22 Education which is what the state's legal
23 responsibility is, which I understand to be the Basic
24 Ed Program of education.

25 In accounting terms, which we capture as

1 Program 01. The Special Education program, which we
2 capture in Program 21, the state funded piece. You're
3 going to have the Bilingual Program, which we capture
4 as Program 65. And I believe LAP is in there as well,
5 and then you're going to have vocational, and that
6 would be the Core. So you're talking about the legal
7 Basic Education. It's going to be a group of
8 programs.

9 If you're in the accounting world and you're
10 talking about just Basic Education, it's going to be
11 the general classroom and support of the school
12 structure.

13 Q. Okay. And when expenditures are put into
14 Basic Education, accounting, or Code 01, are the
15 districts told that they can only put state money in
16 that -- or state expenditures with state money into
17 that 01 category?

18 A. They are not.

19 Q. What discretion do they have to put
20 expenditures in the 01 Basic Education category
21 depending upon the source of the funds?

22 A. So if we're talking about Program 01 and any
23 restrictions about what can be in there, the way we
24 restrict what's in there is because of the -- due to
25 the allowable activity codes we put into that program.

1 So, for example, you can't charge a
2 superintendent to 01. As far as the revenues that
3 support the activities of Program 01, as long as the
4 revenues themselves do not have restrictions, and some
5 key pieces of that would be the local levy dollars, the
6 local effort assistance provided by the state, there's
7 a federal program called Impact Aid that has a large
8 chunk. They can be spent anywhere they want to in the
9 district and 01 certainly could capture the benefit of
10 those revenue streams.

11 Q. Does 01 Basic Education capture expenditures
12 made with local money?

13 A. I would have to say yes, generally.

14 Q. Does 01 Basic Education capture the
15 expenditures made with federal funds?

16 A. If the federal funds allowed that discretion,
17 yes.

18 Q. Okay. And, of course, 01 Basic Education
19 expenditure category, captures expenditures made with
20 state funds as well.

21 A. That is correct.

22 Q. Now, as far as filling out or filling in the
23 F-195s and F-196s are concerned, what entity is
24 responsible for completing these documents?

25 A. The responsibility for these documents rests

1 with the school district.

2 Q. Okay. Does OSPI, in your experience,
3 exercise any control over how local districts report
4 their K-12 expenditures by Expenditure column?

5 A. Within the Accounting Manual we would define
6 things, such as activity, what is an appropriate
7 expenditure that can be coded to those activities.
8 We're going to have objects. What is appropriate to be
9 coded with those objects. We talked about different
10 programs, but the actual transactions are executed by
11 the district and we have no way of knowing what's in
12 there short of going out and talking to them.

13 Q. Okay. What entity is responsible for the
14 accuracy and integrity of the F-195s and F-196
15 documents?

16 A. As any financial statements, the entity
17 creating them has the final responsibility for those
18 documents.

19 Q. And that would be the school districts?

20 A. That is correct.

21 Q. Okay. What entity is responsible for the
22 accuracy or integrity of the specific expenditure
23 information or specific revenue information that is
24 rolled up in the F-196s?

25 A. That would be the school districts.

1 Q. Okay. What, if anything, does OSPI do to
2 verify the information that school districts report in
3 their F-196s?

4 A. As they prepare the F-196s, they're doing it
5 on the system that we provide. In that system they
6 have certain edits built into it. For example, we may
7 tie certain revenue codes to an expected value based
8 upon what we provided in funding. But it tends to be a
9 very high level, kind of what I call dummy test, keep
10 you from making big errors, but they're not going down
11 to a finite level of accuracy.

12 Q. Okay. What, if anything, does OSPI do to
13 verify the accuracy or integrity of the underlying
14 revenue or expenditure data that is rolled up into the
15 F-196s?

16 A. Outside of the edit test, not that much.

17 Q. Do you know if the State Auditor's Office
18 does anything to verify the accuracy or integrity of
19 underlying revenue or expenditure data reported in the
20 F-196?

21 MR. AHEARNE: I object on hearsay grounds,
22 Your Honor.

23 MR. CLARK: I just asked if he knows and --

24 THE COURT: Calls for a yes or no answer.

25 THE WITNESS: Yes.

1 BY MR. CLARK:

2 Q. And is your knowledge based upon your current
3 work experience?

4 A. The knowledge is more based upon my
5 experience in the Auditor's Office and the small bits
6 of interchange I have now with the Auditor's Office.

7 Q. Okay. What is your understanding as to the
8 effort SAO takes to verify the integrity or accuracy of
9 the underlying expenditure data reported in the
10 financial statements?

11 MR. AHEARNE: Your Honor, same hearsay
12 objection. The only way he knows this is because of
13 what auditor people may or may not have told him.

14 THE COURT: Mr. Clark, I believe this is in
15 the nature of the same objection raised by the state in
16 petitioner's case with respect to knowledge of third
17 parties.

18 Why isn't this hearsay?

19 MR. CLARK: Well, it's not hearsay because
20 part of his answer indicated he knows because of his
21 prior experience with the State Auditor's Office.

22 THE COURT: Well --

23 MR. CLARK: I suppose I could ask him another
24 question, which would be, is your knowledge of what
25 goes on there today any different from what your

1 knowledge indicated to you back when you worked there.

2 THE COURT: But his current knowledge comes
3 from third parties at SAO, which is the definition of
4 hearsay.

5 MR. CLARK: Well, maybe I should ask that
6 question specifically, Your Honor --

7 THE COURT: All right.

8 MR. CLARK: -- and we'll get that answer and
9 then we'll know what the answer is.

10 THE COURT: Okay. Very good.

11 BY MR. CLARK:

12 Q. Is your knowledge of the State Auditor's
13 Office's current practices with regard to reviewing the
14 underlying data that goes into the F-196s, is that
15 based upon what others have told you, or is it based on
16 some other source?

17 A. It's based on a combination of sources. I
18 interface regularly with auditors through the
19 Accounting Manual Committee as far as regular and
20 routine phone calls, request for support or information
21 about what they're doing on their part, as well as
22 spending, I believe it was five years, in the State
23 Auditor's Office and doing the transactional type
24 testing.

25 Q. Does the Accounting Manual reference, at all,

1 the State Auditor's Office audits? Do you know offhand
2 without -- I'm trying to review the document myself.

3 A. To the best of my knowledge, I don't recall
4 that we reference specifically the State Auditor's
5 audits. The State Auditor is a co-regulatory agency
6 and has their seal and their name attributable to this
7 manual.

8 Q. Could you turn to Exhibit 30, the State
9 Accounting Manual?

10 A. Okay.

11 MR. CLARK: And the pagination and
12 organization is a little bit unique, Your Honor, so
13 I'll make my best efforts.

14 THE COURT: All right.

15 BY MR. CLARK:

16 Q. There is a section, Chapter 8, Financial
17 Reporting, Section 12, State Auditor's Opinions, and,
18 of course, it has page number one on it even though it
19 is in the middle of this document.

20 A. I am now on that page.

21 Q. Okay. Were you able to find that page?

22 A. Yes.

23 MR. CLARK: Okay. Do I need to assist
24 anybody else?

25 THE COURT: I have it, counsel.

1 MR. CLARK: Okay.

2 BY MR. CLARK:

3 Q. And on this page and the ensuing page,
4 Mr. Brodie, is there not a discussion of State
5 Auditor's opinions and compliance opinions, financial
6 reports, and the like?

7 A. Yes, there is.

8 Q. Does that refresh your recollection as to
9 whether the Accounting Manual addresses the State
10 Auditor's activities with regard to the financial
11 statements submitted by the districts?

12 A. Yes, it does.

13 Q. Okay. Does this -- even though you didn't
14 recall it earlier, does this material in Exhibit 30
15 refresh your -- provide rather, your recollection about
16 what the State Auditor's Office does with regard to
17 verifying the accuracy or integrity of underlying
18 expenditure data?

19 A. It provides more detail that supports an
20 earlier statement I made that they do a compliance
21 audit as well as a financial audit.

22 Q. Okay. And what, if anything, do you know
23 based upon your familiarity with Exhibit 30 about
24 whether or not the State Auditor's Office does anything
25 to verify the accuracy or integrity of school district

1 expenditures underlying the expenditure data?

2 A. Can you please repeat the question?

3 Q. Sure. Based upon your review of these two
4 pages of Exhibit 30, what, if anything, can you tell us
5 about what review the State Auditor's Office does with
6 regard to the underlying expenditure data reported by
7 districts on the F-196s?

8 MR. AHEARNE: Same objection to the extent
9 that he's asking for hearsay with respect to what the
10 Auditor's Office told him.

11 MR. CLARK: I asked based upon the manual
12 that he uses, Your Honor, and is responsible for. I
13 didn't go beyond that I don't believe.

14 THE COURT: I think this witness can testify
15 as to his understanding from the manual. The manual is
16 a joint OSPI/SAO document; is that correct?

17 MR. AHEARNE: Yes, Your Honor.

18 THE COURT: All right. He can then testify
19 as to his understanding based on the manual.

20 THE WITNESS: These pages focus on the State
21 Auditor's opinion. They really don't provide much
22 information about how they come about those opinions or
23 the transactional testing they do.

24 BY MR. CLARK:

25 Q. Okay. Could you turn to the second page of

1 the discussion with the State Auditor's opinions in
2 Exhibit 30.

3 And the third paragraph indicates that the
4 statements prescribed for the F-196 in the Accounting
5 Manual differ from the GAP in the following areas.

6 What is your understanding of what GAP means?

7 A. GAP is generally accepted in accounting
8 principles. These are national standards promulgated
9 by the American Institute of Certified Public
10 Accountants out of Connecticut.

11 In the State of Washington, we have deviated
12 in a number of ways from what those standard statements
13 would require.

14 Q. With regard to school district financial
15 reporting?

16 A. Specifically with regard to school district
17 accounting.

18 Q. And does this paragraph summarize the
19 principle areas in which statewide school district
20 accounting practices differs from GAP?

21 A. Yes, it does.

22 Q. Okay. What does the information contain on
23 this page about the F-196 and their review of them,
24 what does this tell us regarding the intensity of the
25 auditor's scrutiny of the F-196s or its underlying

1 data?

2 A. I'm sorry. Can you repeat that?

3 Q. Sure. What, if anything, does the
4 information contained on this page of Exhibit 30 tell
5 us about the intensity or rigor of the audit that is
6 conducted of the F-196s?

7 A. I'll go back. I think these pages focus on
8 the type of opinion that the auditors issue and doesn't
9 really speak well to the work that supports those
10 opinions.

11 Q. Okay. At the top of the page it states in
12 the second sentence, "The regulatory basis opinion
13 states whether the financial statements are presented
14 fairly in all material respects in conformity with the
15 regulatory basis of the accounting."

16 A. Uh-huh.

17 Q. Does this harken back to your prior testimony
18 about the SAO or OSPI examining the F-196s on the basis
19 of whether or not they present matters fairly?

20 A. It does.

21 Q. Okay. Does that tell us anything at all
22 about the rigor or intensity of the scrutiny that the
23 SAO applies to the F-196s?

24 MR. AHEARNE: Your Honor, this is the third
25 time he's tried to ask the same question. I object.

1 It's asked and answered twice already.

2 THE COURT: So your objection is asked and
3 answered?

4 MR. AHEARNE: Asked and answered because this
5 witness has twice testified to this type of a thing and
6 not the kind of work that goes into the kind of work
7 supporting the opinion.

8 THE COURT: Mr. Clark?

9 MR. CLARK: I don't believe I've asked the
10 question. I don't believe I've asked the question
11 before. If the answer he gives me is the same of
12 similar questions I may have asked, then maybe that
13 tells me something about continuing to ask questions in
14 this vain, but I don't believe I've asked that question
15 before nor do I believe it has been answered.

16 THE COURT: Overruled. I'll allow it.

17 THE WITNESS: Okay. In that sentence they
18 use a term called "presented fairly," which is an
19 industry standard for CPA opinions, which the auditors
20 also use in their work. That speaks to that they're
21 not doing a transactional level of testing of
22 everything. There is a margin of error. If it was
23 known, if you could determine what all the errors were
24 is considered to be a smaller amount of financial
25 statements and would not materially impact a user's

1 determination of a financial entity.

2 But it speaks very much that they're not
3 doing every transaction. They're not implying that
4 everything's perfect. They're saying pretty close.

5 BY MR. CLARK:

6 Q. Thank you. Let's turn to the ABFR, which I
7 believe is Exhibit 26.

8 A. I have that in front of me.

9 Q. Now, Exhibit 26, the Administrative Budgeting
10 and Financial Reporting document applies to both the
11 F-195 budgetary documents and the F-196s, correct?

12 A. It does.

13 Q. Okay. And does it contain schedules that
14 prescribe time lines for the school districts to submit
15 these documents?

16 A. Yes, it does.

17 Q. Could we turn to -- in the upper right-hand
18 corner there are numbers that are called Bates stamp
19 numbers, Mr. Brodie, and they start with the TREX and
20 go on.

21 What I'd like you to do is to turn to the
22 page that's numbered 13 based on the Bate stamp. And
23 the title of it is Budget Calendar.

24 A. I have it in front of me.

25 Q. What does page 13 of Exhibit 26 indicate with

1 regard to the F-195s?

2 A. This page establishes the time line for
3 district submission and preparations of their annual
4 budget.

5 Q. Okay. I notice that there's a column for
6 final action date but there are two columns entitled
7 First-Class Districts, Second-Class Districts.

8 What is the difference between those two?

9 A. In a first-class district, they are serving
10 the student population of 2,000 or more FTE. In a
11 second-class district it is below 2,000 FTE.

12 It's a standard that we typically look at at
13 about a two- or three-year period to see whether a
14 district has crossed that line. We don't want them
15 crossing one way one year and back the next year. We
16 try to make it somewhat stable, so it's not an absolute
17 line but a relative line.

18 Q. Okay. I notice that for both districts, July
19 10th is indicated as the annual financial date to
20 prepare the budget document.

21 A. Yes.

22 Q. Okay. And for the first-class districts, it
23 would appear that the final date for the adoption of
24 the budget is actually August 31st. Is that correct?

25 A. That is correct.

1 Q. Now, do these dates remain constant every
2 year? In other words, the final date you just referred
3 to, the August 31st every year, for first-class
4 districts?

5 A. I believe they do have. These are in statute
6 actually.

7 Q. Okay. I notice that there's an earlier date
8 for second-class districts --

9 A. There is.

10 Q. -- August 1st.

11 A. There is.

12 Q. And why is that?

13 A. As I said earlier, the second-class districts
14 are subject to a review. That's, in statute, is
15 described as a Budget Review Committee. Operationally
16 the way that works is the ESD receives their budget,
17 meaning the Educational Service Districts. They will
18 review the budget and work with the district for any
19 exceptions. When they are satisfied that it meets
20 their standards, they then forward it on to us and we
21 do a review, as well, in-house.

22 Q. Okay. I notice that both first-class and
23 second-class districts have to forward their adopted
24 budgets to an ESD.

25 A. That is correct.

1 Q. What is an ESD?

2 A. The ESD, or the Educational Service
3 Districts. Nationally they're referred to as
4 Intermediary Educational Districts. In our case, they
5 generally are a supporting organization for both OSPI
6 and the school districts.

7 And, as an example I would give you, King
8 County has a local service district down in Renton
9 referred to as Puget Sound ESD. They work with the
10 school districts in most of -- all of Pierce County,
11 King County, and I believe some Snohomish. They may do
12 administrative functions such as managing -- not
13 managing but processing their budgets along to OSPI.

14 They may provide professional and development
15 services for teachers in those districts. They work
16 with us as far as reviewing the data for enrollment
17 before it comes to us. They provide technical
18 assistance to the school districts as well in a variety
19 of different areas.

20 Q. Okay. Does OSPI approve the F-195
21 submissions from first-class districts?

22 A. We do not.

23 Q. Why not?

24 A. Within statute we don't have that approval
25 authority, that review duty.

1 Q. Okay. Does it review and approve the F-195
2 submissions of second-class districts?

3 A. I'm stumbling on the term review and
4 approve. We do a review, and I believe we accept. I'm
5 not sure we actually have an approval capacity,
6 although I might be mistaken.

7 Q. Okay. The second-class district timeline has
8 an August 31 date, for example, final date for Budget
9 and Review Committee to approve the budgets.

10 What's the reference to the Budget Review
11 Committee? Is that an OSPI function?

12 A. And you have refreshed my memory. We do have
13 approval. So that would be the Budget Review Committee
14 that I referred to that kind of operates loosely as the
15 ESD performing their role when they're satisfied that
16 the budget moves along to us and we perform our
17 review.

18 That committee is referred to as the ESD and
19 OSPI working jointly.

20 Q. Okay. I notice September 10th for each
21 district is a deadline. But for first-class districts,
22 September 10th is the last date for the ESD to file the
23 F-195 with the OSPI, correct?

24 A. That is correct.

25 Q. And there's the same deadline but for a

1 different accomplishment for second-class districts; is
2 there not?

3 A. There is.

4 Q. Okay. And what does the September deadline
5 mean insofar as second-class districts are concerned?

6 A. Well, we go back to the process where first-
7 class districts simply have to file their budget with
8 OSPI. We do not have a role to approve or send them
9 back and approve for copying.

10 When we do deal with second-class districts,
11 we do have a role to do some level of review in the
12 auspices of the Budget Review Committee and then send
13 them back an approved copy to the district.

14 Q. Okay. Could you turn to Bates page number
15 313 in Exhibit 26, please.

16 A. I'm now there.

17 Q. Have you located it?

18 A. I have.

19 Q. Does this page of Exhibit 26 contain the
20 information with regard to the timeline for districts
21 filing their F-196s?

22 A. Yes, it does.

23 Q. Okay. Now, are the F-196s also submitted to
24 the ESDs?

25 A. Yes, they are.

1 Q. And does the ESD then forward them on to
2 OSPI?

3 A. After performing a review, yes, they do.

4 Q. Okay. Do they forward the entire statement
5 or only a portion of them?

6 A. They forward the entire statement.

7 Q. Now, the F-196s and F-195 are capable of
8 being filled out electronically, correct?

9 A. Yes, they are.

10 Q. And once that is heard, they are capable of
11 being transmitted -- or I take it, to the ESD or OSPI
12 electronically as well?

13 A. Your answer is correct. I'll give you the
14 technical correction.

15 The file exists in one spot and permissions
16 to view that file change for different levels to now
17 view it. So it electronically moves as far as who can
18 see it.

19 Q. Okay. All right. And I see that November
20 15th on page Bates 313 of this exhibit is a final date
21 for the signed certification page by the ESD being due
22 at OSPI's School Financial Services' function, correct?

23 A. That is correct.

24 Q. Okay. Do you know if ESD does any review of
25 the F-196s that are submitted to it?

1 A. They do.

2 Q. Okay. After the ESD, in turn, provides the
3 F-196s to OSPI, does OSPI do any further review at that
4 point?

5 A. We do not have a formal review set up in
6 statute. We may do occasional reviews specifically if
7 ESDs have specific issues that they pass along we may
8 look at it. As we work with the data occasionally some
9 glaring errors will be revealed and we may ask a
10 district to change that or question them about that.

11 Q. I'd like you to turn to page 315 of Exhibit
12 26, Frequently Asked Questions with Answers.

13 A. Yes.

14 Q. Question 11 asks, "Does the sum of federal,
15 state, and other resources have to equal the program
16 expenditures for each program on the Resource to
17 Program Expenditure Report?" And the answer indicated
18 there is Yes.

19 My question to you is this. What portion of
20 the F-196 is the resource-to-program expenditure
21 reported?

22 A. I do not understand the question.

23 Q. Okay. Does the F-196 contain a page or pages
24 that represent resource-to-program expenditures by
25 the --

1 A. Yes, it does. We've referred to it as part
2 four.

3 Q. Okay. Part four.

4 At the risk of overloading you with exhibits,
5 I'm going to provide you with Exhibit 375.

6 Do you have Exhibit 375?

7 A. I do.

8 Q. What is Exhibit 375?

9 A. Exhibit 375 is the Annual Financial Statement
10 referred to as F-196 for the 2007-2008 school year for
11 Chimacum School District.

12 Q. Okay. Are you able to locate within Exhibit
13 375 an example of the Resource Program Expenditure
14 Report --

15 A. I am.

16 Q. -- Mr. Brodie?

17 A. It is on page 47.

18 Q. Page what?

19 A. 47. Your TREX number at the top right-hand
20 corner.

21 Q. In the upper right-hand corner I've located a
22 page 26 that has Resource Program Expenditure Report.

23 Is that the same page?

24 A. That is the same thing.

25 Q. And according to the Q and A in Exhibit 26 on

1 page 315, the sum of expenditures, that is the left-
2 most column, must be balanced by the entries that occur
3 in the columns to the right of it, for State Resources,
4 Federal Resources, Other Resources.

5 A. That is correct.

6 Q. Mr. Brodie, based on your understanding of
7 the F-196, what does the Other Resources column
8 embrace? What does it mean?

9 A. Other Resources is going to be anything
10 that's not provided by the state or the federal
11 government.

12 The primary business I could focus on is
13 Local Effort Assistance. It could be -- excuse me,
14 local levies. It could be resources from other school
15 districts in the case where they're providing services
16 to another district.

17 Off the top of my head, it could be any
18 number of any local resources they put into this.
19 Those would be the primary ones I could think of at the
20 moment.

21 Q. Okay. I notice on page 26 of Exhibit 375
22 under Basic Education Programs at the top, there's a
23 listing for 01 Basic Education.

24 A. I see that.

25 Q. Is that the expenditure account that we were

1 talking about earlier?

2 A. That is.

3 Q. And am I correct in understanding that the
4 F-196 with page 26 being an example, allows school
5 districts to report expenditures they made the State
6 Resources, Federal Resources, or Local Resources in
7 expenditure account 01, Basic Education?

8 A. That is correct.

9 Q. Okay. And if I understand the frequently
10 asked question number 11 on page 315 of Exhibit 26 --
11 and just using the 01 Basic Education line on page 26
12 of Exhibit 375, we have total program expenditures
13 reported by the Chimacum District of \$5,007,452.94.

14 A. That is correct.

15 Q. Do I take it from the question and answer in
16 Exhibit 26 on page 316 that the sum of the three
17 columns, State Resources, Federal Resources, Other
18 Resources, is required to match that expenditure amount
19 to the penny?

20 A. Yes, they are.

21 Q. Okay. So, for example, deviating from page
22 26 on Exhibit 375, if State Resources were reported as
23 \$5,007,452.94 there wouldn't be any need to fill out
24 the other two columns for Federal Resources or Other
25 Resources, correct?

1 A. You are correct.

2 Q. Similarly, if State and Federal Resources
3 combined were reported to match to the penny the
4 program expenditures that are reflected here, there
5 would be no need to report anything in the Other
6 Resources column, correct?

7 A. You are correct.

8 Q. Okay. Then I take it that to -- as reflected
9 on page 26 of Exhibit 375, since the State Resources
10 and Federal Resources combined do not equal Program
11 Expenditures, the amount of Other Resources, in
12 essence, is a plug number to make the three columns
13 match the total expenditures, correct?

14 A. You are typically correct.

15 Q. Okay. When you say I'm typically correct --
16 and judging from the expression on His Honor's face,
17 could you explain what you mean by that answer?

18 A. There's a number of numbers that can be
19 plugged into any one of those columns.

20 Under State Resources, one of the resources
21 we provide -- and I believe Chimacum is a recipient of
22 this, would be local levy assistance. It is a
23 district's discretion on where they want to put that
24 number.

25 When you go into federal resources, although

1 most federal resources are very narrow as far as how
2 they can be spent, there are some federal resources
3 that provide quite a bit of discretion to school
4 districts. And I've mentioned Compact Aid before. So
5 as you look at State Resources and Federal Resources,
6 there are certain revenues you would expect to see in
7 there, but there can be other revenues that are at the
8 discretion of the school district.

9 So as they're trying to make this balance,
10 the decisions they have to make is how much of LEA
11 would we attribute to the Basic Ed Program. Maybe the
12 choice is nothing. If they receive federal
13 discretionary resources, their decision could be made
14 as to how much would we attribute federal resources to
15 the Basic Ed Program. They may choose nothing. And at
16 that time, the Other Resources would be a plug based
17 upon the decisions they made in those first two
18 columns.

19 Q. Okay. When you mentioned the LEA money, it's
20 Local Effort Assistance?

21 A. That's correct.

22 Q. Those are state funds, are they not?

23 A. They are.

24 Q. And why are they provided by the state to the
25 districts?

1 A. The simple answer is the state is attempting
2 to equalize the levy burden among districts that
3 experience different property value wealth per student.

4 Q. I take it from your -- the answer you gave
5 before the answer to that question, that the school
6 districts do have a fair amount of discretion in
7 determining what state resources, what federal
8 resources, and, therefore, what other resources they
9 attribute to programs like Basic Education.

10 A. As an aggregate body, yes, they do.

11 Q. What do you mean as an aggregate body, yes,
12 they do?

13 A. In looking at this schedule, you may find a
14 district that doesn't receive LEA dollars. You may
15 find a district that doesn't receive any discretionary
16 federal dollars. So they're somewhat limited as far as
17 what they can put in these columns. But in an
18 aggregate, many, many districts enjoy LEA and some
19 federal discretionary dollars.

20 Q. Just out of curiosity, could you turn to the
21 last page of Exhibit 375. The upper right-hand corner
22 I think is listed as page 32.

23 A. Okay. The absolute last page is 53.

24 Q. Oh, I'm sorry. Let's go to page 32 then.

25 A. Okay.

1 Q. It says Preliminary Vocational Educational
2 Maintenance of Effort of the Chimacum School District.

3 A. I am there.

4 Q. Below the columns and numbers reflected here,
5 it states, "This report is for information only and
6 does not reflect on the financial condition of the
7 district."

8 Why is that statement in there, if you know?

9 A. It's a statement that has been there as long
10 as this has been under my oversight. I think the
11 inelegant answer is tradition. I think that people can
12 infer certain decisions about a district based on
13 schedules that they would never intend to provide.
14 This is focusing on whether the district maintained
15 effort in the vocational program. It does not have a
16 punitive aspect at the district level. So probably at
17 some point we had some sort of feedback that the
18 schedule was leading people to the wrong conclusion,
19 then that phrase was put in there to defer that
20 criticism.

21 Q. The F-196 overall, however, does reflect on
22 the financial condition of the district submitted, does
23 it not?

24 A. Yes, it does.

25 Q. Okay. The cover page of Exhibit 375 is the

1 certification page; is that correct?

2 A. That is correct.

3 Q. Now, what certification is called for and
4 provided pursuant to the F-196?

5 A. The primary certification is from the school
6 district superintendent or their authorized official,
7 and then there's an acknowledgement that the ESD did a
8 review of that statement as well -- review of the
9 financial statements.

10 Q. Below the certification are a series of
11 columns reflecting funds, and, generally speaking, what
12 do these funds represent?

13 A. The print date would be the date that we
14 actually generated this report off of our system.

15 Q. Okay.

16 A. And that system being the F-196 system as we
17 post it to the web, that date is locked so if we were
18 to print the report today, it would have the same date
19 there. The next thing is the lock date.

20 Q. What's the significance of the lock date?
21 And you're referring to the very bottom of the front
22 page, correct?

23 A. Yeah. The lock date is when the district
24 locks the F-196 statement and typically provides it to
25 the ESD, that may not be the initial date they provided

1 to them, but the final date that they actually did any
2 changes or revisions to this statement.

3 Q. Okay.

4 A. As we go over to the check figure -- a check
5 figure is just a hash total. Simply put, it's an
6 almost meaningless summarization of all the numbers.
7 If you have two statements that have exactly the same
8 numbers, the check figure will always match. If it
9 varies then something above changed, then you need to
10 look at it more closely.

11 And in the review process, you may have
12 multiple versions floating around.

13 Q. All right. The cover page is also a report
14 F-196 summary that lists a series of funds.

15 Do those tend to be the operating capital and
16 transportation funds that are maintained and used by
17 the local school district?

18 A. Yes, they are.

19 Q. Now, in your earlier testimony about the
20 auditing of the F-196, you indicated that the State
21 Auditor's Office typically conducts its review based
22 upon the first 13 pages.

23 A. Yes, I did.

24 Q. Okay. And so that would be -- an audit
25 would, therefore, constitute, as you understand it, a

1 review of the certification page, the balance sheet,
2 which is on page two, correct?

3 A. That is correct.

4 Q. It would include a review of the entries on
5 the Statement of Revenue Expenditures and changes in
6 Fund Balance that's on page three.

7 A. That is correct.

8 Q. The budgetary comparison schedule on page
9 four.

10 A. That is correct.

11 Q. And then there are a series of schedules on
12 subsequent pages that relate to the various funds that
13 are summarily listed on page one, correct?

14 A. That is correct.

15 Q. Okay.

16 MR. AHEARNE: Your Honor, at this point I
17 would renew my objection to his testifying based on
18 hearsay as to whether the first 13 pages or 17 pages
19 versus whatever pages. All he knows is what people at
20 the State Auditor's Office have told him.

21 MR. CLARK: That isn't a correct
22 recapitulation of his prior testimony at all, Your
23 Honor, and he can testify before, whether it was
24 over -- whether it was because an objection was
25 overruled or otherwise, he did testify before that the

1 auditor review, as he understands it, is of the first
2 13 pages.

3 THE COURT: Well, I guess the auditor's
4 review in his understanding has to be based -- well, I
5 don't know what his understanding is based upon.

6 MR. CLARK: He's testified -- I can ask the
7 question again, but he's testified that his current
8 understanding is based not only on his prior experience
9 with the State Auditor's Office but his interaction and
10 interface with that office with regard to school
11 districts today.

12 THE COURT: Right. And his interaction with
13 the school district, if based upon the information
14 obtained from individuals of a school district is
15 hearsay.

16 MR. CLARK: I didn't take it to be that way,
17 Your Honor. I mean --

18 THE COURT: Well, it is. The way you
19 successfully got around that is by referring to the
20 documentation and asking his understanding of the
21 documentation because the documentation was actually a
22 combined OSPI, State Auditor's Office.

23 MR. CLARK: You're referring to the
24 Accounting Manual, Your Honor?

25 THE COURT: That's correct.

1 MR. CLARK: Okay.

2 THE COURT: So that was not hearsay.

3 You could talk about his understanding
4 based upon his prior experience to the extent that it's
5 relevant to the current time. But his understanding of
6 what the auditor reviews currently, unless there's a
7 different foundation, is objectionable hearsay, and,
8 therefore, the objection will be sustained.

9 MR. CLARK: All right, Your Honor. I'll go
10 on to another question. It may not be a different
11 question, but I will go on to another question.

12 BY MR. CLARK:

13 Q. Page 13 is the report of revenues and other
14 financial sources, correct?

15 A. You are correct.

16 Q. And based upon your prior testimony that was
17 based upon your current work with the SAO, based upon
18 the Accounting Manual is page 13 the last page that you
19 understand the SAO reviews for the F-196?

20 MR. AHEARNE: Same objection to the extent
21 it's based on hearsay, Your Honor.

22 MR. CLARK: I'm trying to tie it to his prior
23 answer which was based on the Accounting Manual, and he
24 gave the answer. The answer is already out there.

25 THE COURT: Well, the answer with respect to

1 the Accounting Manual had nothing to do with the SAO's
2 review of the individual F-196s and where they stopped
3 or where they started.

4 So unless you can tie it into the manual
5 somehow, then you're going to have to lay a foundation
6 as to the basis for this witness's knowledge that it's
7 not based on hearsay.

8 MR. CLARK: Your Honor, you know, I'll just
9 be satisfied with what I think I've gotten in the
10 record and move on --

11 THE COURT: All right.

12 MR. CLARK: -- rather than continue to invest
13 our time in -- as much as I like discussing things with
14 you or Mr. Ahearne, I'll move on. Okay?

15 THE COURT: All right. Mr. Clark, we are at
16 the morning recess time so we'll take our morning
17 recess for 15 minutes.

18 Court is at recess.

19 (Whereupon a recess was taken.)

20 THE COURT: Please be seated.

21 Mr. Brodie, if you would retake the
22 stand, please.

23 Mr. Clark.

24 MR. CLARK: Thank you, Your Honor.

25 BY MR. CLARK:

1 Q. Mr. Brodie, would you turn to page number 17
2 of Exhibit 375, Program, Activity, Object Report.

3 A. I'm now there.

4 Q. All right. Please identify what programs,
5 activities, and objects mean in the grouping on page 17
6 of Exhibit 375.

7 A. Okay. I referred to it a few times that the
8 Accounting Manual defines certain categories of
9 expenditures and to kind of bring them all together.
10 When you look at an expenditure, you're going to define
11 it by that program area. You're going to define it by
12 the type or the object of expenditure, whether it's
13 salary or purchase services or travel. And then you
14 can talk about that activity within that program that
15 you're spending that money on.

16 What this page does is take the entirety of
17 all the school district expenditures and summarizes it
18 by each individualized category. So, for example, on
19 the first column, you're summarizing the entire
20 expenditures of the district by the Program area. The
21 next column summarizes the entire expenditures by
22 Activity. And the third summarizes them all simply by
23 Objects.

24 Q. Okay. Now, the expenditures that are grouped
25 by activity in the Activity column mean, for example,

1 are those expenditures summarized or listed without
2 regard to the source of funds that are used?

3 A. Yes, they are.

4 Q. So the Activity column, for example, would
5 have a combination of state, federal, and locally
6 funded expenditures reported in them, correct?

7 A. Yes, they would.

8 Q. Are we able to -- you know, based upon the
9 F-196, are we able to use the F-196 to separate or
10 isolate whether state funds or local funds were used
11 for the expenditures that are reported in the F-196?

12 A. No, we may not.

13 Q. Okay. In this case, we've had four
14 superintendents come in and respond to questions about
15 this page and the activities, by Mr. Ahearne. And you
16 weren't here, but each of the superintendents tallied
17 the expenditures listed under the Activity column to
18 reach a total amount, which, when combined with the
19 Debt Service Expenditure total that's on page one of
20 the F-196 in the Exhibit 375, for example, the
21 expenditures were \$1,041,977.61.

22 To reach an amount of total district
23 expenditures on K-12 that year, my question is this,
24 Mr. Brodie, does taking the totals of activities from
25 page 17 of the F-196, the totals by activities, with

1 their associated amounts, and then adding the Debt
2 Service Expenditures total from page one, does that
3 tally provide a basis for determining whether or not
4 state funding for K-12 schools is adequate?

5 A. It does, not.

6 Q. Why do you say that it does not?

7 A. Behind each one of these numbers were
8 subjective decisions that the district makes in how to
9 provide programs. There are different funding streams
10 that support the activities that are listed here. I'm
11 puzzled by the inclusion of Debt Service. I'm not
12 quite sure why they would do that one by itself, which
13 is off of this -- from a different page rather than
14 this one.

15 I can give you an example saying if we just
16 look at -- I'll pick on the biggest one. Activity 27
17 is teaching.

18 Q. Okay.

19 A. That is approximately one half of the total
20 expenditures.

21 Q. That's the \$5.7 million amount?

22 A. That is correct.

23 In the way this is summarized, that's giving
24 you the total teaching expenses across all programs.
25 It's going to include the state funded programs. It's

1 going to include the federally funded programs. It's
2 going to include the programs that, by definition, are
3 local programs.

4 So at a very high level, it's mused a lot of
5 things together into a single line and doesn't give you
6 those subjective details of what makes that up. But
7 even, within there, if you look at individual programs,
8 there are district's decisions on how they chose to
9 spend those monies and what spending levels they may
10 have made that you can never reveal from the
11 information on the F-196.

12 Q. I think you characterized yourself as an
13 expert on the F-196 document, correct?

14 A. I would.

15 Q. Based upon your familiarity and expertise
16 with the F-196, are the F-196 financial statements
17 capable of permitting us to analyze which sources of
18 funds were used for particular expenditures or for
19 categories of expenditures?

20 A. I think that's somewhat of a subjective
21 question in my personal experience and professionalism,
22 I would say no.

23 Q. And would the reason you'd say no in response
24 to that question be the same or are they different from
25 the reasons you offered earlier?

1 A. They would be the same reasons.

2 Q. Okay. Based upon your expertise with the
3 F-196, what do you believe would be incorrect or
4 inappropriate about simply assuming that whatever the
5 school district spends on K-12 is the measure of the
6 state's funding obligation?

7 MR. AHEARNE: Your Honor, again, I'm now
8 going to renew my objection again. We're going beyond
9 the scope of the 30B6 or even his deposition testimony.

10 MR. CLARK: My response to that would simply
11 be, Your Honor, that we were, frankly, surprised that
12 the superintendents would try to use the F-196 for
13 establishing their district's as underfunded.

14 And so his testimony, if it goes beyond
15 the deposition, and I don't concede that it does, it's
16 offered in rebuttal to that testimony, and I believe
17 we're allowed to have our witnesses rebut testimony
18 that has appeared in the petitioner's case in chief.

19 THE COURT: Well, I think that we can -- I
20 think that this witness can answer the underlying
21 analysis of whether the district expenditures are
22 concurrent with the state's obligation. There's a lot
23 of ways to ask that question. And the one that is
24 currently asked is in a rebuttal form. In other words,
25 he's relying upon the testimony presented by the

1 petitioner's witnesses, specifically the
2 superintendents.

3 I'll sustain the objection but allow
4 counsel to rephrase it. I think we're going to end up
5 probably in the same place, but I'll sustain the
6 objection.

7 MR. CLARK: If I can ask for clarification.

8 Are you sustaining the objection because
9 I'm not entitled to use him to rebut what witnesses
10 have taken the stand and testified about in the case in
11 chief?

12 THE COURT: Well, I think it's, as
13 Mr. Ahearne says, beyond the scope of what he'd been
14 identified to testify to. I suppose we could --

15 MR. CLARK: Both sides reserved the right --
16 I'm sorry to interrupt.

17 THE COURT: Go ahead.

18 MR. CLARK: Both sides reserved the right to
19 call rebuttal witness. I didn't have to specify who
20 they were -- and how could you specify who they are and
21 what they're going to say until you hear the testimony
22 at trial.

23 THE COURT: Let me hear from Mr. Ahearne on
24 the rebuttal issue.

25 Mr. Ahearne. It's not in there because

1 Mr. Clark is stating that he's asking Mr. Brodie to
2 rebut specifically what he's characterized as the
3 testimony of the superintendents with respect to the
4 concurrency of the expenditures with the state
5 obligation. I believe that was the pending question.

6 MR. AHEARNE: And my understanding from what
7 they reserved for rebuttal, unanticipated testimony
8 admitted in the trial. I'm looking at page 146 of the
9 amended joint statement. And they spent a day each
10 deposing each of the superintendents. I don't think it
11 is something new and surprising.

12 If they want to amend their disclosure
13 of what Mr. Brodie's going to be testifying about, that
14 would give me a little more advance notice.

15 Again, I don't want to be chewing up
16 Mr. Clark's time clock, so if these are foundational
17 types of things, let's move on, but --

18 THE COURT: Well, I don't think it's
19 foundational.

20 MR. CLARK: I don't think so either.

21 THE COURT: It's directly rebutting -- I
22 think what Mr. Clark is saying is that they didn't
23 anticipate your chart which you spent significant time
24 on going through F-196s, the various activity levels,
25 the expenditures, adding it up, and then representing

1 to the court the GAP, if you will.

2 I will allow it for rebuttal purposes.

3 I think it would be helpful for purposes of the trier
4 of fact.

5 MR. CLARK: I probably should restate the
6 question after all this. Witness's nod tells me I
7 should.

8 BY MR. CLARK:

9 Q. Mr. Brodie, based upon your understanding of
10 the F-196s, do you believe that it is incorrect or
11 inappropriate to simply assume that whatever the school
12 district spends on K-12 education is what determines
13 the state's funding obligation?

14 A. I do.

15 Q. I'm sorry?

16 A. I do agree that is inappropriate.

17 Q. And why do you believe that to be incorrect?

18 A. I believe the F-196s are a financial
19 summarization of the activities and the decisions that
20 a school district makes. If you look at the Accounting
21 Manual, if you look at all the guidance we provide,
22 it's a pretty high level of guidance. We're not
23 binding districts hands as far as what decisions they
24 can make about how to spend money or even the level of
25 money they wish to spend. So to take this financial

1 statement now and saying they spent this and it's now
2 the state's obligation is -- it goes beyond my concept
3 if -- I can't even imagine a system that would work
4 like that.

5 Q. Based upon your knowledge and familiarity
6 with the F-196 statement, are we capable of taking the
7 Summary Expenditures reflected on page 17 under the
8 Activity column and isolating which ones were made with
9 state funds, which ones were made with federal funds,
10 which once were made with local funds?

11 A. We are not.

12 Q. Part of the Activity Expenditures that are
13 listed fall under the expenditure Code 42 with relation
14 to food.

15 What do you understand that to be a summary
16 of expenditures about?

17 A. So when we look at the Activities 41, 42, 44,
18 and 49, they all relate to the provision of food
19 services to students in the district. Those activities
20 are generally paid for, for the large majority, maybe
21 not 100 percent, but probably 90 percent or better,
22 with federal, a limited amount of state funding, and
23 the funding that comes from the kids' pockets every
24 day.

25 Q. Okay. Why would -- why do you believe it

1 would be inappropriate to include the expenditures on
2 the food services operation in their district when
3 trying to determine the adequacy or inadequacy of state
4 funding for Basic Education?

5 A. The state does not have a stated obligation
6 to fund that except as provided in the legislative
7 act. Most of that money is coming, either from a
8 federal program or from individual students, their
9 lunch money. The district does not provide a
10 significant amount of local resources to provide that
11 program.

12 Q. Now, you mentioned earlier that you had
13 concern or questions about including the total
14 expenditures in the Debt Service Fund for a district in
15 its tally of expenditures for which the state ought to
16 provide funding.

17 Why do you believe that's inappropriate?

18 A. The Debt Service Expenditures are generally
19 paid for out of bonds that have been voted on and
20 approved by the local voters. They typically are for
21 construction or significant repair of buildings. It's
22 not something the state has provided significant
23 funding for, and it's not something you have a primary
24 obligation to do at this time.

25 Q. I want to go to page four of Exhibit 375, the

1 Budgetary Comparison Schedule.

2 A. Yes.

3 Q. This has three columns on it.

4 MR. CLARK: Page four, Your Honor, and,
5 Mr. Ahearne. 375, the fourth page in titled Budgetary
6 Comparison Schedule.

7 THE COURT: So Bates five, but --

8 MR. CLARK: I'm sorry?

9 THE COURT: It's Bates five but page four in
10 the report?

11 MR. CLARK: Okay. Thank you, Your Honor.

12 THE COURT: Is that correct?

13 MR. CLARK: Yes.

14 THE COURT: All right. Thank you.

15 BY MR. CLARK:

16 Q. Can you tell us what the purpose of the
17 Budgetary Comparison Schedule page is in the F-196?

18 A. Page four reflects the measure of how a
19 district is spending money versus what their plans for
20 spending money were.

21 Q. Okay. And in the Ultimate column on the
22 right indicates that variance between what they
23 forecast in their budget and what actual experience
24 proved to be in the F-196, correct?

25 A. That is correct.

1 Q. Okay. And just to use a couple of examples.
2 Under the Revenues column, if I'm reading
3 this page correctly, the F-195 for Chimacum forecast
4 that it would receive \$6.8 million from the state that
5 year, correct?

6 A. I have to make one correction.

7 When you talk about the final budget, the
8 final budget reflects the F-195 as adopted. But during
9 the year the districts also have the opportunity to
10 revise that budget, to improve their estimates. So
11 that would be something called the F-200.

12 So when you're looking at that line entitled
13 State Revenue under Final Budget, I don't know
14 specifically about Chimacum, but it may reflect their
15 original budget plus any revisions they made to it
16 during the time.

17 And, yes, 6.8 would be the state money.

18 Q. All right. The actual column indicates that
19 while they forecast receipt of 6.8 or almost \$6.9
20 million from the state, they actually received 7.1
21 million or 7.2 million.

22 A. That is correct.

23 Q. And, therefore, that produces a variance --
24 positive variance of \$299,740.14, correct?

25 A. That is correct.

1 Q. If we go to the Fund Balance entries that
2 appear towards the bottom of page four of Exhibit 375,
3 we see that they forecast in their budgeting documents
4 whether it was the 195 or an update to the budget, they
5 forecast that they would have an ending Fund Balance
6 total of 525,000, right?

7 A. That is correct.

8 Q. And then, indeed, their actual experience was
9 that their Fund Balance -- ending Fund Balance was in
10 excess of a million dollars, correct?

11 A. That is correct.

12 Q. And, therefore, there's a variance between
13 what they forecast and where they ended up with as a
14 positive balance of \$477,492.57.

15 A. That is correct.

16 Q. So, in essence, page four helps us to
17 understand where the district ended up versus where
18 they forecasted that they might end up.

19 A. That is correct.

20 Q. I want to return to Exhibit 26 for a few more
21 questions before I round down on that document.
22 Exhibit 26 is the ABFR. Sorry for making everyone jump
23 around to heavy documents this morning. I guess we'll
24 get our exercise.

25 I'd like you to turn to page 91 -- Bate stamp

1 91, and we have here pages that are called Revenue
2 Account Summary.

3 Now, there are a substantial amount of pages
4 in Exhibit 26 that are devoted to a discussion of
5 revenue accounts, are there not?

6 A. There is.

7 Q. And what is the purpose or point of
8 summarizing this information for the school districts?

9 A. This particular section is used to help
10 districts budget for the next year and would reflect
11 calculations, information, legislative budget rates,
12 what have you, about how to forecast for those revenues
13 as well as often talking about what those revenues may
14 be used for sometimes.

15 Q. Okay. On page 91, for example, there's an
16 index or listing of the types of revenue accounts, are
17 there not?

18 A. Yes, there is.

19 Q. And then the subsequent pages delineate more
20 specifically what those revenue accounts pertain to and
21 how they're to be used.

22 A. That is correct.

23 Q. For example, on page 92, we have Account
24 Revenue, Account 3100, which is the Basic Education
25 Allocation Formula?

1 A. Yes.

2 Q. Okay. And it indicates some of the
3 information on page 92 changes to that allocation
4 formula that apply to the school year to which this
5 ABFR applies, correct?

6 A. That is correct.

7 Q. Now, underneath the Basic Education
8 Allocation Formula section, there's a section called
9 Basic Education Mandate.

10 What is the purpose of .2 with the
11 information that's contained in that section?

12 A. It's referencing back to the statutes that
13 define what Basic Education is. The first one, I
14 believe, is going back to the Basic Education Act as
15 far as what they have to provide for program
16 offerings. That is a 1,000-hour requirement contained
17 within there. The second one talks about a stacking
18 ratio of compliance, which, to break it down,
19 essentially districts have an obligation to hire the
20 numbers of certificated instructional staff that we
21 actually fund.

22 Q. Okay. And that mandate would appear on the
23 following page, page 93, at the top where it states
24 "School districts shall maintain the ratio of at least
25 46 Basic Education certificated instructional staff to

1 1,000 annual average full-time students", correct?

2 A. That's correct.

3 Q. Okay. And on page 93 there's also a
4 discussion of basic staff ratios that pertain to the
5 Basic Education Allocation Formula, correct?

6 A. That is correct.

7 Q. And those list the appropriate ratios of
8 staff to students for certificated instructional, for
9 other certificated, and for classified staff, correct?

10 A. They list the funding ratios for those grade
11 levels, yes.

12 Q. Okay. Now, as you understand it, the school
13 districts have latitude to employ more certificated and
14 classified staff than these ratios would provide?

15 A. Yes, they do.

16 Q. If we turn to page 98 of Exhibit 26, again,
17 Bate stamp 98 for ease of reference, there is
18 information pertinent to benefits and there's also
19 information pertinent to the allocation for
20 non-employee related costs, correct?

21 A. Correct.

22 Q. And on page 98 of Exhibit 26, the allocation
23 for NERCs specifies what the NERC allocation is going
24 to be per formula generated certificated or formula
25 generated vocational secondary staff unit, correct?

1 A. That is correct.

2 Q. What are formula generated staff units?

3 A. To go to a very simple example, if you have a
4 district of a thousand students, the legislative ratio
5 has defined that we will fund 46 certificated
6 instructional staff per 1,000 students and four
7 certificated administrative staff per 1,000 units.

8 So when we're talking about that first
9 number, we're going to apply that number against each
10 one of those 50 total units. We don't include the
11 classified units we fund in this calculation.

12 Q. Okay. I'm just going to draw your attention
13 very briefly to page 103 of Exhibit 26 and have you
14 verify that the Revenue Account Summary information for
15 the State Learning Assistance Program is contained at
16 the bottom of the page 103, for example.

17 A. That description starts on the bottom of 103
18 and continues to the top of 104.

19 Q. Okay. And the Revenue Account Code for
20 Learning Assistance Program is 4155.

21 A. That is correct.

22 Q. Okay. Moving on, quickly and similarly, to
23 page 106 of Exhibit 26. We find on page 106 the code
24 number and description for the State's Transitional
25 Bilingual and the Student Achievement Fund, correct?

1 A. You are correct.

2 Q. I would like you to turn to page 163 of
3 Exhibit 26 entitled Salary Information.

4 A. Okay.

5 Q. Under Salary Information, it lists salary and
6 benefits limitation law and then quotes from RCW
7 28A.400.200.

8 Why is this information in this statute
9 included in the ABFR?

10 A. As you prepare your budget, your plans, you
11 want to make sure that you prepare a budget that meets
12 your expected standards on the tail end. So if you
13 were a district, as you move staff around, you may want
14 to make sure that your ratios are still working.

15 This particular one focuses on that salary
16 and the benefit limitation. And it's just a reminder
17 of those standards in the budgeting process so they can
18 make sure they don't plan, inadvertently, to fail.

19 Q. Okay. The statute that's contained on page
20 163 also has a provision and information with regard to
21 supplemental contracts, does it not?

22 A. (Reviewing.)

23 Q. Part four.

24 A. Thank you. That is correct.

25 Q. Okay. What is the point of reminding the

1 school districts of the provisions of the supplemental
2 contracts law?

3 A. The state provides a funding level per
4 formula staff units based on the state's salary
5 schedule which defines the base salary for funding
6 purposes and the district has certain compliance
7 aspects related to that base salary.

8 In statute, they're allowed discretion to
9 provide additional funding that does not bind the state
10 and it is not considered to be part of the Basic
11 Education funding for additional services, contracts.
12 They're commonly referred to as TRI, which is Time,
13 Reporting, Incentive contracts.

14 Q. And OSPI believes it important to remind the
15 districts annually of this salary and benefit
16 limitation law, does it not?

17 A. That is correct.

18 Q. I want to return to the Frequently Asked
19 Questions and Answers section, but this time on page
20 316 of Exhibit 26.

21 Would you locate that page for me, please.

22 We're there?

23 A. I am there.

24 Q. Okay. Question 17 states, "I have a negative
25 ending total Fund Balance. Does OSPI need an

1 explanation?"

2 Mr. Brodie, what is the significance of a
3 school district having a negative ending total Fund
4 Balance?

5 A. If a district reports a total negative Fund
6 Balance, it means they spent more than all the revenues
7 received for the year as well as spending all of their
8 Fund Balance carried forward to the current year. Just
9 financially unstable at that level, and we're asking
10 for an explanation of how they got there.

11 Q. Okay. Does a district having a negative Fund
12 Balance indicate that the district is insolvent?

13 A. I wouldn't use that term, but I think I would
14 describe it as a district that is banking on the
15 future.

16 Q. All right. Do you know, as you sit here
17 today, how many school districts in the state of
18 Washington in the last reporting cycle indicated they
19 had a negative Fund Balance?

20 A. Okay. Typically when districts have a
21 negative Fund Balance, and it's usually on the budget
22 side, we put them into something called Binding
23 Conditions in which they lose some autonomy and they're
24 overseen by the local fiscal officer of the local
25 Educational Service District. So that would be the

1 group I would describe.

2 For last year, I believe we had seven in
3 Binding Conditions. I believe we've released one
4 during the past year.

5 Q. And so how many do we currently have in the
6 Binding Conditions?

7 A. There would be six.

8 Q. Six?

9 A. Yes.

10 Q. Okay. That's down from seven last year?

11 A. That is my recall.

12 Q. Okay. Now, did you state that the Binding
13 Conditions is triggered by a budgeted negative Fund
14 Balance?

15 A. Yes. Typically if they submit a budget that
16 shows that they're overspending their revenues as
17 budgeted and their Fund Balance as planned for in the
18 budget, they go into Binding Conditions.

19 A number of years ago we instituted a new
20 process which says, basically, once they submit their
21 F-196, we compare the ending Fund Balance on the F-196
22 that we receive in November with what we had projected
23 in their budget that they submitted to us the prior
24 August. If those are substantially different or, more
25 appropriately, if that change in Fund Balance pushes

1 them into a negative position during the middle of the
2 year we may also put them on Binding Conditions.

3 Q. Okay. Now, so OSPI is on the lookout, as it
4 were, in the budgeting process for districts that may
5 be getting into financial trouble, correct?

6 A. We're looking out for districts that are in
7 financial trouble.

8 Q. Okay. Okay. And you're doing that at the
9 budgetary cycle rather than waiting for the financial
10 statement to show up.

11 A. That is correct.

12 Q. Does OSPI provide assistance to districts who
13 are in Binding Conditions?

14 A. The assistance we provide, typically, is
15 through the local Educational Service District and the
16 fiscal officer there.

17 Q. Okay. Let's go to Exhibit 30, the Accounting
18 Manual. If we turn to page 15 of the Accounting
19 Manual, Exhibit 30, there's a section on Interim and
20 Annual Financial Reports.

21 A. Yes.

22 Q. Okay. And on page 15 --

23 THE COURT: I'm sorry, counsel, which section
24 are we in? Which chapter?

25 MR. CLARK: Okay. We're on the Accounting

1 Manual, which is Trial Exhibit 30 --

2 THE COURT: Yes.

3 MR. CLARK: -- and the page I have is page
4 15, chapter one, Principles of Accounting.

5 THE COURT: All right. Thank you.

6 BY MR. CLARK:

7 Q. We have to do something about our indexes and
8 organization, Mr. Brodie. That's not a question.

9 On page 15, there's a suggestion of the
10 Comprehensive Annual Financial Report, or CAFR,
11 correct?

12 A. That's correct.

13 Q. On the next page in the first full paragraph,
14 it indicates a CAFR is not required in the State of
15 Washington for school districts.

16 Why is that?

17 A. CAFR stands for Comprehensive Annual
18 Financial Reporting, and that would be a set of
19 financial statements that meet the standards of the
20 generally accepted accounting principles as promulgated
21 by the AICPA.

22 Refer to what we said earlier, where the
23 required funding statements for school districts do not
24 have to adhere to GAP. Instead they appear to be
25 something called a Regulatory Basis of Accounting as

1 defined by my office and State Auditor's Office
2 jointly.

3 Q. Okay. In examination of some school
4 superintendents, opposing counsel has referred to the
5 F-196 that was the district's most recent audited
6 financial statements.

7 You're a CPA and you've worked in the State
8 Auditor's Office and you work with the financial
9 documents for the districts at OSPI.

10 Would you agree that the F-196 is a "audited
11 financial statement"?

12 A. I would not.

13 Q. Why not?

14 A. The F-196, as opposed to our website, is
15 commonly referred to is what they file with our
16 office. It's a year -- it's documented in November.
17 For the most part, in most districts in the state, the
18 auditors haven't even looked at that document as filed
19 with our office.

20 Additionally, the F-196 contains numerous
21 schedules and pages that the auditor's not included in
22 their audited financial statement packet.

23 Q. So you would disagree, as a CPA yourself,
24 with that characterization of the F-196?

25 A. Without hesitation.

1 Q. On page 17 of chapter one, Principles of
2 Accounting, in Exhibit 30, the last paragraph on the
3 short page here states, "In the State of Washington
4 school districts are primary governments and,
5 accordingly, issued a CAFR or BFS."

6 My question is, what is meant by school
7 districts are primary governments?

8 A. It falls back to generally-accepted
9 accounting principles in the IEP CPA standards where an
10 entity described as a primary government has the
11 obligation and duty to publish their own separate
12 financial statements.

13 In Washington state, school districts are
14 recognized as local antonomists somewhat, governmental
15 entities that have that responsibility.

16 Q. Okay. Now, the Accounting Manual, and I'm
17 not going to go through these specific items, also
18 reiterates revenue accounting information for purposes
19 of reporting on the F-196s, correct?

20 A. That is correct.

21 Q. Okay. Let's turn to -- its chapter six,
22 Expenditure Accounts, and I'd say it's roughly a third
23 through. I don't have Bates stamps on this copy,
24 otherwise I'd be happy to give that. But, the page I'm
25 referring to is the Table of Contents for chapter six,

1 Expenditures Account.

2 A. I'm there.

3 Q. Okay. And as we go forward, just as there
4 was a discussion of Revenue Accounts pertinent to the
5 F-196, chapter six contains a listing and summary of
6 the information expected to be reported in the
7 Expenditure Accounts, correct?

8 A. That is correct.

9 Q. Okay. Let's turn to page -- this is almost
10 unfair. It's page Arabic number 1, but it's chapter
11 six, Expenditure Accounts, section three, General Fund
12 Expenditures.

13 So I would guesstimate that it's about 10
14 pages further in from the Table of Contents. And at
15 the top of the page it states General Fund
16 Expenditures.

17 I think Mr. Ahearne has found it. I'll wait
18 to make sure the court has caught up with us.

19 THE COURT: I'm sorry, it's chapter six,
20 Arabic 1?

21 MR. CLARK: Page Arabic 1, but it's in
22 section three, General Fund Expenditures.

23 THE COURT: Oh, section 3. Okay. All right.

24 BY MR. CLARK:

25 Q. This manual list is provided to the districts

1 to make it easier for them, isn't it?

2 A. Absolutely.

3 Q. Okay. Starting on page one, there's a
4 listing of Revenue General Fund Expenditure Accounts
5 starting with Program Code 00, Regular Instruction.
6 And underneath it is our friend 01, Basic Education
7 Expenditure Account, correct?

8 A. That is correct.

9 Q. Let's go on to the page after the next page,
10 which is chapter six, section four, but also page one,
11 Program Code Description.

12 A. (Witness nods head.)

13 Q. And under Regular Instructions 01 Basic
14 Education, this directs the school districts with
15 regard to reporting Expenditures in the 01 Basic
16 Education Account, correct?

17 A. That is correct.

18 Q. It tells them, for example, "The court
19 expenditures are to provide free, appropriate
20 kindergarten through 12th grade public education to
21 pupils which shall include instruction in reading,
22 language arts, mathematics, social studies, science,
23 music, art, health, physical education, industrial
24 arts, and other subjects and activities deemed
25 appropriate by the school district," and then has a

1 reference to sections 210 and 222 of the Basic
2 Education Act, correct?

3 A. Correct.

4 Q. Now, again, with regard to coding
5 expenditures, district expenditures to -- Expenditure
6 Account 01, are the districts prohibited from putting
7 expenditures in there that are taken care of with state
8 funds or local funds or federal funds?

9 A. They are not.

10 Q. So if we -- you know, if we postulate, for
11 example, that a school district has an alternative high
12 school, which it has built and operated, maintained,
13 and staffed entirely with local funds, would the
14 classroom instruction expenditures for that facility be
15 reported in category 01 Basic Education?

16 A. Typically, yes.

17 Q. Okay. Let's turn to page five. We're still
18 in chapter six, section four.

19 I want to talk about the listing of the
20 Expenditure Account for Learning Assistance Programs,
21 State. It's in the middle of the page.

22 This is the state program for struggling
23 students?

24 A. That is correct.

25 Q. Okay. My question for you is this,

1 Mr. Brodie. With regard to the F-196, for expenditures
2 that are for struggling students that are not made with
3 state funds, where do the districts account for those
4 expenditures?

5 A. You're going to have two primary different
6 areas. If you are provided with federal money, they're
7 going to be on the prior page under Program Code 51.
8 This is advanced federal, and that money's coming to
9 the district under the Title I Act.

10 If they're provided out of their local
11 dollars, they typically are going to code those back
12 into Program 01.

13 Q. So whether the Learning Assistance dollars --
14 you know, strike that. I'm sorry. That's the wrong
15 phrase.

16 Whatever dollars are used to assist
17 struggling students, whether it's pursuant to state
18 money or whether it's with local funds, those will find
19 a home in one of the expenditure accounts listed in the
20 F-196.

21 A. Yes.

22 MR. CLARK: I apologize, Your Honor, I'm
23 seeing that I've gone ahead of myself and so I'm just
24 turning pages at this point.

25 Q. Could you turn to page six in chapter six,

1 section five. Chapter six, Expenditures Account --
2 Expenditure Accounts, rather. Section five, Activity
3 Codes Description.

4 At the top of the page is Code 28,
5 Extracurricular.

6 Are you with me?

7 A. I'm there.

8 Q. Are districts allowed to use state funds to
9 pay for extracurricular activities?

10 A. Yes, they may.

11 Q. And when they -- assuming they use state
12 funds to do that, where do they code those in the
13 F-196?

14 A. They're typically coded to the corresponding
15 state program, Activity 28, as it's open.

16 Q. Would local expenditures on extracurricular
17 activities also be coded to 28?

18 A. Yes, they would. They also potentially could
19 be coded in a separate fund called the Associated
20 Student Body Fund, which typically records the revenues
21 received or generated by students themselves, gate
22 receipts at a football game, et cetera, but they can
23 also include local or state dollars directed to that
24 area as well.

25 Q. Okay. On the next page, page seven, is

1 Account 50 with regard to coding Pupil Transportation
2 Expenditures.

3 A. Okay.

4 Q. Is that correct?

5 A. Yes, sir.

6 Q. And then on the following page, page eight,
7 beginning with number 60, Maintenance and Operation, we
8 have a series of accounts listed that pertain to the
9 operation and maintenance of school district
10 facilities, correct?

11 A. You're correct.

12 Q. And the last question on this document, I
13 want to go to chapter nine, which is called Information
14 Unique, section two, the General Fund, and go back to
15 page one in that chapter and section and -- well, I
16 would guess it's half way through the document. At the
17 top it says The General Fund.

18 Have you found it?

19 A. Yes.

20 Q. Mr. Ahearnes has found it.

21 THE COURT: Chapter nine.

22 MR. CLARK: Chapter nine, section two.

23 THE COURT: Section two.

24 MR. CLARK: General Fund.

25 THE COURT: Thank you.

1 MR. CLARK: And page one.

2 BY MR. CLARK:

3 Q. All right. And this provides a description
4 of what is appropriate for recording in the -- excuse
5 me, what is appropriate for including in the General
6 Fund of the school district.

7 A. That is correct.

8 Q. And it can contain funding from local,
9 county, state, or federal sources, correct?

10 A. That is correct.

11 Q. And, according to this, those revenues can be
12 generally used for financing the ordinary, normal, and
13 reoccurring operations of school districts --

14 A. That's correct.

15 Q. -- as broadly as that.

16 A. Yes, it is.

17 Q. Mr. Brodie, were you part of a group that was
18 asked by the Basic Ed Task Force to provide an answer
19 as to whether or not the F-196s could be used to
20 determine the adequacy of state funding for education?

21 MR. AHEARNE: Your Honor, I think his
22 involvement with the Basic Ed Task Force clearly goes
23 beyond what the notice was for.

24 THE COURT: It calls for a yes or no answer.

25 MR. AHEARNE: I'm trying to head off actually

1 giving the answer after this one, though.

2 BY MR. CLARK:

3 Q. Do you have my question in mind? Can you
4 answer yes or no?

5 A. My answer is yes.

6 Q. All right. Can you turn to Exhibit --

7 MR. AHEARNE: Same objection. I'm sorry. I
8 guess I should wait for you to ask a question.

9 THE COURT: That's helpful for rulings.

10 MR. CLARK: I'll try to adapt to however you
11 want to do it, Tom, so -- excuse me, Mr. Ahearne. It's
12 getting late in the proceedings.

13 BY MR. CLARK:

14 Q. Please turn to Exhibit 1470.

15 THE COURT: 1470, counsel?

16 MR. CLARK: Yes, please.

17 THE COURT: Thank you.

18 BY MR. CLARK:

19 Q. Can you identify Exhibit 1470, please.

20 A. Yes. This is a presentation made to the
21 Basic Education Finance Task Force by myself and
22 several business managers.

23 Q. All right. You were involved in the
24 preparation of this exhibit?

25 A. Yes, I was.

1 Q. Were you involved in its presentation?

2 A. Yes, I was.

3 Q. And did that presentation occur on or about
4 September 16th, 2008?

5 A. To the best of my recall.

6 Q. Is one of the subject matters of this
7 PowerPoint presentation the F-196 form?

8 A. Yes, it is.

9 Q. Is one of the subject matters an assessment
10 of whether or not the F-196 in its current form will
11 allow you to link up state funds with specific
12 expenditures made by school districts?

13 A. Yes. It was addressing the Chair's question
14 on that issue.

15 MR. CLARK: Your Honor, we would offer
16 Exhibit 1470.

17 MR. AHEARNE: Two things. One, I object to
18 this exhibit being used with Mr. Brodie as the secret
19 author who's now revealed as being the author, and this
20 goes beyond -- the description in the Amended Joint
21 Statement of Evidence doesn't include Mr. Brodie at
22 all. And this does, I believe, go beyond the scope of
23 the specific documents that he's to testify -- about
24 designated to testify about. Now we're getting into
25 the Basic Ed Task Force presentations. We're clearly

1 not prepared for that.

2 THE COURT: Okay. First of all, the pending
3 matter before the court is an offer of this document.
4 That's the pending matter.

5 MR. AHEARNE: I would object to this witness
6 being able to cure our objection on lack of foundation
7 and hearsay because he wasn't identified as someone
8 that would do that.

9 THE COURT: So is there a hearsay objection
10 that was lodged for this document?

11 MR. AHEARNE: Yes, Your Honor. For this
12 document, we had lodged a lack of foundation and
13 hearsay under 802.

14 MR. CLARK: And I'm just trying to lay a
15 foundation, Your Honor, and overcome the hearsay
16 objection. If I need to ask more questions to do that,
17 I will.

18 But, on the larger issue, this concerns
19 the F-196, and whether or not -- I mean, the other
20 side's come forward in their case in chief and through
21 the superintendent testimony and otherwise, has
22 suggested that the F-196 is part of their proof the
23 state is underfunding Basic Education, and we don't
24 believe that the F-196 can be used that way based upon
25 the testimony of the man we produced way back when, in

1 February, to testify as to any question opposing
2 counsel may have about the F-196s, it's generation,
3 it's uses and others, including it's auditing, Your
4 Honor.

5 And it seems to me that for counsel to
6 stand up at this point and say, well, he can talk about
7 it but he can't mention the Basic Ed Task Force. He
8 can talk about the statements themselves but not talk
9 about presentations about those F-196 statements that
10 go to the very heart of the liability issue in this
11 case, is uncalled for.

12 I don't want to use a stronger term.
13 I'm, frankly, surprised and perplexed to get this
14 series of objections to testimony about the F-196s and,
15 in particular, with this document which we disclosed,
16 we produced in discovery, it's been disclosed, and they
17 have an objection on foundation and hearsay. I'm
18 trying to overcome it.

19 It seems to me I can do that without
20 getting into the nitty-gritty of the document itself.
21 And if he has an objection downstream, based upon
22 testimony about what the Task Force asked and what they
23 answered, I guess we can deal with that, too.

24 But, you know, I'm a little bit
25 frustrated at this point that these all relate to the

1 F-196 and, yet, there are objections that this somehow
2 is beyond the scope of the disclosed testimony.

3 THE COURT: Mr. Ahearne.

4 MR. AHEARNE: He was identified as the
5 witness designated by the state to testify about the
6 F-195, F-196, the ABR, and the Accounting Manual, not
7 to testify on his presentations to the Basic Ed Task
8 Force, and that does go beyond the scope of the
9 designations, goes beyond the scope of anything
10 discussed in the deposition.

11 THE COURT: All right. Well, it strikes me
12 that there's two issues here. One is the substance of
13 the matter related to F-196. That issue has been
14 identified as associated with this witness. The fact
15 that he made a presentation to the Basic Education
16 Financing Task Force doesn't alter the substance of
17 that testimony, that is, is it related to the F-196s.

18 My understanding from my quick review of
19 this document and Mr. Clark's offer is that it does
20 relate to the F-196, and, therefore, the fact that it
21 was a PowerPoint presented to the BEFTF is secondary
22 and at this point is not particularly relevant. The
23 fact that he presented it to the Task Force, but rather
24 the substance is what it's being offered for and what
25 is relevant. His opinion with respect to the

1 applicability of F-196s in determining the fulfillment
2 of the constitutional mandate for funding would, again,
3 be a rebuttal to the petitioners' evidence on use of
4 that document for that purpose.

5 The objection is overruled.

6 MR. CLARK: We were offering the exhibit.
7 Thank you, Your Honor.

8 THE COURT: You can't -- it's not admitted
9 because there is a hearsay and authenticity objection,
10 so you'll need to lay the foundation, counsel.

11 MR. CLARK: All right.

12 BY MR. CLARK:

13 Q. Is Exhibit 1470 an authentic and complete
14 version of the PowerPoint you developed and helped
15 present?

16 A. (Reviewing.) To the best of my knowledge, it
17 is.

18 Q. And you have personal knowledge of the
19 generation of at least some of the information that's
20 contained in these payments, do you not?

21 A. Yes, I do.

22 Q. Okay. And does your personal knowledge
23 extend to the references in Exhibit 1470 to the F-196
24 document and the uses to which it can be put?

25 A. Yes, it does.

1 Q. Did you generate Exhibit 1470 as part of your
2 responsibilities as an employee of OSPI?

3 A. Yes, I did.

4 Q. Was it done as part of an effort to respond
5 to questions that were put to you and others about the
6 appropriate use of the F-196s?

7 A. Yes, it was.

8 MR. CLARK: Your Honor, we would offer 1470.
9 It's not hearsay. It's, you know, a business record of
10 the state.

11 THE COURT: Mr. Ahearne.

12 MR. AHEARNE: I would renew the objection
13 that got overruled, but this is a surprise that he's
14 using this for this outside the scope of the
15 designation.

16 THE COURT: The objection is noted,
17 overruled. 1470 is admitted.

18 EXHIBIT ADMITTED

19 BY MR. CLARK:

20 Q. Mr. Brodie, what was the question the Task
21 Force put to you that you were attempting to answer
22 related to Exhibit 1470?

23 MR. AHEARNE: Your Honor, now we clearly are
24 getting into the Basic Ed Task Force testimony as
25 opposed to the F-196 document.

1 THE COURT: I think it's foundational,
2 counsel. I think it's setting up the issues used in
3 rebuttal testimony. The objection is overruled.

4 BY MR. CLARK:

5 Q. Can you answer my question, Mr. Brodie?

6 A. Could you --

7 Q. Could I re-ask?

8 A. Please re-ask. Yes.

9 Q. Okay. What question or questions were you
10 and others trying to respond to with regard to the
11 F-196 through Exhibit 1470?

12 A. The Basic Ed Task Force, in part and whole,
13 were trying to answer questions about what the state's
14 obligation for Basic Ed funding was, and when they
15 looked at the F-196 they had some foundational
16 questions as to whether it would do that. And as part
17 of the ongoing work, they made proposals about changes
18 to the F-196 that would clarify that question.

19 Q. Let's go to the second page of Exhibit 1470,
20 the question and task per Chair.

21 What's the reference to the Chair?

22 A. The Chair is Mr. Grimm.

23 Q. Okay. And what was the question that he was
24 tasking of you?

25 A. The question he was addressing was relating

1 to the F-196 and the appropriateness of using that to
2 try to satisfy the question the group had about the
3 state funding and what districts were using money for.

4 Q. Okay. The first item on the second page of
5 Exhibit 1470 says, "State and local funds are
6 commingled in accounting categories."

7 Is that a reference to the F-196?

8 A. Yes, it is.

9 Q. Is it a true statement?

10 A. Yes, it is.

11 Q. Is it true today?

12 A. Still is.

13 Q. The second issue is, "Do you not know if
14 local funds are expended to subsidize state
15 responsibilities?"

16 Is that a correct statement as of September
17 16, 2008?

18 A. Yes, it is.

19 Q. Does it pertain to the F-196?

20 A. Yes, it does.

21 Q. Is it a true statement about the F-196 today?

22 A. Yes, it is.

23 Q. The third item, "Need to establish systems
24 that clearly distinguish state funding from local
25 funding."

1 Is that in reference to the F-196?

2 A. Yes, it is.

3 Q. Does that need still exist with regard to the
4 F-196 today?

5 A. Yes, it does.

6 Q. Based on your understanding of the F-196 and
7 as it exists today, is the F-196 capable of telling us
8 whether or not the state provided funds for Basic
9 Education are sufficient to fund Basic Education?

10 A. It is not.

11 Q. Let's go to the next page. On the third page
12 of Exhibit 1470 it states what the implied goal of the
13 questions is.

14 What did you understand to be the goal or
15 objective of the questions that were posed by Chair Dan
16 Grimm with regard to the F-196 and the ability to use
17 that document to assess whether or not state funding
18 for Basic Education was adequate?

19 A. Chairman Grimm and the members of the
20 committee were kind of looking both ways. They were
21 looking back at the F-196 as far as the adequacy to
22 unravel it and determine where districts made local
23 decisions using local dollars versus where its
24 expenditures clearly exceeded the state's funding level
25 and found it lacking. It wasn't there.

1 But the other side is they had proposals on
2 the table on how we could change this system in the
3 future to capture that type of information.

4 Q. All right. Let's turn ahead to page seven of
5 Exhibit 1470. "Accounting layers are not linked to
6 personnel, not linked to accounting."

7 Are you with me?

8 A. Yes.

9 Q. What was the point of this part of the
10 presentation?

11 A. There's a couple different points within
12 here. It talks about the richness of the current
13 expenditure level, and it also represents somewhat of a
14 pushback on some of the proposals that committee had
15 about changing things. So when we're talking about
16 those expenditures, talking about that richness, we're
17 talking about revenues, how they tend to have a linkage
18 to specific programs. So there is some clarity there,
19 although we do have some that are not. It's making an
20 argument about the personnel information, which is the
21 October 1st snapshot, and how it really would present a
22 building level expenditure, which is what we were
23 address in this thing, with existing data rather than
24 revising the entire accounting structure to do
25 accounting at a building level in its minute detail.

1 Q. On page seven, when it states in the middle,
2 "Some revenue codes are assigned to specific programs,
3 some are undefined" --

4 A. Yes.

5 Q. -- what is that a reference to?

6 A. As you look at each revenue code, it's a
7 four-digit number. We'll find code, section 3100,
8 which is a State Basic Ed Apportionment. The fact that
9 it has two zeros at the end indicates that it's not
10 really assigned to any one program. It's somewhat
11 discretionary on how districts spend that.

12 If you go to something like 6124, which would
13 be the federal IDA funding, it indicates by the
14 designation of 24 that those monies can only be spent
15 in program 24. So --

16 Q. Okay. The next page, page eight, talks about
17 expenditure specificity and has a chart that
18 illustrates revenue sources, programs, activities, and
19 objects.

20 Down below that it indicates 2006-07
21 expenditures for 01, 27, and 4 equaled \$688,794,326.
22 What is the significance in this document of that
23 information with regard to expenditures coded to 01,
24 27, and 4?

25 A. It really was just an example about how using

1 a combination of programs, activities, and objects, you
2 can drill down to a certain distinct level. And the
3 chart above is just a chart of all the possibility --
4 most possibilities. The shaded ones simply relate to
5 that example.

6 Q. Okay. Let's turn to page 10, "Unassigned
7 revenue can be attributed to any program."

8 A. Okay.

9 Q. Please explain to us the significance of this
10 information that was conveyed in part of the
11 presentation to the Task Force.

12 A. So when we talk about unassigned revenue,
13 they're generally revenue codes that end in 00. We
14 don't treat the 31 that way, 3100, although technically
15 it would not be included in here.

16 So as we go through those undefined revenue
17 codes, the major ones that I said earlier are the local
18 effort assistance, which comes from state money, the
19 local levy dollars that the districts receive from
20 their taxpayers. There could be Impact Aid, which I
21 believe is 5300 indicating that's unassigned, and a
22 variety of other revenue codes, some insignificant such
23 as fines and fees from the library to maybe some more
24 other significant revenue streams.

25 Q. When it states 30 undefined revenue codes

1 equal \$1.9 billion, what is conveyed by that?

2 A. I would go back to the second line which
3 basically says 22 percent of the revenues recorded in
4 the General Fund of all school districts combined is
5 discretionary money that they can spend where they wish
6 to.

7 Q. Okay. And by spending where they wish to,
8 does that give them some latitude or decision as to
9 where they code those expenditures on the F-196?

10 A. Yes, it does.

11 Q. Is 22 percent of total revenue being in
12 undefined revenue codes a problem? Maybe I should be
13 more specific.

14 A problem insofar as trying to identify
15 what's being spent on state obligations versus what's
16 being spent elsewhere?

17 A. There's a couple ways to answer that, so let
18 me try one way. The problem, no -- not from my level,
19 generally, but if you're trying to specifically narrow
20 down how those monies are spent, you don't always have
21 a trail to the expenditures that are being made with
22 those monies.

23 So, as you try to assess a -- Special
24 Education we'll pick on for a moment -- where there is
25 unidentified money going into the program, basically, I

1 would assert this levy, it may be, it may be not be.
2 It's very hard to go in there and say, well, we spent
3 that dollar from levy on this paper clip, this
4 computer, or even this staff member. So you lose that
5 identity.

6 So as you try to drill down and draw
7 conclusions out of the information, you find some dead
8 ends or some undefined trails that you simply can't go
9 down.

10 Q. Okay. Does the F-196, in its form as it
11 exists today, are you able to use the F-196 to track
12 which specific revenues have been spent on which
13 specific expenditures?

14 A. We cannot.

15 Q. Let's go on to page 11.

16 A. Okay.

17 Q. Define Revenue to Program.

18 At the bottom of the page, it states,
19 "Between undefined revenue codes and programs with
20 multiple links, cannot use current accounting
21 requirements to impute how revenue is expended by
22 program activity and object with enough certainty to
23 test state funding adequacy."

24 Was that one of the conclusions you and your
25 group reached with regard to the use of the F-196s?

1 A. Yes, it is.

2 Q. Was that true in September of 2008 when the
3 representation was made to the Task Force?

4 A. Yes, it was.

5 Q. Is it true today?

6 A. Yes, it is.

7 Q. In your opinion, can the F-196s be used today
8 to test state funding adequacy for Basic Education?

9 A. I do not feel they can be.

10 MR. CLARK: Your Honor, I'd like to go one
11 more page. I'm bumping up against the lunch hour. I
12 don't think I'll have enough time to finish with this
13 document, so --

14 THE COURT: All right.

15 MR. CLARK: -- if I get through the next
16 page, I'll be satisfied, and if there's more time, I'll
17 keep going. If not, you tell me and we'll stop.

18 THE COURT: Well, I think why don't you go
19 ahead with the next page and we'll just take our recess
20 at that time.

21 MR. CLARK: All right. Thank you, Your
22 Honor.

23 THE COURT: Okay.

24 BY MR. CLARK:

25 Q. Let's go to the next page, Mr. Brodie.

1 This deals with part four of the F-196
2 report, correct?

3 A. Yes, it does.

4 Q. And that's the Report Expenditures by -- the
5 Reported Expenditures by Revenue category page --

6 A. Yes, it does.

7 Q. -- from the F-196.

8 Okay. The question that's posed underneath
9 part four of the report is, "Does this identify for
10 policy makers how much state responsibilities are
11 subsidized by local resources."

12 And my question to you is, what is the answer
13 to that question as of the date you made this
14 presentation?

15 A. The answer is it does not identify them.

16 Q. Is the same answer true today for the F-196s?

17 A. There have been changes in this document.
18 The answer would stand.

19 Q. Okay. It goes on to state "Report does not
20 identify purpose of local resources expenditure."

21 Was that true when the statement was made
22 back in September of '08?

23 A. Yes, it was.

24 Q. Is it true today?

25 A. Yes, it is.

1 Q. And what is the significance of the three
2 examples that are offered under that bullet, that the
3 report didn't identify the purpose of local resources,
4 expenditures? Why are those offered as examples?

5 A. When we talk about compensation in district,
6 we focus, for this question, on the certificated
7 instructional staff. As we discussed earlier, the
8 state has established a base salary that has a
9 compliance aspect to it.

10 Within statute, districts are allowed to
11 provide additional funding for TRI contracts, which
12 could be everything from being a football coach to
13 being a mentor teacher, like department head, or simply
14 for two additional learning days for everyone.

15 By statute the state has said they have no
16 obligation for those contracts. We cannot clearly
17 identify how local resources or state resources even or
18 any resources, specifically, have been used for those
19 supplemental salaries.

20 We can look at individuals and see that they
21 maybe had \$7,000 in supplemental salaries, but we
22 really can't identify where that was paid out of. So
23 that would be the first line.

24 The second line is just simply saying, should
25 the state be funding negligence when a district has

1 negligence.

2 Q. The second reference is a reference to one of
3 the NERCs, the insurance --

4 A. Yes.

5 Q. -- responsibility that the districts have?

6 A. Yes.

7 Q. And expenditures for acquiring insurance?

8 A. Right.

9 Q. What does this point make with regard to the
10 insurance part of the NERC?

11 A. The state's providing NERC expenditures when
12 we evaluate the insurance cost of a district.
13 Frequently, in there you will find litigation costs
14 related to district negligence should the state be
15 funding that?

16 So just in that question, we have a hard time
17 evaluating what should insurance funding be versus what
18 districts are spending because we don't have enough
19 detail in there to break out where we think the state's
20 liability ends and district's negligence starts.

21 Q. The insurance expenditures that districts
22 account for in their F-196s, is that liability
23 insurance for accidents or mishaps that occur with
24 regard to the buildings that the districts own?

25 A. It would be -- we're talking about insurance,

1 yes. We're talking about the insurance on the place.
2 So the building itself, if it burns down, as well as if
3 somebody trips and falls in there.

4 Q. Would it also extend to insurance costs that
5 are necessary to insure against the negligence or
6 wrongful conduct of the staff that are employed by the
7 school districts?

8 A. Yes, it would.

9 Q. The last bullet, and I'll close out on this,
10 teachers for 1,000 instructional requirements, extended
11 day, is that an issue that's similar to the base
12 salaries versus supplemental salaries?

13 A. Yes, it is.

14 Q. And the common thread for each of these three
15 points is that, based on the F-196, we are not able to
16 determine what monies are spent on state obligations
17 versus federal obligations versus local obligations; is
18 that correct?

19 A. That is correct.

20 Q. And that is true today?

21 A. Yes, it is.

22 MR. CLARK: All right. I'll stop at this
23 point, Your Honor, if you want me to.

24 THE COURT: Thank you, Mr. Clark.

25 We'll continue with Mr. Brodie's direct

1 examination after our noon recess. We will resume the
2 afternoon session at 1:30 this afternoon.

3 Court is at recess.

4 (Whereupon the noon recess was taken and
5 there was a change in court reporters.)

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