3-87-190-CV

TARLTON LAW LIBRARY

CAUSE NO. 362,516

C 8353

EDGEWOOD INDEPENDENT SCHOOL DISTRICT, ET AL	>	IN THE 250TH JUDICIAL
VS.	>	DISTRICT COURT OF
WILLIAM KIRBY, ET AL	>	TRAVIS COUNTY, TEXAS

FILED
IN SUPREME COURT
OF TEXAS

JUN 21 1989

JOHN T. ADAMS, Clerk
By_____Deputy

STATEMENT OF FACTS

VOLUME V OF XLVI

FILED
OCT 09 87
THIRD COURT OF APPEALS
SUSAN R. BAGE, CLERK

TAKEN JANUARY 27, 1987

MONICA ROSS WEIDMANN
Official Court Reporter
250th Judicial District Court

Travis County Courthouse • Austin, Texas 78701

1 CAUSE NO. 362,516

2 EDGEWOOD INDEPENDENT SCHOOL DISTRICT, ET AL > IN THE 250TH JUDICIAL
3 >
4 VS. > DISTRICT COURT OF
5 >
6 WILLIAM KIRBY, ET AL > TRAVIS COUNTY, TEXAS

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7 STATEMENT OF FACTS
8

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9 BEFORE THE HONORABLE HARLEY CLARK, JUDGE PRESIDING
10
11
12 APPEARANCES:
13 MR. ALBERT H. KAUFFMAN and MS. NORMA V. CANTU,
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17 Missions Street, Room 401, San Francisco, California, 94110
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19 MR. CAMILO PEREZ-BUSTILLO and MR. ROGER RICE,
20 META, Inc. Attorneys at Law, 7 Story Street, Cambridge, MA, 02138
21 -and-
22 MR. RICHARD P. FAJARDO, MALDEF, Attorney at Law,
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25 ATTORNEYS FOR THE PLAINTIFFS

MAY 18 1994

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4 Austin, Texas 78701

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8 ATTORNEYS FOR THE PLAINTIFF-INTERVENORS

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10 MR. KEVIN THOMAS O'HANLON, Assistant Attorney General, P. O. Box 12548, Austin, Texas,
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15 ATTORNEYS FOR THE DEFENDANTS

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17 MR. JIM TURNER and MR. TIMOTHY L. HALL, with the law firm of HUGHES & LUCE, Attorneys
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21 MR. ROBERT E. LUNA, MR. EARL LUNA, and MS. MARY MILFORD, with the Law Office of EARL LUNA, P.C., 2416 LTV Tower, Dallas, Texas 75201

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24 MR. JIM DEATHERAGE, Attorney at Law, 1311 W. Irving Blvd., Irving, Texas 75061

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1 APPEARANCES CONT'D

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3 MR. KENNETH C. DIPPEL, MR. JOHN BOYLE, and MR. RAY HUTCHISON, and MR. ROBERT F. BROWN, with the law firm of HUTCHISON, PRICE, BOYLE & BROOKS,
4 Attorneys at Law, 3900 First City Center, Dallas, Texas, 75201-4622

5

6 ATTORNEYS FOR THE DEFENDANT-INTERVENORS

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17 BE IT REMEMBERED that on this the 27th day of
18 January, 1987, the foregoing entitled and numbered
19 cause came on for trial before the said Honorable Court,
20 Honorable Harley Clark, Judge Presiding, whereupon the
21 following proceedings were had, to-wit:

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1 JANUARY 27, 1987
2 THE COURT: All right, sir.
3 DR. RICHARD HOOKER
4 was recalled as a witness, and after having been reminded
5 he was still under oath, testified as follows, to-wit:
6 CROSS EXAMINATION (RESUMED)
7 BY MR. TURNER:
8 Q. Dr. Hooker, good morning to you.
9 A. Good morning, sir.
10 Q. Yesterday, I had just handed you this copy of the
11 Measurement of Equity in School Finance by Robert
12 Berne and Leanna Stiefel. And I wanted to ask you or
13 may have already asked you if you're familiar with
14 that text.
15 A. I reviewed it sometime ago, yes. You know, I can't
16 cite you a chapter or verse or manipulate their data.
17 Q. Am I correct in concluding, based on the depositions
18 we've taken of many experts in school finance, that
19 this book is recognized as an authoritative work on
20 the measurement of equity?
21 A. Yes, sir.
22 Q. And am I also correct that it's a book that discusses
23 methods of measuring equity in the sense of -- in a
24 theoretical sense of equity as opposed to talking
25 about equity in a constitutional sense?

1 A. I don't remember any constitutional discussion. It's
2 a matter of presentation of the different statistical
3 methodologies for analyzing equity. And I don't
4 remember any discussions of constitutionality.
5 Q. Am I correct in saying it's the kind of book that one
6 would rely on to employ appropriate statistical
7 analysis to the determination of the issue of equity?
8 A. Well, in terms of being a fairly comprehensive review
9 of commonly accepted statistical techniques for
10 analysis, it is. But they're just statistical tools.
11 And what's lacking there is the application of
12 a specific kind of a value system to the results of
13 the analysis. And obviously, what "one" expert would
14 consider equitable, another might not by looking at
15 the same statistical analysis because they have
16 different value systems that they apply when they
17 look at the data, just as you lawyers seem to have
18 different opinions on issues from time to time.
19 Q. But it's not a book that tries to talk to us about
20 constitutional law, is it?
21 A. Not to my memory, no.
22 Q. And I'm interested in your comment there regarding
23 the fact that there are value judgments inherent in
24 equity analysis. I've just noted in the next to the
25 last sentence here, it says "Value judgments cannot

1 be avoided by policymakers, and social science
2 research that highlights the specific influence of
3 values may help in understanding this."
4 One of the points that you seem to be aware of
5 that's made in that book is the fact that inherent in
6 any equity analysis, there are value judgments that
7 have to be applied to the analysis. So the raw data
8 really doesn't get you where you need to go without
9 the imposition of value judgments on top of that; is
10 that correct?
11 A. I have no argument with that. I just thought I
12 stated that proposition.
13 Q. As an example, would I be correct in saying that the
14 testimony that you have offered here in this
15 courtroom about your opinion regarding how many
16 dollars it might take, I believe was your estimate of
17 what it might take to provide a quality education,
18 that that would be one of those types of value
19 judgments?
20 A. That's subjective judgment on my part based on
21 research. I have a research foundation, but
22 certainly it's a value judgment.
23 Q. Dr. Hooker, if you would look on Page 13 of that
24 textbook, Berne and Stiefel discuss two types of
25 equity, horizontal equity and vertical equity.

1 A. Yes, sir.
2 Q. Feel free to refer to the text there, but I'm sure
3 you're familiar with it, and tell us what is the
4 difference between the term "horizontal equity" and
5 the term "vertical equity"?
6 A. Horizontal equity is the matter of equal treatment of
7 equals, seeing that students that are equal in their
8 educational needs, taxpayers that are similarly equal
9 in terms of the classifications of property that they
10 own and the type of wealth that they possess are
11 treated equally in the context of the finance system.
12 Q. So, when we talk about horizontal equity, we're
13 talking about comparing how equals are treated. In
14 other words, how an average student in one district
15 would compare to an average student -- maybe I should
16 say a student with no special needs in one district
17 compared with the student with no special needs in
18 another district; or, in the alternative, how a
19 handicapped child in one district may be compared and
20 treated with a handicapped child in another district.
21 That's horizontal equity.
22 A. Right, in terms of similar diagnosis and similar
23 learning prescriptions.
24 Q. Now, Berne and Stiefel make mention of the fact that
25 when we talk in terms of equity, generally we can

1 talk about equity, children's equity, student equity,
2 and also we can talk about taxpayer equity.
3 As I recall, the book does not deal in great
4 length with taxpayer equity. I believe your analysis
5 and testimony that you've offered to the Court has
6 dealt with both children equity and taxpayer equity,
7 has it not?
8 A. Yes, it has.
9 Q. So, when we're talking about horizontal equity, we
10 can talk about children's equity, and we can talk
11 about taxpayer equity in terms of horizontal equity,
12 I suppose.
13 A. (Witness nodded head to the affirmative.)
14 Q. Now the term "vertical equity" is also mentioned on
15 that page. What is meant by vertical equity?
16 A. The appropriate unequal treatment of unequals.
17 Q. All right. Could you expand on that a little bit?
18 A. Well, the idea that children's educational needs are
19 different, and the cost associated with meeting those
20 needs are different. And the finance system, if it's
21 equitable, recognizes those differences.
22 Q. In other words, an example of an analysis of vertical
23 equity would be a determination as to whether or not
24 a handicapped child is receiving a greater --
25 A. Yes.

1 Q. -- input than a child with no special needs?
2 A. That's correct.
3 Q. So our weighted pupil system in Texas would be an
4 example of a means of addressing vertical equity.
5 A. All the special population programs, compensatory
6 education, Bilingual, excel, vocational education,
7 are recognized, whether or not appropriately, they
8 are recognized and the attempt is an attempt at
9 recognizing vertical equity issues.
10 Q. You're probably familiar with the Connecticut Supreme
11 Court case struck down their system of public school
12 finance some years ago, in which Connecticut was
13 funding their education on a pure set dollars per
14 ADA.
15 That kind of system, when in place, would not
16 contain elements to consider either horizontal or
17 vertical equity, would it, if we had a system like
18 Connecticut had that struck down where -- the same
19 dollars were funded per child in every school
20 district in the state?
21 A. My assumption is yes, that would violate that, by
22 your description of the case. I haven't read the
23 case.
24 Q. Dr. Hooker, if you would, let's look over on Page --
25 I believe I'll have to look, I think it's 18. Maybe

1 18, 19, and 20. Let's see, let's look at 18 first.
2 Dr. Hooker, beginning on the bottom of this
3 Page 18, there's a section that begins and is headed
4 "Measures of Horizontal Equity." And I think it
5 continues on for a couple of pages. I want to direct
6 your attention to that section.
7 Dr. Hooker, am I correct in saying that in the
8 text that that section entitled "Measures of
9 Horizontal Equity," certain measures or methods are
10 set out that could be used by an analyst to
11 statistically analyze the degree or lack thereof of
12 horizontal equity?
13 A. Yes, sir. There's a list of 11 items on Page 19.
14 Q. All right. If you don't mind, would you go through
15 that list. And I believe there's a brief description
16 given, and if you would like to refer to that, please
17 feel free to do so. But I would like basically for
18 you to enumerate the measures of horizontal equity
19 that's suggested there and give us a description of
20 what they are.
21 A. The first one is "Range," which simply looks at the
22 highest and lowest pupil objects under consideration
23 in the distribution system which we have been
24 discussing.
25 Q. An example of that would be your testimony that was

1 elicited by Mr. Gray that showed the --
2 A. Lowest.
3 Q. -- property wealth of the poorest district as
4 compared to the property wealth per ADA of the
5 wealthiest district in the state?
6 A. On a per pupil basis, yes.
7 Q. On a per pupil basis.
8 And also, the other exhibit I believe that
9 listed in rank order the amount of spending per child
10 in all of the districts in the state, which would
11 reveal the top and the bottom --
12 A. The revenue input.
13 Q. -- the highest and the lowest?
14 A. Yes.
15 Q. That would be an example of utilizing the range
16 methodology for analyzing the school finance?
17 A. Full range.
18 Q. Full range?
19 A. Top to the bottom.
20 Q. All right. Go ahead with the ones that follow.
21 A. "Restricted range," which compares the 5th percentile
22 of pupil level to the 95th percentile of pupil level.
23 The concept there statistically is that in any
24 distribution, you've got things that are off over
25 here and things that are off over here and some

1 statisticians feel that you cannot appropriately look
2 at the full range and really look at what the actual
3 problem is. And so, they like to think in terms of
4 restricted ranges.
5 Q. All right.
6 A. I have some problem with -- well, you didn't ask me
7 to discuss it, so I won't.
8 The next one is "Federal range ratio." The
9 federal range ratio looks at the 5th and the 95th,
10 and divides the 5th into the 95th, and that computes
11 a ratio that gives you some indication of the top to
12 the bottom in terms of the restricted range.
13 Q. All right.
14 A. And then their standard is a 1.25 in terms of whether
15 or not you can utilize impact aid in your equity
16 analysis in terms of the state/local finance
17 structures.
18 Q. That's a standard that's set out in federal
19 regulation?
20 A. Yes, sir. It is.
21 Q. Used for a specific purpose by the federal
22 government?
23 A. It's used for a specific purpose, yes.
24 Q. All right. Go ahead with the ones that follow.
25 A. No. 4 is a "Relative mean deviation." Describes it is

1 the sum of the absolute value of the differences
2 between each per-pupil object and the mean per-pupil
3 object as the proportion of pupil objects in the
4 distribution.
5 No. 5 is the "McLoone index -- the ratio of the
6 actual sum of per-pupil objects for pupils below the
7 median to the sum of the per-pupil objects that would
8 exist if each pupil were below the median were at the
9 median per-pupil object."
10 Q. All right. Now, that one, Dr. Hooker, the McLoone
11 index, we're going to hear some testimony later in
12 this trial regarding the McLoone index and I think it
13 would be helpful to all of us if you could explain
14 that in a little clearer language for us so we can
15 understand what that measure is.
16 A. If you don't mind, I'll leave that for Deborah
17 Verstegen or Mr. Moak, who are more familiar with the
18 application of this particular methodology.
19 Q. All right, sir.
20 A. "Variance" -- the average of the squared deviations
21 of each per-pupil object from the mean per-pupil
22 object."
23 Seven is the "Coefficient of variation -- the
24 square root of the variance of per-pupil objects
25 divided by the mean per-pupil object."

1 No. 8 is the "Standard deviation of logarithms
2 -- the square root of the variance of the natural
3 logarithm of per-pupil objects."
4 No. 9 is the "Gini coefficient -- shows how far
5 the distribution of per-pupil objects is from
6 providing each percent of pupils (e.g., 5 percent of
7 the pupils) with an equal percentage of object (e.g.,
8 5 percent of the objects); based on the Lorenz
9 curve."
10 Q. Now, Dr. Hooker, all of those that you've read, the
11 last few that you've read there are measures of
12 horizontal equity. I can't tell you that I've
13 understood how they work. And I take it you would
14 prefer that I leave a description of how those work
15 in the --
16 A. To the people that have employed those methodologies
17 in doing an evaluation, yes. I have not.
18 Q. All right.
19 A. "Theil's measure -- a measure of inequality based on
20 the notion of" -- a word I can't even pronounce --
21 "in information." The word is spelled E-N-T-R-O-P-Y,
22 entropy.
23 "Adkinson's index" is No. 11. "A measure of
24 inequality based on the choice of an explicit
25 social-welfare function."

1 Q. Is that all of them?
2 A. Yes, sir.
3 Q. How many were there in total there?
4 A. 11.
5 Q. Dr. Hooker, I want to direct your attention now over
6 to Page 26, of the text to a section that's headed up
7 "Measures of Equal Opportunity," which, as I
8 understand it, is a section which suggests methods of
9 analysis, statistical methods of analysis that are
10 appropriate to a determination of the degree of
11 equity or lack thereof of equal opportunity of the
12 pupils within the system.
13 And in this section, there are 11 measures that
14 are set out.
15 And I would like for you, if you would, just to
16 look at Pages 26, 27 and 28. And then I want you to
17 describe for the Court, if you can, those methods. I
18 believe there's a table there that lists all of them
19 in one place.
20 And I noted, Dr. Hooker, that that section
21 talks about regression-based analysis. Could you
22 tell me what's meant by "regression-based analysis"?
23 A. I tried that once with the House Education Committee
24 and was asked never to come back.
25 The regression approach to statistical analysis

1 in its simpliest terms is you know one thing and you
2 have some variables that you think might have
3 something to do with it, and you load it into the
4 computer, and the computer tells you whether or not
5 by knowing "X" you can predict "Y" or by knowing "X",
6 "Y" and "Z", you can predict whatever the criterion
7 vector is in the regression analysis.
8 And so, it's a process statistically of
9 determining the relationships of one variable to
10 another.
11 Q. Is that what we refer to as correlation analysis?
12 A. Well, in my limited understanding of advanced
13 statistics, that comes into play in terms of the
14 determinations of the relationships and after a
15 fashion.
16 Q. Dr. Hooker, if you would, referring to that table,
17 could you set out for us the measures of equal
18 opportunity that are utilized in analysis of that
19 particular issue?
20 A. One is "Correlation," and they refer to Pearson's
21 correlation coefficient.
22 Two is "Slope from the simple regression."
23 Three is "Slope from the quadratic regression."
24 Four is "Slope from the cubic regression."
25 Five is "Elasticity from the simple

1 regression."
2 Six is "Elasticity from the quadratic
3 regression."
4 Seven is "Elasticity from the cubic
5 regression."
6 Eight is "Constant elasticity."
7 Nine is "Adjusted relationship measure from the
8 pupil-weighted simple regression."
9 Ten is "Adjusted relationship measure from the
10 pupil-weighted quadratic regression."
11 And No. 11 is the "Adjusted relationship
12 measure from the pupil-weighted cubic regression."
13 Q. I take it that you would prefer to refrain from
14 trying to further expand upon those and --
15 A. I am not a statistician.
16 Furthermore, not that you asked, but is it
17 legal to expand upon your questions?
18 My attitude about what you have had me just
19 list is that back in the early 70s, when a lot of
20 attention was focused on equity issues, a lot of
21 economists and statisticians that were looking for
22 ways to get themselves published in the national
23 reference journals figured out very complex
24 statistical analysis of school finance issues in
25 order to give themselves a forum in the literature.

1 And quite frankly, I think from the perspective
2 of an East Texas piney-woods rooter, they have
3 totally clouded the issues with the complexity of
4 their analysis of the data. I don't think the
5 problem is nearly that difficult to grasp and
6 certainly not that difficult to analyze. And I don't
7 think you need these kinds of advanced forms of
8 statistical analysis of the data, which nobody but a
9 handful of statisticians can understand anyway, to do
10 this. I mean, it's just not that complex. The
11 problems in school finance are not that complex.
12 And I'm not saying that regression analysis are
13 not helpful in deriving, you know, formula structures
14 and all of that sort of thing. I'm not meaning to
15 demean the use of some statistical analysis. I'm
16 just saying that they tend to make it more complex
17 than it has to be.
18 Q. Does that opinion, Dr. Hooker, on your part, explain
19 why you haven't relied on any of those, with the
20 exception of the discussion on the range, which was
21 the first one?
22 A. Well, in part it does. But two things come into
23 play.
24 One is that, in the first place, I did not
25 institute this suit.

1 In the second place, I was not brought into it
2 as an expert witness until late in the game.
3 And No. 3, when I was brought into it as an
4 expert witness, I was asked to do two things. One
5 was to explain the history of how we got to May of
6 1984, and to simply describe the Foundation School
7 Program structures which I helped to construct, which
8 are existent in Article II in House Bill 72, and a
9 simple explanation straightforward objective of how
10 they work.
11 And somehow, the defense attorneys have gotten
12 me into a whole lot of other issues which I was not
13 asked to prepare for, nor given the opportunity to
14 prepare for.
15 Q. Dr. Hooker, I want to direct your attention to the
16 very last statement in the book, which is the
17 concluding statement in the summary and conclusion
18 section of the book. And ask you, if you will, just
19 to read the last sentence there which begins "At a
20 minimum."
21 A. "At a minimum, poor choices such as the range, the
22 absence of adjustments for price differences, and the
23 failure to measure vertical equity should be
24 avoided."
25 Q. All right, sir. You have to clarify this for me.

1 The list of rank order of school districts by wealth
2 and by -- excuse me -- by expenditure, which is
3 Plaintiff-Intervenors' Exhibit 216, do you know if
4 those figures that show total expenditures for
5 refined ADA include or exclude price differentials
6 adjustments?
7 A. To my knowledge -- and this is an Equity Center
8 document, as I recall. Yeah, I can see it.
9 What I was told what this included was the
10 total current expenditures of the school district,
11 not including federal money, and simply divided by
12 the ADA of the school district. To the best of my
13 knowledge, that's what's there.
14 Q. All right. So that, to your understanding, does not
15 include any adjustments to price differences?
16 MR. GRAY: No, that's an error, Your Honor.
17 The adjustments for price differences are taken into
18 consideration in how much money the school district
19 gets, and then it's divided in by the numbers of kids
20 under the current formula.
21 A. There is no question but what the Price Differential
22 Index, monies that flow to school districts are
23 included here.
24 Q. All right. So when Berne and Stiefel say at a
25 minimum, they're talking about doing analysis of

1 equity at a minimum, poor choices, such as the
2 absence of adjustments for price differences, that
3 list clearly does not take out the adjustments for
4 price differences, does it?
5 A. No, it includes the adjustments for price
6 differences.
7 Q. All right. And as I read this statement by Berne and
8 Stiefel, they are suggesting that it would be a very
9 poor choice not to pull out those adjustments in
10 terms of analyzing equity. Is that the way you read
11 it?
12 A. Let me read that again.
13 The way I read it is that if there is an
14 absence of adjustments for price differences, you
15 have made an error, meaning if they are not included --
16 Q. Okay.
17 A. -- is the way I would read that.
18 Q. All right. The statement also says, as you read,
19 poor choices such as the use of the range. As I
20 recall, the range was the first --
21 A. The unrestricted range, meaning from the absolute
22 bottom to the absolute top.
23 Q. So, if Mr. Gray displays to you, as he did earlier,
24 the maximum wealth district per ADA and the poorest
25 wealth district per ADA, or if he displays to you the

1 highest spending district and compares that to the
2 lowest spending district, in terms of what Berne --
3 A. It is the opinion of the authors that that is an
4 inappropriate form of analysis.
5 Q. All right.
6 MR. GRAY: Your Honor, I would point out,
7 though, that we have shown the 500 richest and the
8 500 poorest. And if for some reason Mr. Turner
9 insinuates that that is less than a full picture, we
10 take issue with him.
11 MR. O'HANLON: That's kind of an odd
12 objection to make on cross examination, Your Honor.
13 I think that he can go back into it on redirect if
14 that's what he wants to do.
15 MR. GRAY: It was merely a clarification
16 for the Court's purposes to let the Judge try the
17 case.
18 MR. O'HANLON: When Dr. Hooker gets
19 through, then we can have Mr. Gray take the stand and
20 have him explain it to us.
21 THE COURT: All right. Are you all through
22 having fun with each other?
23 BY MR. TURNER:
24 Q. Dr. Hooker, in the closing paragraph -- excuse me, or
25 the closing section of the book, the authors discuss

1 the importance of the selection of statistical
2 methods.
3 Now, I recognize from what you just said a
4 minute ago that you don't go in for all of this kind
5 of statistical analyst, but --
6 A. I simply said that they make it unnecessarily
7 complicated.
8 Q. All right.
9 A. And the issues to me are not as complicated as they
10 try to make them appear.
11 Q. So, when Berne and Stiefel say in its closing chapter
12 that in their judgments, it's not necessary to look
13 at all of these methods, but that an appropriate
14 selection of those methods should be chosen for
15 analysis, you would generally agree with at least the
16 proposition that you don't have to use them all?
17 A. It would be my opinion that the purposes of the
18 person doing the analysis would determine the form of
19 analysis that you would use. And in the case of the
20 range kind of issue, as a statistician, I am sure
21 that most would agree with him on that issue.
22 But the issue before the Court is the
23 constitutionality. And the issue before the Court,
24 it would appear to me, takes into consideration
25 what's happening to every kid in the state system of

1 school finance and to every taxpayer in the state
2 system of school finance.
3 And if, you know, it's the determination of the
4 Court that they are being denied their constitutional
5 rights, we're talking about individual rights. And
6 it would appear to me to be appropriate to certainly
7 look at the range because it's not merely a
8 statistical analysis for some statistician's purpose.
9 And I am relatively certain that the planists
10 would choose to use analyses that make the system
11 look as bad as possible. And I am sure that the
12 defense is going to select those measures that make
13 it look as good as possible. And you know, if I were
14 the Judge trying the case, I would probably want to
15 look at them all.
16 MR. E. LUNA: May it please the Court, I'm
17 going to object to him telling the Judge how he ought
18 to try the case. I think that's going a little far
19 and invading the Court's province.
20 THE COURT: All right, sir.
21 BY MR. TURNER:
22 Q. Dr. Hooker, I believe you already testified you're
23 not an expert on constitutional law and wouldn't
24 purport to be.
25 A. I do not pretend.

1 Q. And I believe you stated to me just a few moments ago
2 that you're not familiar with some of these
3 statistical analysis and you don't really place a lot
4 of emphasis on that in drawing your conclusions.
5 A. (Witness nodded head to the affirmative.)
6 Q. The conclusion of this book also makes the statement
7 that there are certain value judgments inherent in
8 the selection of these various methods of analysis.
9 And I suppose what you were just sharing --
10 A. A lot of what -- inherent --
11 Q. Certain value judgments --
12 A. Oh.
13 Q. -- that are made in selection of the methods of
14 analysis.
15 A. Certainly.
16 Q. And I suppose that's what you were talking about --
17 A. Yes.
18 Q. -- when you said just a moment ago that the
19 Plaintiffs might choose just to look at the range,
20 even though -- because that would be the highest and
21 the lowest and there are some children in those
22 districts of the highest and the lowest.
23 A. (Witness nodded head to the affirmative.)
24 Q. And even though Berne and Stiefel would say that in
25 terms of equity analysis use of the range is poor

1 choice, you can see why the Plaintiffs might want to
2 look at that and bring that to the attention of the
3 Court.
4 So that would be an example of a value judgment
5 that they would make in selecting a method; is that
6 correct?
7 A. Certainly is.
8 MR. KAUFFMAN: Your Honor, I would object
9 to the question. It's at least five questions.
10 THE COURT: Well, he was fixing to answer,
11 so maybe he mastered all five.
12 MR. TURNER: He probably has.
13 THE COURT: Put one question, please, sir.
14 BY MR. TURNER:
15 Q. There is a value judgment inherent in the selection
16 of these methods; is that correct?
17 A. Absolutely. What do you want to prove?
18 Q. And it is correct that it would be to the Plaintiffs'
19 advantage to talk about the range, even though the
20 most authoritative work in the area of school finance
21 says the use of the range is poor choice.
22 A. For statistical analyst, not necessarily from the
23 standpoint of judicial analysis of constitutional
24 issues, which you pointed out the book does not
25 address in any form or fashion.

1 Q. All right. In terms of presenting this case to the
2 Court, Dr. Hooker, wouldn't it be appropriate to look
3 at equity in terms of the way of those in the field
4 are used to looking at it and talk about equity in
5 the pure sense, the theoretical sense, and make some
6 determination or give the Court some sense of how low
7 standards apply to what we have in Texas, and then
8 take a second step and see how our constitution would
9 impose over that or how that would fit into a
10 constitutional analysis?
11 For example, couldn't we have a system that
12 doesn't meet perfect equity, and yet it would still
13 be constitutional?
14 A. I'm sorry, I'm getting lost in your question, again.
15 If you could break it up in little pieces.
16 Q. Let me back up again and ask you, wouldn't you think
17 it's appropriate in a case like this to look at
18 equity in a theoretical sense applying the facts in
19 the Texas case through the analysis that authors such
20 as Berne and Stiefel recommend?
21 A. We have been looking at equity in Texas school
22 finance for at least -- Mr. Moak has since 1965, and
23 I have since 1968, and Alan Barnes has looked at it
24 -- I don't even know how many years.
25 For some reason, we have not presented to the

1 Legislature the Gini coefficients, the Lorenz curves,
2 the McLoone index, and so forth. And it seems that
3 at least in the conventional wisdom of us poor Texas
4 boys, we have found ways to analyze the system which
5 we felt were appropriate without the employment of
6 all of the methodologies that are listed in that list
7 that you had me read.
8 Q. Well, I served in the Legislature, as you know, and
9 we're fortunate to be over here before a learned
10 Judge.
11 And don't you think it would be appropriate for
12 us to look at the equity of a school -- Texas school
13 finance system in terms of this kind of an analysis?
14 A. A while ago I made that statement and I was chastised
15 for telling the Court how to go about analyzing the
16 case.
17 But, you know, my assumption is, if I were the
18 Judge, I would want to see every conceivable form of
19 analysis which could be made available to me, and not
20 just the ones the defense wanted to show and the ones
21 that the Plaintiffs wanted to show.
22 Q. Dr. Hooker, this book by Berne and Stiefel doesn't
23 spend a lot of time talking about taxpayer equity,
24 although it does acknowledge that such analysis
25 exists.

1 I noted in your testimony that you place what
2 appears to me to be almost equal emphasis upon
3 taxpayer equity as you do upon educational equity of
4 the children. Am I correct in making that
5 conclusion?
6 A. I'm trying to remember all of the things that you
7 guys have forced me to say.
8 I would guess that there is a fairly balanced
9 testimony in the record in terms of student equity
10 and taxpayer equity. And I certainly think that
11 there ought to be a balanced attention paid to those
12 issues, yes.
13 Q. Does your belief in taxpayer equity -- let me preface
14 that with this.
15 As I recall, you worked with Wayne Peveto in
16 the development of what was known as Senate Bill 621.
17 A. I tried to help Wayne in every way I could, yes, sir.
18 Q. And after introducing a similar bill for several
19 years, Wayne and Senator Jones were finally
20 successful in passing that legislation which mandated
21 some uniformity in assessment practices across the
22 state.
23 Did you view that as a significant step forward
24 in school finance?
25 A. It was extremely critical to the evolution of school

1 finance reform, yes.
2 Q. In what respects would you say it contributed to
3 school finance reform?
4 A. Well, in going into the session in 1975, trying to
5 construct school finance reform legislation, it was
6 necessary for us to utilize some very crude, shall we
7 say, adjustments and estimates of the value of
8 property in school districts because there was no
9 uniformity in the way school districts did it, and
10 there was no state agency monitoring their activity.
11 And as a result, we got into a great many
12 arguments over who's rich and who's poor because
13 nobody had any uniform measures so we could really
14 compare apples to apples about who's rich and who's
15 poor in terms of their property base.
16 And what Senate Bill 621 did for us was to
17 create an obligation on the part of the State
18 Property Tax Board to set up uniform appraisal
19 guidelines for all classifications of property and to
20 set up uniform accounting procedures and uniform
21 record-keeping procedures and so forth.
22 And as a result, we now have -- although I am
23 not claiming any great level of perfection, but at
24 least we now have a great deal of uniformity in the
25 system, plus we have the State Property Tax Board

1 going out doing sample appraisals on property, doing
2 sales ratio studies and so forth on a systematic
3 basis every two years at least -- well, every year
4 now they've got it down to.
5 In the process, they are able to independently
6 give us an estimate of the property tax base of the
7 school districts, even independent of the county
8 appraisal district.
9 And so we have a much higher quality data today
10 than we had ten years ago.
11 Q. Dr. Hooker, do you have an opinion regarding the
12 equity of the property tax, itself, as a form of
13 taxation?
14 A. Yes, sir. I do.
15 Q. And would you share that with me?
16 A. I think it's grossly inequitable and archaic. It's
17 administered as fairly as we can do it.
18 Q. And would you expand upon what you mean by that the
19 property tax is an inequitable tax?
20 A. The property tax, when it was instituted, was the
21 basic form of supporting state and local governments
22 and was probably appropriate in that most of our
23 wealth was in property.
24 And we now have a complex industrial society.
25 We no longer have a rural agrarian society. And as a

1 result of that shift in what represents wealth, we
2 have all sorts of sources of wealth, which are, in
3 fact, escaping taxation.
4 And also, income is the best -- generally
5 accepted as the best measure of ability to pay. And
6 the ownership of property does not represent the
7 ability to pay taxes. It's quite possible for a
8 person to be property poor in a sense of owning real
9 and tangible personal property and not having a high
10 income. And you put the state in the position of
11 taking away that property in order to get at the
12 value that the person holds.
13 And you know, if one chooses to invest in
14 stocks and bonds, for instance, that totally escapes
15 taxation, but it is property. When I say totally, I
16 mean it's not a part of the local tax base of the
17 school district.
18 And if a guy invests in a local grocery store,
19 you can bet he's going to pay property taxes. And
20 both of them may have equal property in "wealth."
21 And so, there are all sorts of inequities that
22 are involved in property taxation.
23 Q. Just to address a few specifics of what you're
24 speaking of in an overview, would an example of that
25 be your view that it's really inequitable for one

1 taxpayer to, say, be paying a 60 cent per $100.00
2 evaluation tax rate on his home that maybe he only
3 has -- maybe he bought for $60,000.00 and he paid
4 $6,000.00 down, so he really has $6,000.00 of equity
5 in it, but he's paying a 60 cent per $100.00
6 evaluation on the full $60,000.00 house as compared
7 to --
8 A. Which the mortgage company owns.
9 Q. -- he may own his house with no debt and actually
10 have $60,000.00 of equity and he pays the same
11 property tax on it.
12 Is that an example of what you're talking about
13 on the inequities that are built in --
14 A. There are all kinds of inequities. That's another
15 example, potentially.
16 Q. In terms of taxation of business property, an
17 automobile dealer who pays property tax based on the
18 valuation of his car inventory, but in truth and
19 fact, that car inventory is financed 100 percent with
20 GMAC, and he really doesn't own any equity in those
21 cars. He just has them on his lot, and he is paying
22 interest on it, and they're owned by somebody else in
23 truth, but he's paying the tax.
24 Is that another example of the inequity of the
25 property tax --

1 A. Yes.
2 Q. -- in your view?
3 A. Yes.
4 Q. The property tax, say it were equal in two different,
5 say, school districts, say, 60 cent per $100.00
6 evaluation, one homeowner in the $60,000.00 house,
7 let's say, even with the same equity as the owner of
8 the $6,000.00 house in the other district, but the
9 homeowner in District A has $100,000.00 a year income
10 and the taxpayer in District B has only a $40,000.00
11 year income. Their ability to pay that tax differs
12 though the tax be the same.
13 Is that an example of inequity that you see in
14 the property tax system?
15 A. Most experts agree that income is a much better
16 measure of ability to pay.
17 Q. So I guess we could say, then, could we not, Dr.
18 Hooker, that even if we equalize those tax rates in
19 one district to the other, the inherent inequities of
20 the property tax system as you view it really don't
21 create equity simply because we have the same tax
22 rates in one district or the other?
23 A. The Supreme Court in the Rodriguez decision, the
24 majority opinion of the courts pointed out that we
25 were much too reliant on the property tax, which I

1 think it described as outmoded or something or other
2 like that.
3 Q. So, in your view, to hold up to the Court, the wisdom
4 of having an equalized tax rate across this state, in
5 view of the inherent inequities in the property tax,
6 really doesn't accomplish too much in terms of
7 fairness, does it?
8 A. Well, we really don't have a choice since the
9 property tax is there. It's a major revenue
10 producer. And our choice is to administer it as
11 equitably and as fairly as we know how because the
12 State Legislature in its wisdom has not given us
13 alternatives.
14 Q. So unless we're going to somehow out of this case --
15 which I can't see how we'll get there, but if the
16 Plaintiffs are creative -- if we can't do away with
17 the property tax and we must rely on that to some
18 significant degree to finance schools of our school
19 systems --
20 A. We are producing, as we pointed out yesterday,
21 approximately $5 billion from the administration of
22 the local ad valorem tax for the support of public
23 schools which is half of the income of the public
24 schools, disregarding federal revenues.
25 Q. So if we were to look at an exhibit, such as the

1 Plaintiffs' Exhibit No. 207 or the Plaintiffs'
2 Exhibit No. 209, which shows us an average tax rates
3 in various districts, in this case, a group of the
4 poorest and richest, and examples of tax rates over a
5 dollar in the hundred poorest and the hundred
6 richest, in terms of your view on equity, taxpayer
7 equity, those numbers really are just a very small
8 part of the story in terms of equity.
9 A. Well, until the State Legislature changes the state
10 tax structure, I can't agree with you. The source of
11 revenue, only source of revenue for public schools
12 locally is the property tax. And as you can see,
13 they're forced to depend on it to the tune of on an
14 average nearly 50 percent of their sale over revenue.
15 So, we have an obligation to see that taxpayers
16 are treated in a horizontal equity issue alike in the
17 support of the state system of public education.
18 Q. But I thought you told me earlier that there were so
19 many other deficiencies and inequities in inherent
20 property tax, itself, that just because we paid in
21 District A 60 cents per hundred dollar valuation, in
22 District B, we paid 60 cents, but that was only part
23 of the story, that there were other things that would
24 work in determining whether or not that's a fair
25 system of taxation?

1 A. Well, as you all as defense attorneys have frequently
2 pointed out to me, we do have legal structures, we do
3 have constitutional structures. And right now, the
4 only ballgame in town for the local school district
5 is the property tax. And in my opinion, we have no
6 recourse but to provide horizontal equity for
7 taxpayers in the state system of school finance. I
8 just don't see that we have any recourse.
9 Now, if the Legislature wants to create a
10 totally different financing system for public
11 education and abolish the local property tax and
12 institute a substantial level of state personal and
13 corporate income tax and fund it all, well then you
14 can avoid dealing with trying to create an equitable
15 property tax, but as long as it's there, you have the
16 problem of trying to create an equitable property
17 tax.
18 Q. So by equitable property tax then, you're saying it's
19 essential that we do have uniform evaluation methods?
20 A. Oh, absolutely.
21 Q. Are you further saying that we should have uniform
22 rates?
23 A. I am further saying that in the support of the state
24 system of public education, that the person who owns
25 an $80,000.00 house in Crystal City and the person

1 who owns an $80,000.00 house in Iraan-Sheffield, they
2 should be bearing roughly the same tax burden in the
3 support of the state system of school finance, yes,
4 sir, that's my opinion.
5 Q. Even though you've acknowledged that the homeowner in
6 Iraan-Sheffield may be much better able to pay a
7 property tax than the homeowner in Crystal City?
8 A. That just happens to be the nature of the property
9 tax.
10 Q. All right. So the point --
11 A. If you would like to shift to having income measures
12 associated with the establishment of the local fund
13 assignment, there are some proponents of that. And
14 what you would see is that your suburban school
15 district friends who are sitting behind you, their
16 personal income of their patrons are much higher and
17 would wind up with a substantially higher local fund
18 assignment than they have now.
19 Q. But that kind of proposal would be based on the
20 assumption that in one district we all have taxpayers
21 who have incomes over a hundred thousand and maybe in
22 this other district we have all taxpayers who are
23 under 40,000. And we all know that's not the real
24 world out there and there's variation of wealth by
25 family in any district; isn't that correct?

1 A. That's certainly true, but that does not stop you
2 from creating average income measures, personal
3 income measures by district and putting those in as a
4 factor which influences the local district share.
5 And there have been people who have proposed that
6 around here. I am not one of them.
7 Q. Dr. Hooker, recognizing what you've just said in your
8 criticism of the property tax, itself, and the
9 fairness of it, surely you're not going to tell us
10 that just because we had equalized rates across this
11 state, that somehow we've made a substantial --
12 A. Gain in equity, and we have.
13 Q. -- gain in equity in terms of what the property tax
14 is?
15 A. In my opinion, we do gain in equity by doing that.
16 Q. But at least you can acknowledge we don't make it
17 perfect.
18 A. That's for certain.
19 Q. And I suppose you would agree with me that there
20 might be some value judgments inherent on whether or
21 not such an effort to have equalized rates really
22 substantially gained in terms of equity of the
23 property tax?
24 A. Senate Bill 621, as I recall, passed the Senate on a
25 15/14 vote with two senators conveniently sick or out

1 of the state. And I would say that there are
2 certainly considerable weighted opinions that we
3 should have never gone about the process of trying to
4 even get quality information about what the property
5 values are.
6 Q. All right. Dr. Hooker, does your view that we should
7 have equalized tax rates for the financing of public
8 education in this state, does your view on that
9 subject extend to a view that we should have
10 equalized tax rates for the provision of other
11 essential government functions such as, let's say,
12 the court system which are funded through the
13 counties -- and, of course, we all know access to the
14 court is an important right. Do you believe we ought
15 to have equalized tax rates at the county level to
16 make sure these kind of services are provided
17 equally?
18 A. Sir, you're totally outside of my arena. I have no
19 concept of how those are supported, what the options
20 are or anything else.
21 Q. All right. Well, you're, I'm sure, aware, for
22 example, in this court, the Judge's salary is paid in
23 part, in large part, by the state, that each county
24 has an option of supplementing that, and that all of
25 the facilities that we see here, and this courtroom,

1 and the Judge's office, and his secretary, and all of
2 those things are funded by the county; you're aware
3 of that?
4 A. (Witness shook head to the negative.)
5 Q. Is that something within your knowledge?
6 A. No, sir.
7 Q. All right. So you really don't have a view of
8 whether or not --
9 A. I do not.
10 Q. -- your philosophy of equal tax rates should apply to
11 other important governmental functions?
12 A. In the sense that you're asking it, no, I would be
13 afraid to make such a broad generalization. I tend
14 to support equity in most things, but I'm just not
15 sure about the specific cases.
16 Q. Dr. Hooker, I recognize that -- you told me you don't
17 care to look and utilize some of these statistical
18 methods in determining equity, but you may be
19 familiar with one thing I want to ask you about that
20 I would like your opinion on. And that is the
21 comparison between something that is called a low
22 correlation of factors and something that might be a
23 high correlation. Are you familiar with the
24 correlation analysis?
25 A. Yes, sir, in general terms.

1 Q. And have you studied correlations enough to have an
2 opinion as to what level or to what number a
3 correlation is meaningful, and below what level it's
4 not statistically meaningful?
5 A. Again, that's a matter of value judgments about
6 whether it is statistically significant. In doctoral
7 level research, you force students to set their
8 standards before they do their research, and then
9 report the analysis as to whether or not it was
10 statistically significant. And those standards are
11 fairly high generally in terms of doctoral student
12 research.
13 But in terms of looking at the relationships of
14 factors, that sort of standard would probably not be
15 demanded and would be subjective interpretation of
16 whoever is wanting to look at the data as to how
17 strong the relationship is between one variable and
18 another.
19 Q. So you're not familiar enough with that to really
20 have a view on what levels are significant?
21 A. Well, it would depend on what your purpose is in the
22 analysis then.
23 MR. TURNER: I'll pass the witness.
24
25

1 CROSS EXAMINATION

2 BY MR. E. LUNA:

3 Q. Dr. Hooker, in regard to the expenditure of funds,
4 should we just look at the amount of money that is
5 spent per student or should we also be interested in
6 what we get for our money in the way of statistical?

7 A. I would answer that question in two parts: No. 1,
8 the question of equity for kids makes it mandatory
9 that we look at the fiscal opportunity to create
10 quality education, which is substantially equal for
11 each child who has similar educational needs.
12 On part two of that question is an
13 accountability question of whether or not the
14 taxpayers ought to expect a return on their
15 investment. And I have been as much associated with
16 seeking accountability as I have equity, much to the
17 chagrin of Dan Long and a few other people.
18 But I would never deny that the system ought to
19 be more accountable and that the taxpayers ought to
20 be trying to assure that they get a good return on
21 their investment.

22 Q. So it really, unless we take into consideration
23 management of the expenditures, the amount of money
24 that's spent doesn't amount to much, does it?

25 A. In a finance system, all you can do is create equal

1 treatment of equals and appropriately unequal
2 treatment of unequals and make the fiscal opportunity
3 for quality available for all children. That's all
4 you can do.
5 Now, in terms of looking at whether or not
6 we're getting a return on our investment, that is
7 management. Obviously, some superintendents and some
8 principals are much more efficient than others in
9 getting a return on that investment in terms of
10 measured learning outcome.
11 Q. And how do we judge whether we're getting our monies
12 worth out of management, by the amount we pay them
13 and, therefore, expenditures per ADA, or by the test
14 results they get?
15 A. Well, I certainly wouldn't want to make a judgment
16 about the value of the superintendent by how much he
17 gets paid.
18 Q. So if in Socorro's case, where they pay more than
19 anybody, any of the 13 school districts in their
20 region for their average administrative services,
21 that's going to add something to the expenditures per
22 ADA, isn't it?
23 A. Yes, sir.
24 Q. And therefore, you would expect, since you're paying
25 more for management, that you would get better

1 results, wouldn't you?
2 A. I would never make that assumption, no.
3 Q. So it doesn't pay all you want to for management and
4 don't ask for results because you pay more, is that
5 what you're saying?
6 A. No, sir, that's not what I said.
7 MR. KAUFFMAN: Your Honor, I would object
8 to the last two or three questions. Again, I think
9 Counsel is either unable or unwilling to read the
10 Bench Marks figure he seeks to rely on. The numbers
11 he has made are wrong. Several other districts
12 within Region 19 have higher administrative expenses
13 than Socorro. And in addition, I think every one of
14 his Defendant-Intervenors also have higher expenses.
15 MR. E. LUNA: We object. If Counsel wants
16 to testify, that's fine. I'll call him to the
17 witness stand.
18 But under Region 19, if Counsel is talking
19 about the expenditures for administration of Socorro
20 School District and their average administrative
21 salaries is 39,454, and there's not another one there
22 that high.
23 Now, Counsel questioned reading ability. Let
24 me ask the expert to take a look at it.
25

1 BY MR. E. LUNA:
2 Q. Would you look at Bench Marks and expenditures on
3 administrative salaries and tell your lawyer how
4 Socorro stacks up with the other 13 in that
5 particular region.
6 A. Average salary of administrators in Region 19 -- you
7 want me to read the whole list?
8 Q. No, just tell which ones are the highest.
9 A. Tell me -- average salary of the administrators is
10 39,454.
11 Can I find a higher number, no, sir, that seems
12 to be the highest and it is Socorro.
13 Q. All right. So if Counsel didn't read it that way,
14 that Bench Marks shows that to be true, doesn't it?
15 A. Well, their administrative costs and average
16 administrative salaries are not necessarily the same
17 thing. The question is how many administrators do
18 they have.
19 Q. Now, let me ask you about two or three -- well, first
20 of all, do you take into consideration in your
21 expenditure of -- I believe you said might be 15
22 percent range difference in the expenditures per
23 student?
24 A. What I said was -- I keep defending something that I
25 never meant to say because the defense attorneys

1 crowded me into a corner. But my observation was
2 that if there is -- after you take into consideration
3 price differential, diseconomies of scale,
4 appropriate recognition of all special populations,
5 after you have done those things, and you have
6 provided a comprehensive quality Foundation School
7 Program, which includes facilities, that if you
8 provide more than the opportunity of about 15 percent
9 to enrich that, you create inequities for kids,
10 fiscally.
11 Q. Sir?
12 A. I said fiscally.
13 Q. Fiscally.
14 Well, how about in the low expenditures to the
15 high in Texas, do we have that quality education on
16 the low side?
17 A. That's a very subjective judgment. My opinion is no,
18 we do not.
19 Q. All right. What is a quality education in the way of
20 fiscal expenditure?
21 MR. GRAY: Judge, this is going to be
22 repetitive. Mr. Luna obviously did not attend one
23 full day of Dr. Hooker's testimony when Mr. O'Hanlon
24 had him listing numbers down the page forever. I
25 don't hold it against him, but he wasn't here. I

1 would object to him going --
2 MR. E. LUNA: I was here that day. It was
3 Counsel who wasn't here the day we went over that.
4 MR. GRAY: I've been here every day that
5 this man has testified, Your Honor.
6 MR. E. LUNA: I think you missed one day.
7 MR. GRAY: Well, I beg to differ.
8 THE COURT: The objection is that it could
9 be repetitive. Well, it could be, but I'm not going
10 to shut it off. We'll see where he goes with it.
11 THE WITNESS: Mr. O'Hanlon, do you want to
12 testify and work back through the charts that you
13 created yesterday?
14 MR. GRAY: You can go back to the charts
15 and show Mr. Luna what you did, if that will speed up
16 the process.
17 THE WITNESS: I doubt that it will speed up
18 the process, but we'll do it anyway.
19 BY MR. E. LUNA:
20 Q. My only question is what is the cost of quality
21 education?
22 A. Yesterday, when I was totally unprepared to respond
23 to Mr. O'Hanlon's questions that he kept forcing me
24 to answer them anyway, we went through an exercise of
25 attempting to determine the cost of a quality

1 comprehensive Foundation School Program.
2 Q. Just tell me the cost. That's all my question is.
3 What is the cost for a quality education?
4 A. You just jump right to the bottom line, don't you?
5 Q. That's my question.
6 A. You see what's involved in it?
7 Q. I didn't ask what's involved in it. I asked you what
8 the cost was.
9 A. You don't care what's involved in it.
10 Q. I asked you what the cost was. We went over that
11 yesterday.
12 A. Where does it go to? How many pages down are they?
13 I think this was -- here we go. I think that was his
14 bottom line yesterday in his calculations.
15 Q. I didn't ask you for Mr. O'Hanlon's. What is your
16 bottom line of the cost of quality education?
17 A. Sir, I'm not prepared to answer that question in a
18 specific dollar number. We created yesterday, to the
19 best of my knowledge, I reserved the right, whatever
20 right anybody would give me, to go through this
21 process in some deliberative matter rather than
22 sitting here, you know, making generalizations off
23 the top of my head. So what we came out with
24 yesterday was $3,888 in terms of the cost of a
25 comprehensive quality Foundation School Program.

1 Q. So is that your testimony, that it costs $3,888.00
2 for a quality comprehensive equivalent, or is that
3 what you say Mr. O'Hanlon says it is?
4 A. No. It's somewhere in that ball park.
5 Q. Might it be 3,600?
6 A. It might be, and it might be 4,000.
7 Q. All right, sir. So you don't know exactly what it is
8 then. Is that what you're telling me?
9 A. I have not attempted to determine to present as
10 testimony any such number, no.
11 Q. All right, sir. Dr. Hooker, you're familiar with Dr.
12 Arthur E. Wise and his work, are you not, sir?
13 A. Not in detail, no. I am aware of who he is.
14 Q. Are you familiar with a book "Rich Schools, Poor
15 Schools" that he wrote?
16 A. Yes, sir, I am.
17 Q. I want to ask you about one statement in it, if I
18 might.
19 (Defendant-Intervenors' Exhibit No. 3 marked.)
20 Q. I'm going to hand you what has been marked for
21 identification purposes as Defendant-Intervenors'
22 Exhibit No. 3 and ask you to turn over to the last
23 page of that exhibit, if you will, please, sir.
24 A. Yes, sir.
25 Q. And you're familiar generally with that book, are you

1 not?
2 A. I read through it quite some time ago, yes.
3 MR. E. LUNA: We want to offer Defendants'
4 Exhibit No. 3 in evidence.
5 THE COURT: Any objection?
6 MR. GRAY: Your Honor, if we have a chance
7 just to read the limited portion, I assume he has the
8 entire text available for us to review for our
9 purposes.
10 BY MR. E. LUNA:
11 Q. On Page 201, beginning with the second sentence where
12 it provides that, "It might allow a maximum deviation
13 of no more than 2-to-1, or 1 1/2-to-1, or 1 1/3-to-1;
14 deviations could be justified as allowing for
15 price-level differentials -- price-level differences,
16 differences in economies of scale, even perhaps on
17 the grounds of feasibility or political expediency."
18 Do you agree with that?
19 A. Well, in terms of the 1 1/3-to-1, it's not obvious to
20 me, you know, why he would select to set out three
21 different alternatives of deviations.
22 My only assumption can be that he is assuming
23 that price differential kinds of issues have not been
24 taken into consideration, the diseconomies of scale
25 have not been taken into consideration, that when you

1 don't take those things into consideration, he could
2 have also listed high density of high cost kids or
3 needs equalization as is frequently referred to in
4 the literature. If those things are not taken into
5 consideration, one might expect to find deviations
6 acceptable at 2-to-1.
7 If those things are taken into consideration,
8 then the 1 1/3-to-1 kinds of deviation would, I
9 guess, be the author's opinion of the outside
10 extreme.
11 But the way that's written, it's hard for me to
12 draw any conclusions about the author's intention.
13 Q. So you're telling us you don't know whether you agree
14 with that or not?
15 A. I am saying that without talking to the author much
16 more about it, I couldn't necessarily agree or
17 disagree. I certainly don't agree with the political
18 expediency issue.
19 Q. All right, sir. By that, do you mean you don't agree
20 with the people on a local level making different
21 decisions from district to district?
22 A. That is not at all what I said. What I meant to say
23 by my statement was that because it happens to be
24 politically expedient for the State Legislature to
25 develop and maintain an inequitable system is not an

1 excuse for its existence, in my opinion.
2 Q. You've talked about some expenditures the other day,
3 Dr. Hooker, of some particular school districts. One
4 of them you've told us was Edgewood. And I believe
5 you told us that Edgewood has an ADA as shown by Page
6 A-50 of the Bench Marks of about 14,599; is that
7 right?
8 A. I don't recall at this time.
9 Q. I hand you Exhibit 205 and direct your attention to
10 Page A-50.
11 A. Edgewood has 14,599 students in 1984-'85 ADA as
12 reported by Bench Marks.
13 Q. And $38,661.00 in wealth, is that correct?
14 A. $38,661.00 in taxable wealth per student.
15 Q. And they spend $36,000.58 per student for total
16 curriculum?
17 A. Spend what?
18 Q. $36,000.58?
19 A. You're talking about total current operating expense?
20 Q. Yes, sir.
21 A. $36,000.00, yes, sir.
22 Q. And their true tax rate --
23 A. That includes federal revenue.
24 Q. And their true tax rate is .563, right?
25 A. Their true tax rate reported in Bench Marks, that

1 includes both current operations and debt services,
2 .563.
3 Q. And their test scores for math is 31; and reading,
4 26; and writing was 30, was it not?
5 A. 31, 26, 30.
6 Q. And then you talked about -- let me ask you one that
7 I think you did not talk about.
8 Let's look at Midway on A-34. I guess Midway
9 would be one of the more wealthy districts at
10 $238,262.00 per ADA, would it not?
11 A. They are below average.
12 Q. Sir?
13 A. They are below average.
14 Q. They're below average, but you don't call them the
15 poor ones, do you?
16 A. No, I wouldn't refer to them as property poor, only
17 in relationship to 14 million.
18 Q. Now Midway has 3,731 kids, does it not?
19 A. If you will refer me to the page number, again.
20 Q. A-34.
21 A. A-34.
22 Q. Did you find that?
23 A. For some reason I am not.
24 MR. KAUFFMAN: It's in the bottom part of
25 the page.

1 A. Oh, yes, I've got it.
2 Q. Did you find it?
3 A. 238,262.
4 Q. Sir?
5 A. 238,262 in market value per ADA.
6 Q. And ADA is 3,731, right?
7 A. That's on another page somewhere.
8 A. Their ADA is 1,877.
9 MR. MARTIN: You're one down, go one up.
10 A. Oh, I'm sorry. It's 3,731. Excuse me.
11 Q. All right. And they spend about a thousand dollars
12 less per student than Edgewood, don't they, their
13 expenditures being $2,600.82?
14 A. Yes, sir. That's what the report reflects.
15 Q. And their test scores are 71, 65 and 66; is that
16 right?
17 A. Yes, sir. That's correct.
18 Q. Are you saying that in Midway, with tests scores of
19 71, 65 and 66, and spending only $2,600.00, that
20 they're not spending enough money for a quality
21 education?
22 A. That would be my assumption, sir, because what you've
23 got on the right-hand side out there is the result on
24 a minimum basic scales test. It has no evaluation of
25 what a comprehensive quality educational program is

1 all about.
2 Q. Well, how do you measure --
3 A. Simply because a kid can read and write and do
4 ciphering, does not, in today's complex technological
5 society, mean that he is much more than functionally
6 illiterate, much less educated.
7 Q. Just because he can read and write and do math, he's
8 not educated?
9 A. That does not mean that he has a quality education
10 and that he's ready to cope in today's world --
11 Q. If you don't measure --
12 A. -- or he can get into U.T. when he applies.
13 Q. If you don't measure quality education by test
14 scores, by what measure do you measure?
15 A. Oh, I'm not opposed to the use of test scores. I'm
16 one of the characters that pushed them. But that
17 specific test is a criterion referenced minimum
18 scales test, something that every kid should have
19 that graduates from high school.
20 And there are a whole lot of other tests out
21 there that can be used in program evaluation in terms
22 of achievement examinations that are much broader
23 based than just minimum scales.
24 Q. The only statewide test we have in Texas is the one
25 we are using here, is it not, the teams test?

1 A. That is the only statewide uniform measure of
2 achievement available, yes.
3 Q. Now, are you telling us that the State of Texas has
4 no real measure of a quality education, statewide?
5 A. It has no comprehensive measurement of quality
6 education as defined in today's terms, no, sir.
7 Q. Well, which one would you say is getting the best
8 education, those that are spending $2,600.00 a kid
9 and turning out a score of 71 in math, or those
10 spending 3,600 and turning out 31?
11 A. My assumption is the one with the highest test
12 scores. On the other hand, I would have to know a
13 lot about the kids that are in the two school
14 districts being compared to know whether or not one
15 school district is doing a relatively good job
16 comparing another one.
17 But the range of difference that I see up there
18 would lead me to conclude that Midway is doing a
19 better job.
20 Q. All right. You've talked about a school -- Edcouch,
21 is that the way you pronounce it?
22 A. Edcouch-Elsa.
23 Q. Elsa. That one has 22 thousand -- look over, if you
24 will, on Page A-8 -- 375 students, does it not, and
25 $22,705.00 in wealth per student. I believe you told

1 us that was the poorest one in the state, right?
2 A. I think they are the poorest in the state, yes.
3 Q. And they spend $3,275.44 per student with a .774 tax
4 rate, do they not?
5 A. Yes, that's the reported total true rate.
6 Q. Sir?
7 A. Yes, that's the total reported true rate.
8 Q. And test scores of 40, 30 and 34.
9 Now, it's beginning to lead me to the next
10 question as to whether or not the -- in Texas, the
11 system we really use -- is whether or not the amount
12 of wealth that a school district has really has
13 anything to do with the amount of money that's going
14 to be spent on the students in that district.
15 A. Well, if what you're saying is that we do have a
16 State Foundation School Program, we do also have
17 federal aid involved, obviously the state and the
18 federal government is both putting money into
19 Edcouch-Elsa and Edgewood.
20 Q. So although Midway has ten times as much wealth as
21 the Edcouch-Elsa, it's got ten times as much wealth,
22 the poorest school district in the state spent about
23 $600.00, over $600.00 more per student than Midway.
24 That's right, isn't it?
25 A. That's correct. And my assumption is that Edgewood

1 has high density, high cost kids and Midway does not.
2 Either that or their local school district chooses
3 not to accept federal money.
4 Q. Now, you talked about Iraan as being one of the most
5 wealthy ones, I believe, in the state, did you not?
6 A. Yes, I did.
7 Q. And they have 631 kids. But a wealth of
8 $7,773,932.00. And they spent, I believe you told us
9 from Page A-47, $6,890.97 per student with a low tax
10 rate of .104 and scores of 44, 45 and 59.
11 Now, the cost of educating those kids is almost
12 2-to-1 of what it was in Edgewood, for example, is it
13 not?
14 A. I thought that Mr. Turner explained yesterday that
15 some of that higher cost could be explained by
16 diseconomies of scale.
17 Q. Because there's so few students?
18 A. Yes, sir.
19 Q. So, in talking about Iraan and their expenditures,
20 you're not telling the Court that because there are
21 so few kids there that those expenditures are out of
22 line?
23 A. Oh, I would tell the Court that those expenditures
24 are all out of line in terms of the number of kids
25 that they have. And out-of-line is an inappropriate

1 term. But the point is, diseconomies of scale alone
2 do not account for the cost differences that you see
3 there.
4 Q. How much of it would it account for?
5 A. Probably somewhere in the neighborhood of $4,500.00 a
6 kid or so up to that level would be my assumption,
7 but I couldn't answer that without calculating the
8 diseconomies of scale impact.
9 Q. Let me ask you about Sheffield ISD, another one.
10 THE COURT: Mr. Luna, get it written up
11 there and we're going to stop for morning break.
12 Let's stop there and we'll start again at 11:00.
13 (Morning break.)
14 (Defendant-Intervenors' Exhibit No. 4 marked.)
15 THE COURT: All right, sir.
16 CROSS EXAMINATION (RESUMED)
17 BY MR. E. LUNA:
18 Q. Dr. Hooker, you told us about Alief being the
19 district that you live in, I believe; is that right?
20 A. That is correct.
21 Q. And you said that's about the ideal situation there.
22 A. I didn't describe it as ideal in terms of my words,
23 but I think it's a very good school district, if
24 that's what you're asking.
25 Q. All right. And in that district, showing up in A-14

1 on the Bench Marks, 20,714 ADA, $345,241.00 wealth
2 per student, and with the expenditures of $3,919.26,
3 tax rate of .952, and test scores of 69, 58, and 57,
4 right?
5 A. Yes, sir.
6 Q. And then Crystal City. Now, is Crystal City what you
7 would call one of the poor districts?
8 A. At $68,000.00 of wealth per student, yes, sir. It is
9 decidedly below the state average.
10 Q. All right. Shown on the Bench Marks at Page A-52,
11 Crystal City with 2,197 students, $68,281.00 per
12 student, expenditures of 3,907.56, and a tax rate of
13 1.231, and test scores is 17, 15 and 17, right?
14 A. And in Crystal City's case, they have high density of
15 minority students and high cost kids and they receive
16 a great deal of federal revenue, and Alief receives
17 almost zero.
18 Q. But they spend the same amount of money or they spend --
19 A. By federal aid, they spend --
20 Q. Yeah.
21 A. -- approximately the same amount of money on their --
22 Q. Dollars are dollars. When it's all said and done,
23 they spend about the same amount of money, don't
24 they?
25 A. Again, maybe I don't understand what we're here

1 about, but in my opinion, the federal money in this
2 analysis is inappropriate.
3 Q. Well, thank you for that information.
4 But my question was, they do spend about the
5 same amount of money, don't they?
6 A. The answer is yes.
7 Q. Now, the next one on Page A-14, Sheldon ISD with
8 3,890 students, $424,703.00 per student. Is that a
9 more wealthy school district?
10 A. Yes, sir.
11 Q. I believe you referred to it that way the other day
12 in your testimony?
13 A. Yes, sir. It is approaching 95th percentile, I
14 think.
15 Q. Expenditure of $4,127.67, with a .972 tax rate, and
16 tax -- test scores of 41, 40 and 40, right?
17 A. (No audible answer.)
18 Q. And then Dallas Independent School District. Does
19 Dallas Independent School District also have many
20 minorities?
21 A. Yes, sir. I think they're somewhere near 80 percent.
22 Q. With a wealth -- well, first ADA 117,764, as shown on
23 Page A-26, and a wealth of $443,998.00. So they're
24 above 95th percentile as far as wealth is concerned,
25 are they not?

1 A. They are, I think, at the 95th percentile --
2 Q. All right.
3 A. -- when you're looking at the ranking.
4 Q. And an expenditure of $3,545.80.
5 By the way, what's the percentage of minorities
6 in Crystal City?
7 A. Very high, probably 90 to 95.
8 Q. 90 to 95. So it's comparable to Dallas, within 5 or
9 10 percent?
10 A. Crystal City has a higher percentage, I would guess.
11 Q. And Dallas spends $3,545.80 per student versus a
12 3,907.56 in Crystal City, right?
13 A. My assumption would be that Crystal City qualifies
14 for a higher degree of federal funding per student
15 than Dallas does, yes.
16 Q. But my question wasn't where they get it. The
17 question was what they spend.
18 A. It's obvious they spend almost $350.00 more or about
19 $350 more.
20 Q. And Dallas has a .68 tax rate, with test scores of
21 38, 32 and 37, right?
22 A. Yes, sir.
23 Q. And then beginning on A-14 of the Bench Marks,
24 Houston ISD.
25 Now, what percentage of minorities does Houston

1 ISD have?
2 A. Approximately 80 percent.
3 Q. And would you call them one of the poor school
4 districts or wealthy school districts?
5 A. They are above state average, probably 150 or 160
6 percent.
7 Q. With a 166,867 students and $376,976.00 per student,
8 with the expenditure of $3,589.99, and a tax rate of
9 .597, and test scores of 50, 42 and 46, right?
10 A. Yes, sir, much to the chagrin of the Dallas
11 Independent School District.
12 Q. Sir? What did you say?
13 A. I said yes, much to the chagrin of the Dallas
14 Independent School District. Houston's test scores
15 are higher.
16 Q. Now, let me ask you in terms of what you have been
17 talking about since we have been in this case from
18 time to time. I have heard you talk about high
19 expenditures and low test scores? You've talked
20 about that from time to time, haven't you?
21 A. Oh, I have been presented and asked to reflect. Mr.
22 Turner went through that yesterday pointing out that
23 there are a lot of school districts with very high
24 expenditure levels and very low test scores.
25 Q. On that list of schools up there, we have -- well,

1 would you look at that and tell us if it's not a fact
2 that the lowest expenditure, the school that spent
3 the less, made the highest test scores. I invite you
4 to look at Midway.
5 A. Yes, sir. Their test scores are higher in Midway.
6 And the whole issue that you're bringing before
7 the Court needs the analysis of the type of student
8 which is involved. Alief is a suburban school
9 district that is predominantly white, middle-class,
10 Anglo-Saxon, Protestant. And Crystal City is
11 predominantly minority. And historically, the
12 pattern has been that those kids score less well on
13 tests, their drop-out rates are higher, et cetera, et
14 cetera.
15 Q. Now, Dallas, however, you told us, had quite a large
16 number of minorities as does Houston --
17 A. Yes, they do.
18 Q. -- yet they make higher test scores than Crystal
19 City. If it's the fact that they are minorities, and
20 minorities cause them to make lower test scores, how
21 do you explain the fact that Houston, for example,
22 and Dallas, both, make higher than Crystal City by
23 2-to-1?
24 A. I can't explain those tests scores in Crystal City.
25 All I'm saying is that the analysis of test

1 scores is a very complex process. And whether or not
2 a school district is doing a relatively good job for
3 the students that they serve needs more analysis than
4 simply looking at the test scores.
5 Q. What you're saying, it might be management of funds
6 on expenditure a month?
7 A. That is certainly a fundamental ingredient that I
8 would want to look at, yes, sir.
9 Q. And therefore, when it gets up to as much as
10 $2,600.00 per student, $2,400.00 to $2,600.00 per
11 student, there is no scientific study that has
12 quantified a relation between test scores and money
13 spent, is there?
14 A. I can't answer that question.
15 Q. If there is one, you don't know it, do you?
16 A. If there is one, I don't know it, no.
17 Q. You've told us that you're not here as a
18 constitutional scholar, but the Constitution does
19 talk in terms of an efficient system of schools.
20 A. Yes, sir, it does.
21 Q. Do you have an idea, as a scholar, what you mean by
22 an efficient system of schools?
23 A. Well, as a broad generality, it's the cost effective
24 achievement of a particular goal.
25 Q. And would you call, for example, Midway, then, an

1 efficient school under that definition?
2 A. If they are white, middle-class or above type of
3 school district, I would assume that their kids would
4 do well on the TEAMS test scores. And I might not
5 know a whole lot about the overall quality of their
6 school management.
7 Q. So you don't know whether they're efficient or not.
8 Is that what you're telling me?
9 A. I do not know.
10 Q. How about the poorest school district in the state
11 that you've told us about?
12 A. Edcouch-Elsa?
13 Q. Yes, sir. Is that an efficient one?
14 A. I simply can't answer that kind of a question. It's
15 a very complex analysis which would be required to
16 determine whether or not they are efficient.
17 Q. And the same -- you would give me the same answer to
18 Edgewood, right?
19 A. Certainly.
20 Q. All right, sir.
21 A. I would have to spend two or three weeks on the
22 ground, and doing all sorts of management studies,
23 and analysis of their pupil populations, and where
24 they were three years ago, and what the trends are,
25 in order to make judgments of that kind.

1 Q. Dr. Hooker, would you say that opportunity and
2 results can only be measured by student test scores?
3 A. Only by student test scores, no, sir.
4 Q. What other way would you measure them?
5 A. Well, in terms of objective measurement, that is
6 about what we're limited to. But I think the
7 subjective evaluations of competent educators are
8 something that should come into play in making those
9 determinations.
10 Q. So the only objective measure we have is test scores,
11 then; is that right?
12 A. Yes, sir, and drop-out rates, and attendance
13 patterns, and trend analysis.
14 Q. Can you tell me whether or not we've had any studies
15 this Century on measurement of opportunity and
16 results through test scores other than the Coleman
17 report in '64 and the Walberg study of the '80s?
18 A. I can't answer that question.
19 MR. E. LUNA: I believe that's all. Pass
20 the witness.
21 CROSS EXAMINATION
22 BY MR. DEATHERAGE:
23 Q. Dr. Hooker, do you recall the efforts in Texas in the
24 early 1970s to amend our Texas Constitution?
25 A. Yes, sir, I do.

1 Q. Do you recall what the effort was to amend Article
2 VII, Section 1, of the Constitution?
3 A. As I recall, there was an effort, among other things,
4 to create an equal opportunity clause.
5 Q. Would it be in Article VII, Section 1?
6 A. As I recall, that was an effort.
7 Q. Do you recall an effort to replace the word
8 "suitable" or insert the word "equitable" in front of
9 the word "suitable" in Article VII, Section 1?
10 A. I vaguely recall such efforts, yes, sir.
11 Q. And that was what the Constitution Provision
12 Commission submitted to the convention -- actually
13 submitted for the people to vote on, was it not?
14 A. I don't remember that specifically.
15 Q. You do recall the word "equitable" being in what was
16 proposed to the people?
17 MR. KAUFFMAN: Your Honor, I object to the
18 question as based --
19 A. Right now, I do not specifically recall that, no.
20 Q. All right.
21 MR. KAUFFMAN: I object to the question as
22 based on facts not in evidence. I think that's an
23 incorrect statement of the constitutional convention.
24 I don't think that ever got to the people. It didn't
25 get out of the House or the Senate.

1 MR. DEATHERAGE: Well, I was asking whether
2 he recalled whether it did or not. We'll submit
3 evidence later as to what was submitted to the people
4 and how they voted on it.
5 MR. KAUFFMAN: Sure.
6 A. I do not recall whether or not that got to the
7 people.
8 BY MR. DEATHERAGE:
9 Q. Dr. Hooker, you mentioned several times federal funds
10 and you don't believe they ought to be considered in
11 the Court's analysis of the problem in this case.
12 Do you know offhand, do these school districts
13 -- do you know if they received those federal funds
14 directly from the Federal Government or through some
15 other vehicle?
16 A. Federal funds, for the most part, flow through the
17 Texas Education Agency and are provided to local
18 school districts under guidelines which are
19 established by the Federal Government. There are
20 certain funds which actually go directly to the
21 school districts, but the majority of funds flow
22 through the Texas Education Agency and are
23 administered by them under federal guidelines.
24 Q. Wouldn't it be fair to say that substantially all of
25 the federal funds are distributed through the state

1 through the block grant program as part of block
2 grant?
3 A. Yes. Federal aid, in spite of the modified block
4 grant label, is basically categorical money for
5 specific purposes.
6 Q. All right.
7 A. There are essentially six streams of federal aid.
8 Special education has a stream. Obviously you're
9 going to have to spend 94,142 kinds of money on
10 special ed. kids. There's a stream for bilingual.
11 There's a stream for compensatory. There's a stream
12 for vocational. There is a true block grant stream
13 and impact aid --
14 Q. All right.
15 A. -- as well as the free and reduced price lunch.
16 Q. The state distributes those funds to the local school
17 districts based upon an agreement between the state
18 and the Federal Government; isn't that a fact?
19 A. Yes, sir. I'm not sure the nature of the agreement.
20 Q. All right. It is the purpose of the agreement, is it
21 not, to distribute those funds through the state
22 agency to the students in Texas who are in need of
23 those things?
24 A. Yes, sir. The federal funds, for the most part, are
25 designed to address the needs of specific

1 populations.
2 Q. All right.
3 MR. DEATHERAGE: We have no further
4 questions.
5 MR. E. LUNA: May it please the Court, we
6 want to offer the Defendant-Intervenors' Exhibit 4
7 that's on the board. And we offered Exhibit 3 a
8 while ago, and I'm not sure that Your Honor admitted
9 it.
10 THE COURT: Okay. Any objection to 3?
11 That's the --
12 MR. GRAY: Portions of the book? No, Your
13 Honor.
14 THE COURT: It will be admitted.
15 (Defendant-Intervenors' Exhibit 3 admitted.)
16 MR. GRAY: And no objections to 4 either.
17 MR. KAUFFMAN: Your Honor, we do object to
18 4, the expenditure column there. The witness never
19 agreed that that was a correct way of looking at the
20 data. And to the extent that this seeks to represent
21 the witness's testimony or his conclusions, we object
22 to the entry of that exhibit.
23 THE COURT: Are you talking about the
24 expenses?
25 MR. KAUFFMAN: Yeah, the expenditures. The

1 witness, at least ten times, I think, tried to
2 continue telling counsel that he did not agree that
3 that column of expenditures was the relevant way to
4 look at this data because it included federal funds.
5 To the extent that seeks to represent the
6 actual expenditures necessary for an analysis, we
7 object to the entry of this exhibit.
8 THE COURT: All right. I'm making a note
9 here that Defendant-Intervenors' 4 on the expenditure
10 column includes federal funds, and I think I know the
11 witness's position on that. With that understanding,
12 we'll have 4 in evidence.
13 (Defendant-Intervenors' Exhibit No. 4 admitted.)
14 MR. GRAY: Should I begin my redirect?
15 THE COURT: Looks like it.
16 REDIRECT EXAMINATION
17 BY MR. GRAY:
18 Q. Dr. Hooker, I'm going to try to go through your
19 redirect as quickly as I can.
20 If you will recall, Mr. Turner in his
21 questioning of you, asked you to look at the Bench
22 Marks which is Exhibit 205, and in a series of
23 questions, dealt with the cost differentials
24 associated with a district with a few kids compared
25 to a district with a large number of kids. Are we

1 generally on the wavelength of that area of
2 questioning?
3 A. Yes, sir.
4 Q. And he was specifically running you through an
5 analysis on the 50 poorest and the 100 poorest
6 working through the ADA's. And he did not go beyond
7 the hundred poorest, which is the 100 richest.
8 And if we were to extend it down so that we
9 were looking at a full spectrum of school finance,
10 what would we see?
11 A. Well, you get into larger school districts where
12 diseconomies of scale on the whole wouldn't be
13 impacting the results significantly and you would see
14 the same general pattern of tax high, spend low for
15 the poor, and tax high, spend low for the rich.
16 Q. And for example, on the Exhibit 207, if you just
17 dropped it down to look at the 200 poorest and the
18 200 richest districts, you remember he had you
19 looking at Exhibit 214, I believe. And I'll just
20 hand you my copy to facilitate things. And as I have
21 looked at that, if you followed it all the way down
22 so that you were comparing 200 --
23 MR. GRAY: Jim, do you mind if I extend
24 this?
25 MR. TURNER: No, go ahead.

1 Q. If you are comparing 200 poor and 200 rich, you're
2 going to get over here on the expenditure column, the
3 numbers are going to stay the same that they were
4 before, correct? You're going to have poorest will
5 spend 3,005.32 and the richest spend 7,233.22. And
6 I'm going to, just for reference, put tax rates in
7 here. The poor are taxing at 74.62 plus and the --
8 excuse me that's 74.82, and the richest are only
9 taxing at .58 cents plus.
10 Now, when you figure the average ADA, take me,
11 if you will, on the same exhibit that Mr. Turner
12 worked you through and tell me what percentage you
13 get if you look at the 200 poorest districts.
14 A. 16.20, if I'm reading that document correctly.
15 Q. Okay. So that's 16.2 percent of the kids?
16 A. Yes, sir.
17 Q. And if you look at the 200 richest districts, what
18 number do you get?
19 A. 13 1/2 percent.
20 Q. Okay. And without belaboring the point, what Mr.
21 Turner was next having you do in his calculations was
22 take 3,000,000 kids, I believe was the number that he
23 was using, and multiplying it in this instance by
24 16.2 percent, which would get you 486 kids?
25 A. 486,000.

1 Q. Thousand kids, I'm sorry.
2 A. (Witness nodded head to the affirmative.)
3 Q. And he was then having you divide it by 50 or 100.
4 And I'll have you divide that by 200, which gets you
5 to an average ADA of 2,430, follow me?
6 A. Yes, sir.
7 Q. And I'm doing the exact same methodology that Mr.
8 Turner had you work through on this example, correct?
9 A. It looks familiar, yes.
10 Q. And if I do the same thing now on the wealthy
11 districts, do the same 3,000,000 times 13.5 percent,
12 I get 405,000 kids. And if I divide that by 200, I
13 come up with an average to ADA, using again Mr.
14 Turner's methodology of 2,025 on the 200 richest
15 districts.
16 Now, at this level, showing these differences
17 in average ADA attendance, are we having any
18 diseconomies of scale coming into play or anything
19 like that that has any significant impact on the
20 actual cost of educating the kids?
21 A. If you look at state averages, the answer is you
22 would have slight diseconomies of scale operating in
23 both groups. But you would have to actually look at
24 the interdistrict composition in order to make a
25 final determination.

1 Q. And by having slight diseconomies of scale, I assume
2 what you're saying is because they're both below
3 3,000, they're going to have some diseconomies.
4 A. Yes.
5 Q. Are the diseconomies of scale going to be compared
6 roughly equal?
7 A. Not that significantly greater.
8 Q. And I take it then that the trend that we initiated
9 through your direct testimony continues that after
10 you equalize for any kind of diseconomies of scale,
11 you still see the example you initially set out which
12 is the rich can tax low to spend high, the poor have
13 to tax high to spend low.
14 A. Correct.
15 Q. Now, if we follow that through, have we asked you to
16 look at the data in general, looking at small? And
17 by small, I mean under 500 ADA in attendance
18 districts.
19 Let me run you through a few examples. You
20 have Bench Marks in front of you?
21 A. Yes, sir.
22 Q. If you look at or make an effort to look at rich
23 districts -- and by rich, again, I'm talking about
24 property wealth -- and poor districts property wealth
25 with low average daily attendance. Look on A-26 of

1 Bench Marks and I'm focusing you on the Boles Home
2 example. Are you with me on A-26?
3 A. Not yet. I haven't found it.
4 Q. Right at the bottom, Hunt County.
5 A. Yeah, I've got it.
6 Q. Top of the page. They have 177 ADA?
7 A. Yes, sir.
8 Q. Okay. And work me through. Their tax rate is what?
9 A. Well, it's not shown on that page that you referenced
10 me to.
11 Q. I'm sorry, I'll -- if you flip over to --
12 A. You want the expenditure data? It's on there.
13 Q. Yeah. I'm going to want the expenditure data and the
14 tax rate. Give me the expenditure data and then
15 we'll go to the next page for tax.
16 A. The expenditure data says the total operating expense
17 of 3,438.
18 Q. And what is the tax rate?
19 A. The tax rate -- you want the total effective rate?
20 Q. Yes, sir.
21 A. What he refers to as the true rate?
22 Q. Yes, sir.
23 A. .764.
24 Q. Okay. .76.
25 And Boles Home is a poor district, is it not,

1 in property wealth?
2 A. The market value figure is reported to be $26,769.00
3 per ADA on '85 aid, which is toward the bottom end.
4 Q. Okay. Now, you compare them to a property wealthy
5 district. Go to page A-44.
6 A. A-44?
7 Q. Yes, sir.
8 A. Yes, sir.
9 Q. And look for the Loop ISD in Gaines County.
10 A. Look for what?
11 Q. Look for Loop.
12 A. Loop?
13 Q. L-O-O-P.
14 A. Yes, sir, I've got it.
15 Q. And what is its average daily attendance?
16 A. 162.
17 Q. So we're comparing 177 to 162. Is that an
18 apples-to-apples comparison in your judgment?
19 A. Yes, sir, it is.
20 Q. And tell me what Loop taxes average.
21 A. At .472.
22 Q. And at that 47 cents tax rate, how much were they
23 able to raise and spend on their children?
24 A. $6,817.00.
25 Q. And what is Loop's wealth?

1 A. It is $1,319,551.00 per ADA.
2 Q. Okay. So they're one million plus.
3 Now, without belaboring the point, I can take
4 you through example after example in this book,
5 comparing virtually identical ADAs with one district
6 that has a wealthy tax base, one that has a poor tax
7 base, and this trend we're going to see throughout,
8 are we not?
9 A. Yes, sir. The trend is there.
10 Q. And nothing that has transpired as far as the
11 diseconomies of scale or looking at a district who
12 happens to be small compared to one that is large, if
13 you focus on strictly those districts who have
14 virtually identical ADA, then you see the same trend
15 that we saw through your direct testimony, correct?
16 A. That is correct.
17 Q. Now, I think you have been questioned extensively by
18 Defense Counsel and the Defendant-Intervenors'
19 Counsel about --
20 A. I would agree to that.
21 Q. -- your opinions and knowledge of the House Bill 72
22 process and what was said and what was done. And I
23 now want to go back to a line of questioning that I
24 asked you from the start that drew some objections
25 and want to reurge some of those questions.

1 You, if you recall back when you were first on
2 the stand last Tuesday or Wednesday, you testified
3 that you had done some analysis and had come up with
4 what you thought was the appropriate number for the
5 basic allotment to be as opposed to the 1,350 that
6 the Legislature ultimately incorporated under the
7 law. Do you recall that line of questioning?
8 A. Dimly, it was a long time ago.
9 Q. And do you recall that when I was asking questions
10 about to what extent was your knowledge and your
11 opinions and your studies communicated to the
12 Legislature, we drew a series of objections?
13 A. I remember strenuous objections related to some of
14 those points, yes.
15 Q. Do you know whether or not your number in its basic
16 concept was incorporated in either the Senate Bill
17 that was originally filed or the House Bill that was
18 originally filed or both of them?
19 A. The number of 1,715 per ADM translated to ADA numbers
20 at an 1,842 level was in House Bill 1 and Senate Bill
21 4, as I recall, which were the purest representations
22 of the Select Committee's proposal.
23 Q. So am I correct in stating then that the analysis you
24 had done for the Select Committee found its way
25 through the Select Committee and indeed into two

1 bills that were presented in the Legislature?
2 A. That is my opinion.
3 Q. And did one of those bills, in fact, pass one of the
4 houses of the Legislature?
5 MR. O'HANLON: Objection, Your Honor. I
6 still question the relevance of this. The fact that
7 one house may or may not have, I think that it still
8 requires the passage of both houses of the Texas
9 Legislature for a bill to become law.
10 Once again, the legislative history that's
11 relevant here is the legislative history of the bill
12 that passed.
13 MR. GRAY: Your Honor, they made this basic
14 same objection initially, and the Court sustained it.
15 They have then gone through two or three days
16 with this witness asking him about the whole House
17 Bill 72 process, all of his work on it, all that he
18 said, and has acknowledged what an expert he is, and
19 all the good work he did. And now, I'm going back
20 into the very thing that I think they opened the door
21 up on. And now I'm facing the same objection again.
22 THE COURT: All right. I'll overrule.
23 BY MR. GRAY:
24 Q. The question was, did, in fact, your recommendations,
25 were they passed by one of the houses?

1 A. Yes. The Senate passed a 1,715 per ADM basic
2 allotment.
3 Q. Okay. Now, Mr. O'Hanlon, when he was talking to you
4 about the state system being equalized at -- and he
5 used the number 2,414. Do you recall that line of
6 questioning, where he drew this triangle?
7 A. Yes, sir. And I had some difficulty with it then, as
8 I recall.
9 Q. Right. Now, let me ask you some basic questions that
10 he did not ask you.
11 I believe he said the tax rate that was
12 necessary for poor districts to raise the 2,414 was
13 52 cents. Is that your understanding?
14 A. I think his reference was that in order to receive
15 the maximum benefits of both the Foundation School
16 Program and equalization aid, they had to reach a 52
17 cent tax effort for current operations purposes.
18 Q. Okay. So, am I correct then in stating that what he
19 was saying is that the poor districts, if they tax at
20 52 cents, can raise 2,414, assuming his numbers were
21 right?
22 A. For regular program purposes, yes.
23 Q. Okay. Now, you go down here to the other end of the
24 spectrum --
25 A. And from assuming all of his assumptions were about

1 where equalization aid fits and so forth.
2 Q. Right. And I'm going to ask you more about where
3 equalization aid fits later on, but I'm just using
4 his own document, his own assumptions right now,
5 okay?
6 A. (Witness nodded head to the affirmative.)
7 Q. You go down here and I'm assuming up here, obviously,
8 you've got the poor up here and the rich down here,
9 correct (indicating)?
10 A. I think that's the way he represented that, yes.
11 Q. And at the wealthy end of the spectrum, how much in
12 tax does it take to raise the same 2,414?
13 A. It depends on what level of wealth you want to
14 discuss.
15 Q. Well, we --
16 A. In terms of 400,000 per student or 14 million per
17 student. Obviously, when you pass a 110 percent of
18 state average wealth per student and you start moving
19 out toward the other end of the continuum, you have a
20 lot of school districts who can raise that level of
21 money for a lesser tax effort than 52 cents.
22 Q. Okay. Let's do it this way, then.
23 Am I correct then in stating that general, as
24 you move down the line, as you get wealthier, you can
25 raise the same 2,414 at a rate less than 52 cents?

1 A. Once you substantially pass average wealth per
2 student, yes.
3 Q. And up to the point down here where you can raise it
4 at one of your wealthy districts -- and I know you've
5 not run through this calculation with me -- with
6 picking one of the higher end districts, what would
7 you expect to be the approximate tax rate it would
8 take to raise the 2,414?
9 A. A penny, if you want to take the outside extreme.
10 Q. Okay. So we've got a penny to -- and take a -- move
11 it in some for me.
12 A. Well, if you want to take specific examples out of
13 Bench Marks, we can do that.
14 The generalization, of course, is that when you
15 substantially pass average wealth per student and get
16 out into the higher wealth school districts, they can
17 produce that 2,414 with much less tax effort than 52
18 cents.
19 Q. Okay. So am I correct in stating then that although
20 all districts in this state may be able to raise
21 2,414, the cost to the taxpayers in that district to
22 raise it is going to be 25 to 50 times higher tax
23 rate depending on where they happen to be?
24 A. That's correct.
25 Q. You, in response to, I believe it was Mr. O'Hanlon's

1 questions, but it could have been Mr. Turner's, you --
2 talking about the permanent school fund -- you made
3 reference to that the money has to go to the
4 counties, but you would not necessarily agree with
5 the way it is currently going to the districts. Do
6 you recall that?
7 A. The Constitution does not designate that it be
8 distributed directly to the districts. It says that
9 it shall be distributed among the several counties.
10 Q. Now, let me explore with you that for a moment.
11 Again, I'm going to use the state's numbers, if I
12 can. And they -- I believe Mr. O'Hanlon said that
13 currently, the permanent school fund provides $280.00
14 per child in permanent school fund. Was that your
15 understanding?
16 A. My assumption is that he was saying approximately
17 $280.00 per prior year ADA, yes.
18 Q. All right. And currently, if you had a county that
19 had five different school districts in it for
20 example, explain to me how the system works for
21 getting money -- explain to me how the system works
22 as far as getting money, this $280.00 per ADA, how
23 does it work its way into individual districts?
24 A. Currently?
25 Q. Yes, sir, currently.

1 A. Unless they have changed the procedures and me not
2 being aware of it, they distribute that money on a
3 prior year ADA to the school districts directly.
4 Q. Does it go straight to the districts?
5 A. Yes, sir.
6 Q. So for example, if you had five districts in a
7 county, and in District 1 has 1,000 ADA, 2 has 2,000
8 ADA, 3 has 1,500 -- let me stop at three districts so
9 I don't go nuts on you -- does the money just come in
10 right now 1,000 times 280?
11 A. Yes, sir. Regardless of the needs of kids or local
12 taxing capacity, it just goes.
13 Q. And that is irregardless of wealth or needs or
14 anything whatsoever?
15 A. Yes, sir.
16 Q. And can you have a situation, for example, pick a
17 Dallas County where you have a series of districts
18 that are by states standards wealthy, and a series of
19 districts that are by state standards poor. When the
20 money flows into the county, is there any
21 distribution of that money based upon the actual
22 property wealth or property needs or educational
23 needs of the kids?
24 A. Well, in my opinion, the flexibility to do that is
25 there in terms of providing the money to the county

1 level and then some need basis being set up through
2 the distribution of that revenue.
3 Q. For example, if you took a Highland Park and a
4 Wilmer-Hutchins, I assume you can agree with me that
5 a Highland Park is considered to be on a property
6 wealthy side and a Wilmer-Hutchins is on a property
7 poor side?
8 A. Yes. I'm not sure whether Highland Park is budget
9 balanced or not, though.
10 Q. Okay. I believe they are budget balanced. But in
11 any event, Highland Park is getting the same 280 per
12 ADA that the Wilmer-Hutchins is getting?
13 A. That is correct.
14 Q. And if you look at the scenario, I suppose you would
15 find situations where you have Highland Park taxing
16 at 35 whatever cents and your Wilmer-Hutchins or your
17 poorer districts taxing at substantially larger. And
18 all of that gets lost in the shuffle as far as this
19 permanent school fund money?
20 A. This has no need determination in it now as it
21 currently flows.
22 Q. And is it your reading of the Constitution that that
23 money goes to the counties to be distributed, not to
24 the school districts?
25 MR. O'HANLON: Objection, Your Honor. That

1 calls for a legal conclusion, which this witness has
2 not been qualified to render.
3 MR. GRAY: Okay. I'll withdraw the
4 question and phrase it in terms of options that they
5 have insisted that the witness talk about as far as
6 ways to improve the system.
7 BY MR. GRAY:
8 Q. If the Constitution reads that money goes to the
9 counties, the permanent school money, as opposed to
10 the districts, is an option that is available to the
11 Court or anybody else reviewing the school finance
12 system to make it fair and just for taxpayers and
13 kids, is one of the options available to look at how
14 the permanent school fund is distributed within the
15 counties?
16 A. If you're making the set of assumptions on the front
17 end, the answer is I presume it would be.
18 Q. Okay. Now, you have talked about the difference
19 between state and local funds that the current system
20 we have distributes in federal funds. And you have
21 offered the opinion that federal funds should not be
22 in the equation.
23 First, let me ask you this question. The vast
24 majority of federal funds that flow into districts,
25 for what purpose do they flow into the districts?

1 What's the single largest program that is funded by
2 these federal funds?
3 A. As I recall the data, free and reduced-price lunch.
4 Q. And free and reduced-price lunch, what does that
5 mean? Put that in terms of someone that doesn't know
6 the terminology.
7 A. It is a federal support system to provide
8 economically disadvantaged kids with either a free or
9 reduced-price lunch, depending on how poor the family
10 is.
11 Q. Does it have anything to do with buying supplies for
12 the kids, or --
13 A. Absolutely not.
14 Q. -- air-conditioning the classrooms, or building the
15 facilities, or paying teachers' salaries, or anything
16 that deals with educating kids?
17 A. It deals with providing nutrition to needy children
18 in the Federal Government's definition of "needy."
19 Q. And is that one of the reasons why you have the
20 opinion that in this equation, federal funds cannot
21 be considered because they don't go for educational
22 purposes?
23 A. Well, you're talking about free and reduced-price
24 lunch, not all federal funds.
25 Q. Right.

1 A. That's one of the reasons, yes.
2 Q. Tell me the other reasons.
3 A. We have a grossly inequitable system in terms of the
4 variance in taxpayer in support of the state system,
5 in terms of disparities and per pupil expenditures.
6 And until we get our own state house in order in
7 terms of the equitable distribution of revenues among
8 the school districts of the state in terms of state
9 and local revenues, it's inappropriate to try to
10 consider federal revenues and their impact on the
11 disequalization of the system.
12 Also, these are, in many cases, special purpose
13 funds, as I pointed out, in terms of special ed.,
14 compensatory and so forth. And in most of the
15 federal programs that are specifically categorical in
16 the nature of the students that they serve, there are
17 obligations that this money be supplementary to state
18 and local expenditures, that it not surplant state
19 and local effort in providing educational services
20 for children.
21 And it is clearly the intent of the Federal
22 Government that this be supplementary to whatever
23 state and local resources are available.
24 Q. And by supplementary, do you mean that it can't
25 replace, for example, a teacher or a text book or a

1 teaching aid that the state would be providing
2 otherwise?
3 MR. O'HANLON: Objection, Your Honor.
4 Again, the intent of the federal statutes and what is
5 legal or not is a legal question and doesn't have
6 anything -- that this witness isn't competent to
7 testify about. The requirements are not of the
8 federal largess that is spread about the state and
9 not the legal. And that's what the question was,
10 what they required under the federal program.
11 MR. GRAY: My question here was what did he
12 mean by "supplementary." That was my sole question.
13 MR. O'HANLON: And it followed up the
14 question, "What is the intent of the Federal
15 Government."
16 MR. GRAY: That has been answered without
17 objection.
18 MR. O'HANLON: Well, I'm objecting to him
19 following up.
20 THE COURT: Okay. I'll sustain.
21 We're going to stop for lunch. We'll get
22 started up again at 2:00.
23
24 (Lunch recess.)
25

1 MR. GRAY: Judge, may I approach the bench
2 for a second?
3 THE COURT: Yes.
4 (Attorney approached the bench and an
5 (off-the-record discussion was held.
6 THE COURT: Okay.
7 REDIRECT EXAMINATION (RESUMED)
8 BY MR. GRAY:
9 Q. Doctor, I just have one last question, I believe, for
10 you.
11 Mr. Luna, in his cross examination of you, and
12 I believe in -- Mr. Deatherage, in his comments to
13 the Court, referenced the constitutional requirement
14 that the State of Texas have a system of public
15 education that is efficient. And Mr. Luna asked you
16 to define the term "efficient."
17 Using your definition of efficient, do you have
18 an opinion as to whether or not the school financing
19 system that we currently find ourselves living with
20 is sufficient?
21 A. I would find it difficult to conclude that it is
22 efficient.
23 Q. I take it then that you do have an opinion?
24 A. Yes, sir, I do. It is inefficient.
25 Q. Thank you.

1 MR. GRAY: I have no further questions,
2 Your Honor.
3 MR. KAUFFMAN: May I proceed, Your Honor?
4 THE COURT: Okay.
5 RECROSS EXAMINATION
6 BY MR. KAUFFMAN:
7 Q. Dr. Hooker, you've been working then in the State of
8 Texas on school finance issues for, I guess, 20, 25
9 years?
10 A. 20.
11 Q. As you have worked in this arena in the Legislature
12 on various committees and studies, have you found it
13 necessary to do these analyses that Mr. Turner was
14 talking to you about, the Gini coefficiency, the
15 McLoone indexes, all of these things?
16 A. We have not. The Texas Education Agency has
17 standardized annualized procedures that it utilizes
18 in the analysis of data. And those procedures have
19 served as the basis for policy development in the
20 past.
21 Q. And under the conclusions and opinions that you
22 shared with this Court during the last several days,
23 are they then based upon your years of experience in
24 using the methods normally used here in the State of
25 Texas to look at school finance issues?

1 A. Yes, sir, they have.
2 Q. Are these ways of looking at the data you've done?
3 Are they consistent with your professional training
4 as a Professor of Education in the State of Texas as
5 a way to look at school finance issues in a state
6 such as Texas?
7 A. Yes, sir, it is.
8 Q. Now, Dr. Hooker, we talked a little bit about the
9 federal funds. Mr. Gray asked you about those.
10 In your experience, looking at school finance
11 systems, do you all look at federal funds as though
12 they're just regular state and local funds, or are
13 they considered separate and apart?
14 A. We never consider federal funds in looking at the
15 equity issues and the distribution in state and local
16 revenues.
17 Q. Okay. Now, when you say "we," is that just you and a
18 best friend, or is that a normal procedure, or what?
19 A. Let's say that I have not been associated with, or
20 been involved with, or known of those kinds of
21 analyses being done by anybody who is normally in the
22 process.
23 Q. And those types of analyses, you mean analyses which
24 lump federal funds in with everything else?
25 A. And treated them like they were state and local

1 revenues, no. I'm not saying they haven't been done,
2 I'm saying I don't know about them and haven't been
3 associated with them.
4 Q. Dr. Hooker, I think during the break I asked you some
5 things about other facts from the Bench Marks book.
6 And if you can get yours out a second, we can talk
7 about it. I haven't had a chance to go up to the
8 board yet.
9 A. Has anybody paid Alan Barnes?
10 Q. I would like for you to look on Page 7 of the Bench
11 Marks. That's the summary of all the larger
12 districts in the State of Texas.
13 A. Page 7?
14 Q. Yes, sir.
15 A. You mean just 7, not 7-A?
16 Q. That's right, just Page 7.
17 You look on Page 7, if we can go through this
18 pretty quick and tell me whether my numbers are
19 correct here. That's a summary, I think, of all of
20 the larger districts in the State of Texas. If you
21 look at Page 7, I think the first entry there is
22 Houston with around 376,000 some odd dollars of
23 property; is that correct?
24 A. Yes, sir.
25 Q. Okay. And if you will look over in a column that's

1 numbered 42, Column 42, something called "State and
2 Local Taxes." Is that the sort of number that you and
3 your colleagues used when you actually look at the
4 school --
5 A. That's what we would normally use in such an
6 analyses, yes.
7 Q. Okay. If you'll look at that state and local tax
8 number for Houston, what is that?
9 A. 3,198.
10 Q. Okay. And Dallas, I think, is the next district.
11 Are these numbers right for Dallas, $443,000.00 for
12 property and 3,193 for state and local?
13 A. On Dallas?
14 Q. Yes, sir. It's right there on Page 7.
15 A. Yeah. And you're asking me to verify what about
16 Dallas?
17 Q. Yeah. If the state and local taxes for Dallas is
18 3,193?
19 A. Yes, sir.
20 Q. Okay. And for Edgewood, which is near the bottom of
21 the page, property 38,661, state and local taxes
22 2,940; is that right?
23 A. Yes, sir.
24 Q. Okay. North Forest is also on this chart, property
25 value 66,000 and some odd, state and local taxes

1 2,987; is that right?
2 A. Yes, sir.
3 Q. Okay. Now, in Column 33 also on Page 7, there's some
4 numbers for the true tax rate. And I think that when
5 Mr. Luna was looking at his example, he used that.
6 Is that the tax rate that you all normally use
7 when you are looking at school finance here in Texas,
8 the sure, effective tax rate?
9 A. We look at effective tax rates because of the
10 variance in terms of true assessment ratios that are
11 utilized with some of the credible districts.
12 Q. Okay. If you look in Column 33 under the true rate,
13 is the true rate for Houston .597 and for Dallas
14 .539?
15 A. Let me get to that column, sir. For Houston?
16 Q. Houston, 597.
17 A. .597.
18 Q. And Dallas .539?
19 A. Yes, sir.
20 Q. And near the bottom of the page, North Forest is
21 1.119?
22 A. Yes, sir.
23 Q. Okay. Let's see who we missed. Edgewood is .563?
24 A. Yes, sir.
25 Q. Okay. Now we'll pick up Highland Park in just a

1 minute.

2 But let's look now at a comparison of Edgewood

3 and Dallas when you look at their actual state and

4 local monies that they have to spend, if we could. I

5 think this sort of analysis you did earlier, and if

6 you'll just review my figures for me. I've got 3,193

7 for Dallas' state and local, 2,940 for Edgewood. So

8 the state and local expenditures in Dallas is about

9 $258.00 more per student. Is that about right?

10 A. That's correct.

11 Q. Okay. Now, if we can use the analysis that you did

12 on tax rates, to raise this $258.00, let's talk about

13 what tax rate Edgewood would have to raise.

14 Edgewood's property value is 38,661. And the way you

15 look at it, that's about 386 units of $100.00; is

16 that right?

17 A. The rate is applied per $100.00 of value, yes.

18 Q. Okay. So to raise $258.00, Edgewood would have to

19 raise 67 cents of tax; is that right?

20 A. Approximately, yes.

21 Q. Okay. So if Edgewood already had a tax rate of 56,

22 and then they added 67 cents, their tax rate would

23 then be $1.23; is that right?

24 A. Yes, sir.

25 Q. Okay. So for Edgewood to spend as much in state and

1 local taxes, local and state monies, on their kids as
2 Dallas spends on theirs, they would have to have
3 $1.23 tax rate; is that right?
4 A. Yes, sir.
5 Q. Now, if we can look over another example, Highland
6 Park --
7 MR. KAUFFMAN: For the time being, Your
8 Honor, to facilitate this, I'm going to ask you to
9 assume my figures are correct from the book. If
10 they're not, hopefully opposing counsel will clear
11 the error.
12 Q. Highland Park's value per pupil is 1,074,000. Their
13 state and local 3,993, and their tax rate is .336. I
14 would like to ask you some questions based on that.
15 Okay. First of all, Highland Park then spends
16 $1,006.00 more per student than North Forest; is that
17 right?
18 A. Yes, sir.
19 Q. Okay. Now let's look at what Highland Park -- excuse
20 me -- in their tax rates from the other page. North
21 Forest's tax rate was 1.119, a $1.11, $1.12?
22 A. (Witness nodded head to the affirmative.)
23 Q. Highland Park is about 33, 34 cents; is that right?
24 A. I haven't reviewed the data. You've told me to
25 assume they were correct.

1 Q. Okay. That is correct.
2 Then if we could look at, for a moment, what
3 Highland Park could spend if it taxed like North
4 Forest taxed, and tell me if this will be the proper
5 mode of analysis. Would we then find the difference
6 in their two tax rates, the North Forest tax rate
7 minus the Highland Park rate?
8 A. Okay.
9 Q. That's .783?
10 A. Yes, sir.
11 Q. Now, to find the amount that Highland Park could
12 raise with an additional 78 cents of tax, we would
13 multiply their property wealth per student; is that
14 right --
15 A. (Witness nodded head to the affirmative.)
16 Q. -- times their tax rate?
17 A. Yes, sir.
18 Q. And if you'll trust my math, I get $8,410.00. Does
19 that sound about right to you?
20 A. I'll accept your math.
21 Q. Okay. So if Highland Park raised their taxes by
22 .783, 78 cents, they would raise an additional
23 $8,410.00.
24 A. Correct.
25 Q. They already are raising 3,993 with the tax rate they

1 have now.
2 A. Yes, sir.
3 Q. If you'll accept my math, if you add these two
4 together, you get $12,403.00 per pupil then; is that
5 right?
6 A. Yes, sir.
7 Q. Okay. So if these numbers that I gave you from Bench
8 Marks are correct, can we conclude from that that if
9 Highland Park paid as much as taxes as North Forest,
10 they would raise $12,403.00 a child?
11 A. If they made identical tax rates, the variance in the
12 tax base would result in that opportunity for
13 Highland Park, yes.
14 Q. Now, we talked a little bit during your various cross
15 examinations about larger districts and smaller
16 districts, and diseconomies of scale, and ways that
17 districts are set up, and efficiencies and all of
18 that. Do you remember some of those
19 cross-examination points?
20 A. I don't think Mr. O'Hanlon left anything out.
21 Q. Okay. Thorough.
22 After all is said and done, after you look at
23 the big ones, the small ones, the city ones, the
24 rural ones, the North Texas ones, the East Texas
25 ones, west, east, you name it, growing, not growing,

1 is there any pattern in the State of Texas on who
2 gets more spent on their kids, rich districts or poor
3 districts?
4 A. The pattern is obvious. The wealthier school
5 districts tax low, spend high; the poorer school
6 districts tax high and spend low.
7 Q. Is that depending on whether you're looking small
8 districts and small districts, mid against mid, high
9 against high? Is that pattern the same or different?
10 A. The general pattern is the same. Obviously, there
11 are many exceptions to that.
12 Q. And that general pattern, is that a new thing in
13 Texas?
14 A. It is not a new thing in Texas. It's been the
15 pattern and the data ever since I've been involved
16 with it.
17 Q. Which is about how many years?
18 A. About 20.
19 Q. Now, the buildings that are being built in districts
20 around the state, those buildings have been built
21 with whatever funds districts have had available
22 during the last 20 or 30 years; is that right?
23 A. Yes, sir. Building facilities is totally a function
24 of the local ad valorem tax base.
25 Q. Given those varieties of wealth per pupil and

1 varieties of expenditure per pupil, would you expect
2 or have you found that there is a variety of ability
3 to create good facilities in districts around the
4 state?
5 A. It's been my experience in visiting in many districts
6 in many parts of the state that property poor
7 districts have a very difficult time of providing
8 good facilities that are well-maintained, and
9 property rich districts typically have high quality
10 facilities that are in excellent condition.
11 Q. Now, is that problem a present problem, new, old,
12 what?
13 A. It's a 20-year problem, at least. And I know from
14 the research that was done before that the problem
15 existed previously.
16 Q. Do you have an opinion whether it's been cured yet?
17 A. My opinion is it certainly has not been cured yet.
18 Q. Okay.
19 MR. KAUFFMAN: Pass the witness, Your
20 Honor.
21 MR. O'HANLON: May I proceed, Your Honor?
22 THE COURT: Yes, sir.
23 RECROSS EXAMINATION
24 BY MR. O'HANLON:
25 Q. Now, Dr. Hooker, I don't want to be misleading you or

1 anything. So I want to take some information from
2 Plaintiffs' Exhibit 214. All right?
3 Now, I think you testified in passing that that
4 exhibit was based on TEA data that is, in some
5 respects, better because it's been revised, is that
6 correct, than what was contained in Bench Marks?
7 A. I indicated that federal revenue had been left out of
8 the calculations.
9 Q. Okay.
10 A. And I didn't mean to imply that the data was better
11 or worse, except that the federal revenue wasn't
12 there.
13 Q. But it's your data, it's the Plaintiffs' data.
14 A. It's not my data, but it is the Plaintiffs' data.
15 Q. You trust Mr. Foster not to mislead the Plaintiffs,
16 don't you?
17 A. I don't think Mr. Foster would intentionally mislead
18 the Plaintiffs, no.
19 Q. All right. Now, one thing that is included in there
20 is spending on facilities, isn't it?
21 A. Included here?
22 Q. In the bonded -- what the bonded rates are.
23 A. In terms of total expenditures per student, where he
24 uses total expenditures, he also includes
25 expenditures on debt service, yes.

1 Q. Okay. Well, let's take our three districts here.
2 Let's take Dallas, let's take Houston and let's take
3 Edgewood. Once again, let's use that data so I don't
4 mislead anybody.
5 First of all, let's say Edgewood, okay?
6 Now, what percentile in terms of students is
7 Edgewood in, in wealth per student?
8 A. Cumulative refined ADA they are at .88.
9 Q. .88. They're in the first percentile, right?
10 A. Yes, sir.
11 Q. They're in the lowest wealth per student, lowest 1
12 percent in the state.
13 A. (Witness nodded head to the affirmative.)
14 Q. Now, what is Edgewood getting in state and local
15 revenues?
16 A. Well, the answer, I believe, from Bench Marks was
17 2,940.
18 Q. Uh-huh. And including debt service, and we've got to
19 include debt service to a certain extent because we
20 want to see how they're doing in paying off
21 facilities. How much was Edgewood? We'll subtract
22 it out in a minute.
23 A. What do you mean how much?
24 Q. How much are they spending?
25 A. Do you want me to go from Bench Marks?

1 Q. No. I want you to go from your own exhibit.
2 A. I can't tell that from my own exhibit.
3 Q. Well, you sure can. Doesn't it have a column there
4 for total expenditures per ADA?
5 A. Yes, it does. I thought you were asking me to break
6 out facilities. I'm sorry. I didn't understand your
7 question.
8 Q. I wouldn't do that from Bench Marks because we've got
9 that number, okay?
10 Just give me that from your own figure here,
11 let's see Edgewood.
12 A. As to their total expenditure, state and local
13 revenues, 3,137.
14 Q. All right. Now, let's look at Houston. And if you
15 will --
16 A. Do you happen to remember --
17 Q. 82nd percentile cumulative, I believe, if you'll look
18 around there.
19 A. Okay. Houston, yes, sir, you're correct.
20 Their total expenditures were 3,154 on this
21 report.
22 Q. Uh-huh. And Dallas, rich old Dallas, they're at the
23 95th, aren't they?
24 A. I believe they're about that, 3,332.
25 Q. Okay. And what is their percentile? Is that right,

1 the 95th?
2 A. Yes, sir, they're 95.46.
3 Q. Call that 95.5. They're one of the richest districts
4 in the State of Texas, aren't they?
5 A. Well, this number on here is cumulative refined ADA
6 is what this represents.
7 Q. Okay. Now, I want to take Mr. Kauffman's number here
8 on tax rates so we don't get any confusion here, so I
9 don't trick you.
10 The tax rates that you agreed on are .563?
11 A. That was what he was reporting out of Bench Marks and
12 asked me to assume, yes.
13 Q. .597 and .539.
14 Now, speaking as a taxpayer, is the difference
15 between that going to be significant on $100,000.00
16 house for a taxpayer, a couple of cents, among any of
17 these?
18 A. They are relatively equal, yes.
19 Q. Is that enough to disturb your sensibility in terms
20 of taxpayer equity, that kind of variation?
21 A. No, sir.
22 Q. Okay. Now, there's no federal money in here, is
23 there?
24 A. That's what I'm told. There is no federal money.
25 Q. Okay. Now, let's take out facilities. Okay? And

1 let's do that using the Bench Marks.
2 And what that figure would be is the amount of
3 money per ADA that they're spending on debt service,
4 isn't it?
5 A. Their debt service for Houston is $178.00.
6 Q. Okay.
7 A. For Dallas, as soon as I can find them, Dallas' debt
8 service is 263.
9 Q. Okay.
10 A. And you want Edgewood also?
11 Q. Uh-huh.
12 A. Edgewood is 95.
13 Q. Okay. Now, let's subtract those. Now, if we
14 subtract the debt service, we're going to see what
15 money is being spent on the average child for a
16 program; isn't that right?
17 A. Yes, sir, you will, current operations, state/local
18 revenue.
19 Q. Okay. 95, in Edgewood's case would get $3,042.00?
20 A. Yes, sir.
21 Q. And in the case of Houston, 2,976?
22 A. That looks correct.
23 Q. Okay. And in Dallas, 3,069?
24 A. Yes, sir.
25 Q. No federal money in any of this?

1 A. No, sir, not to my knowledge.
2 Q. Is this the kind of variation that's going to disturb
3 you with respect to equity, Dr. Hooker?
4 A. In terms of just those three districts, in terms of
5 their relative tax rates and so forth, no. In terms
6 of the opportunity for Edgewood to improve its
7 facilities' position, I don't know what it is, but
8 obviously their debt service requirements to build
9 almost anything are going to result in astronomical
10 tax rates to do it.
11 Q. Now, Edgewood is a shrinking district, isn't it?
12 A. I do not know.
13 Q. They've lost about 700 average daily attendance in
14 the last few years, haven't they?
15 A. I do not know. I'm not an expert on the Edgewood
16 School District.
17 Q. Let's leave off facilities here for a minute and
18 let's just talk about program, because that's where
19 kids learn, isn't it? This pays for teachers, and
20 administrators, and libraries and all of that stuff,
21 doesn't it?
22 A. Current operations expenditure, yes, sir.
23 Q. And computers, and running air-conditioners and
24 heaters and all of that is included in the program,
25 isn't it?

1 A. Yes, sir.
2 Q. And if you take the difference between -- below the
3 first percentile and above the 95th percentile with
4 variations in rates that you said wouldn't disturb
5 you, you end up with a variation in basic program
6 that doesn't disturb you.
7 A. In the case of those three school districts, that's
8 correct.
9 Q. Is there something about the formulas that apply
10 differently to Edgewood, Dallas and Houston than in
11 any other district?
12 A. I'm sorry, I don't get the full intent of your
13 question.
14 Q. Well, you say if you take those three districts. Now
15 the formula is going to apply to all of them, isn't
16 it?
17 A. These three districts, yes, sir.
18 Q. And it applies to all the thousand and 60 other
19 districts out there in the state.
20 A. Oh sure, yes, yes, sir.
21 Q. And you're not alleging that the state is supplying
22 it in a way that is disproportionate.
23 A. Or arbitrary or capricious, no, sir.
24 Q. So the system between the first and the -- below the
25 first and above the 95th percentile yields results

1 that you don't think are inequitable, do you?
2 A. In the case of those three districts, no.
3 Q. And if those districts are typical of districts in
4 the state, then it wouldn't be anybody, would it?
5 A. In terms of the equity issue, if they all look like
6 that, the answer is I would not be greatly disturbed
7 by the current operations picture except the adequacy
8 issue. And I don't think any of those three school
9 districts are spending enough money to provide
10 quality education, and their test scores show it, and
11 their drop-out rates show it, and et cetera, et
12 cetera.
13 Q. Well, but then again, you don't think -- if Dallas is
14 spending this, even though they've got the ability,
15 you don't think much of anybody in this state is
16 spending at adequate levels, do you?
17 A. Yes, sir, I think Highland Park is doing a good job.
18 Q. Okay. So every school district in this state, every
19 school child in this state is constitutionally
20 entitled to have all the benefits that are available
21 just because kids are in Highland Park.
22 A. I did not make a judgment regarding the
23 constitutionality of the system, sir. All I did was
24 testify that it is inequitable in terms of the amount
25 of taxes that can be raised, property poor relative

1 to property rich, and made a specific issue of the
2 understatement of the cost of a quality educational
3 opportunity, which is represented by the basic
4 allotment and the need for an equalized opportunity
5 to handle facilities kinds of financing problems.
6 Q. Well, now, you said facilities have been in this
7 state for 20 years; is that right?
8 A. They've been here for 20 years?
9 Q. No. The state hasn't funded facilities for 20 years.
10 A. Well, you want to go back before that?
11 Q. They haven't funded it for 110, have they?
12 A. No, sir, they have not.
13 Q. And there are schools out there in the poor
14 districts, aren't there?
15 A. Yes, sir, of sorts.
16 Q. Uh-huh. And there's good schools out there. You
17 heard about the testimony about in Socorro where
18 they're building a new school district every year --
19 I mean a new school every year, elementary school.
20 A. At what kind of effective tax rate necessary to do
21 that?
22 Q. Okay. There's poor districts out there, what you
23 call poor districts that are able to build schools,
24 aren't there?
25 A. They manage to put a roof over it, yes. It's

1 questionable whether or not they can maintain it.
2 It's questionable whether or not they can
3 air-condition it.
4 Q. Well, now, how much does it cost to go down to Sears
5 and put a window-unit in a classroom?
6 A. I have no idea. I haven't bought a window-unit in 15
7 or 20 years.
8 Q. Now, you wouldn't say that people are entitled to
9 central air-conditioning as opposed to window
10 air-conditioning, would you?
11 A. No, sir, I would not.
12 Q. Now, you're talking about -- when you talked about
13 the theoretical ability to raise money, that's a
14 theory, isn't it, that should Dallas decide that they
15 wanted to raise their tax rates to $1.50, they
16 certainly could raise a bunch of money. But these
17 numbers up here have to do with the tax rates that
18 are actually out there; isn't that right?
19 A. That's correct.
20 Q. And if you look at the tax rates and you compare the
21 tax rates that are actually out there with the amount
22 of money that is actually being spent from state and
23 local sources, there ain't a whole lot of difference,
24 is there?
25 A. In those three districts, that's correct.

1 Q. So at least it's to those districts and also at least
2 10 percent of the kids -- over 10 percent of the kids
3 in the state because we've got almost 200,000 in
4 Houston, we've got 117,000 in Dallas, and we've got
5 15,000 in Edgewood. We don't have a problem, do we?
6 A. For 15 percent of the kids, if you consider that
7 Edgewood has similar quality facilities to those in
8 Dallas and Houston, you don't have an equity problem,
9 you have an adequacy problem.
10 Q. Okay. Now, when we're talking about a system, we're
11 talking about -- the only way that the state can do
12 it is to set up a system; isn't that right? I mean,
13 we're talking about a set of formulas regardless of
14 how you want the formulas to look like, you're going
15 to have to set up, if you're going to fund education,
16 a set of formulas. And you're going to have to fund
17 according to those formulas.
18 A. Yes, sir.
19 Q. And for any formula that you set up, I don't care
20 whether you do it on the board or whether you take a
21 year to do it, you're going to have individual
22 differences that create situations that are
23 anomalous; isn't that right?
24 A. Define "anomalous."
25 Q. Well, you're going to have a district that's got a

1 higher than average population of certain kinds of
2 comp. ed. or something like that that's going to
3 create anomalies and they're going to make the
4 numbers not quite apply to them.
5 A. Well, I wouldn't want an across-the-board per ADA
6 funding distribution system, if that's what you're
7 asking. Certainly, I would want to recognize the
8 cost differences that are reflected in the Price
9 Differential Index and the weighting system on pupils
10 and diseconomies of scale for small and sparse school
11 districts and therefore, you know, it would jump
12 above and below the line in terms of your expenditure
13 per annual number.
14 Q. Sure. And the state has accounted for all that,
15 haven't they?
16 A. Yes, sir, it has.
17 Q. And for voc. ed. kids, and comp. ed. kids, and
18 there's little multipliers and it's a complicated
19 formula. And you don't really know how an individual
20 district comes out until you've added it all up.
21 A. That's correct.
22 Q. And the district has some say in how much money they
23 get, don't they, under any system? It's all a notion
24 of local control, isn't it?
25 A. Well, their willingness to operate, you know, they

1 obviously don't give vocational funds unless they
2 operate a vocational program and those kinds of
3 things, yes, sir.
4 Q. And they've got to raise a certain amount of taxes --
5 A. Yes.
6 Q. -- in order to qualify for maximum state aid.
7 A. That's correct, in terms of those that are 110
8 percent of state average wealth or less.
9 Q. And then, there's a whole bunch of districts in this
10 state like Killeen that we talked about the other
11 day, that even though they could get more money by
12 raising their local taxes, decide for whatever reason
13 not to do it.
14 A. Correct.
15 Q. And that's going to be a local variation that's going
16 to cause some differentiation among districts in
17 their ability to spend money on students.
18 A. (Witness nodded head to the affirmative.)
19 Q. Do you want to do away with that?
20 A. To the extent that a quality education is made
21 available in every school district, yes, I want to do
22 away with that. I don't think that local school
23 patrons ought to have the right to make decisions
24 that punish their children.
25 Q. Well, now, then your whole idea of power equalization

1 goes out the window, doesn't it, because the whole
2 theory of that is the taxpayers get to decide how
3 much money they want to spend on their kids?
4 A. That's not my theory. I simply said that's one
5 conceptual framework which is frequently utilized to
6 address problems.
7 Q. You would have the same problem with that, wouldn't
8 you?
9 A. If you used the power equalization system and left it
10 up to local taxpayers as to what it was that they
11 would tax themselves for public schools, yes.
12 Q. So you always have to deal with the penury of the
13 local taxpayer, don't you?
14 A. Unless you define in structured formulas a Foundation
15 School Program and require them to raise their local
16 fund assignments, then you are in that situation,
17 yes.
18 Q. Okay. And would you advocate then that we do away
19 with the ability to tax on -- make that a local
20 option then to insure the same amount of spending?
21 A. I testified that I would like to see at least a 15
22 percent power equalized opportunity to enrich the
23 Foundation School Program plus a facilities
24 component, yes.
25 Q. But you're testifying now that you don't want to set

1 a floor, you don't want to let them slide below a
2 certain level.
3 A. That's correct, because the children need to be
4 protected.
5 Q. And then you don't want to let them go above the
6 level either?
7 A. Because the children are not treated equitably in
8 that circumstance, yes.
9 Q. Well, now, what children are not being treated
10 equitably?
11 A. The ones that are not getting the benefits of the
12 higher spending levels.
13 Q. They're not getting the benefit of the taxes that the
14 people in Highland Park decide to levy on themselves.
15 A. I'm not sure what you're saying.
16 Q. Well, they're not getting the -- that's a local
17 taxpayer decision; isn't that right? They decide to
18 levy local taxes, and they do, and they collect them,
19 and they spend them on their kids?
20 A. Yes.
21 Q. And we're going to do away with that because they may
22 decide to spend too much.
23 A. All I said was that you create inequities for
24 students if you allow expenditure ranges with much
25 over 15 percent, allowing for Price Differential

1 Index, all of the proper weightings on students, and
2 the small/sparse diseconomies of scale.
3 Q. Well, you don't really -- disequity is a little bit
4 misleading. By letting the kids in Highland Park
5 have a little bit more spent on them, you're not
6 taking any money away from anybody, are you?
7 A. No, sir.
8 Q. You're just letting them get away with something that
9 somebody else might not have. Somebody might not
10 have that swimming pool, somebody might not have that
11 Astroturf football field, and we can't let them get
12 away with that, can we?
13 A. Well, to me the policy statement in 16.001 says
14 "substantially equal educational opportunities
15 without regard for local economic factors." And to
16 me, that's what that policy says, and I happen to
17 believe in the state policy.
18 Q. Now, let's talk about Mr. Gray's drawing here. Do
19 you have 211 in front of you, by the way? I believe
20 that's the exhibit.
21 A. Exhibit 211. I've got 14.
22 Q. It's the one that displays the rich guys and the poor
23 guys.
24 MR. GRAY: I think you mean 207.
25 MR. O'HANLON: 207.

1 THE WITNESS: I don't have that one.
2 MR. GRAY: Is this the one you're talking
3 about?
4 THE WITNESS: Yeah, it is. I'm sorry. Is
5 this the right one?
6 MR. GRAY: I think so.
7 BY MR. O'HANLON:
8 Q. Now, you're not telling me that there's no difference
9 between 100 richest and the 200 richest, are you?
10 A. There is certainly a difference in 200 poorest and
11 200 richest.
12 Q. Well, I mean, let's look at this number. Let's
13 compare the 100 richest to the 200 richest.
14 A. 100 richest to the 200 richest, in terms of average
15 expenditure levels, they are $1,200.00 above in the
16 100 richest.
17 Q. Okay. Which number is wrong here? It's this one,
18 isn't it?
19 MR. GRAY: That's my error, I was running
20 it at 6,017. It's just a 2-to-1 difference, not a
21 2 1/2-to-1 difference.
22 Q. Half may make the difference.
23 Now, when we're talking about how we came to
24 this figure, what we did was average what the
25 districts -- what each district was spending; isn't

1 that right?
2 A. I did not calculate this, but I am told that that
3 represents a state average.
4 Q. So that when we added these numbers up, we counted
5 Iraan-Sheffield with 63 kids, the same as we did
6 Dallas, didn't we?
7 A. 600 kids?
8 Q. Or 600 kids.
9 A. In the 200 rich?
10 Q. Yeah.
11 A. I would assume so.
12 Q. So if you added that 600 to the 117, you get a lot
13 different average if you did it on a pupil basis than
14 if you would if you did it on a district-to-district
15 basis, wouldn't you?
16 A. Certainly, if it were a weighted average number, it
17 would look different.
18 Q. In fact, it would have been a lot lower, it would
19 have looked a lot more like Dallas. And Dallas
20 predominates in the population here, don't they?
21 A. I would assume they would have half the students.
22 Q. Okay. So when you start weighting, you've got a
23 whole lot different number; isn't that right?
24 A. I don't know what the number would be, but it would
25 certainly be different, and it would certainly be

1 less.
2 Q. Okay. And in fact, we're talking about kids rather
3 than districts, aren't we, in this state when you're
4 talking about equity?
5 A. I wouldn't follow your assumption to that conclusion,
6 no. We have 1,063 districts. And to me, as long as
7 those districts exist, it's a district issue.
8 Q. Yeah, but I mean when you're talking about figuring
9 harms, and financing, and stuff like that, you want
10 to count kids rather than districts. Districts don't
11 have money spent on them. They're not here to have
12 money spent on them, are they? They're here to spend
13 money on kids.
14 A. I have already made the statement once that as far as
15 I'm concerned, I am not a constitutional lawyer, but
16 I think if constitutional rights of one student or
17 one taxpayer are being violated, that's cause for
18 some concern.
19 Q. I understand. But if you're going to create a system
20 where we're going to have to violate constitutional
21 rights, just on a theoretical basis, would you rather
22 violate them with 630 kids or with 117,000?
23 A. 630, sir, if you're giving me only those options.
24 Q. Okay. So when we're looking at this, what might be a
25 better idea along this whole thing is not to look at

1 districts, but to look at pupils; isn't that right?
2 A. Well, that makes your side of the case look better,
3 yes, sir.
4 Q. Well it gives us a more clear picture of how much
5 money each child in this state is having spent on
6 them, and it makes up for the difference of the
7 vagueries and the economies of scale and a lot of
8 things that are inherent when we look at districts,
9 doesn't it?
10 A. Yes, but it also does not accurately reflect the
11 1,063 districts configuration which we currently
12 have.
13 Q. Well, but it does, doesn't it? When we got a kid --
14 when we're doing on a weighted student -- when we're
15 doing it on a pupil basis, we're still counting those
16 630 kids up there, aren't we?
17 A. Oh, you're counting them, but the point is that the
18 relative picture from district-to-district looks a
19 lot different.
20 Q. Yeah, but let's --
21 A. And when you let Houston and Dallas dominate the
22 numbers --
23 Q. There's some school districts in here that have 40
24 children in them; isn't that right?
25 A. Yes, sir.

1 Q. And if you're figuring out a percentage of the whole,
2 it's a lot different to be -- you're a lot better
3 off, it's a lot more important in statistical
4 analysis to be 1,063rd than it is to be 43 million,
5 isn't it?
6 A. If you say so.
7 Q. By an order of magnitude of about a hundred; isn't
8 that right?
9 A. Yes, sir.
10 Q. So by dealing on a district basis, we're talking
11 about possibly over-estimating the situation by a
12 factor of 100; isn't that right?
13 A. That's possible, with a range ratio of 1-to-700 in
14 terms of a variance of a tax base.
15 Q. So if you're looking at kids, you're not dropping
16 anybody off if you're looking on a weighted pupil
17 basis, are you? You're not throwing these kids out
18 the window. You're just counting them one child at a
19 time.
20 A. Yes. And all I'm saying is that we have 1,063
21 districts. That happens to be our government
22 structure as it exists today. And the picture of the
23 district-to-district disparities get lost when you do
24 that.
25 Q. Because it's more important to look at districts than

1 it is to look at children, is that what you're
2 testifying to?
3 A. No, sir. I think it's important to look at both.
4 Q. And even though you may get -- isn't it misleading to
5 say that 40 kids, in what happens to be in the
6 Texhoma Independent School District is 39.67, if I'm
7 not mistaken, on a refined ADA basis, in the Texhoma
8 Independent School District that have $19,000.00
9 dollars spent on them, and it's $3,000.00 dollars
10 more than the second district, and most of that money
11 comes because Texhoma doesn't have enough people to
12 have regular classrooms, and they're paying tuition
13 to other school districts? Are we getting a good
14 picture when we're talking about a range ratio by
15 including that district in there as a district?
16 A. You're getting a good picture of a state school
17 finance system that allows that situation to exist,
18 yes, sir.
19 Q. And because the Texhoma Independent School District,
20 such as it is, is spending tuition to send their kids
21 somewhere else because they don't have enough people
22 to even justify hiring a teacher, is that reason to
23 change the whole system of school finance in the
24 State of Texas?
25 A. Have you all checked those numbers, $19,000.00? Are

1 they really spending that much money? Where are they
2 sending those kids, to Harvard?
3 Q. They must be. They came out of y'all's numbers.
4 A. Flying them on a first-class airplane ticket? What
5 are they doing? I mean, I can't believe numbers like
6 that.
7 MR. KAUFFMAN: Your Honor, we would object
8 to the last set of questions. There's nothing in the
9 record yet to support these and I think the witness
10 is being overly generous about agreeing to all of
11 these numbers that he says he's not sure about.
12 I would ask the Court to instruct the attorney
13 for the Defendants to use numbers that are either in
14 the record that he can show the witness so the
15 witness can check them.
16 MR. O'HANLON: I think Counsel is asking
17 the Court to direct the witness not to be so
18 generous.
19 THE WITNESS: Well, being a non-compensated
20 witness, I have the independence to say whatever I
21 like.
22 THE COURT: That's okay. I think I'm the
23 one that's being generous.
24 MR. O'HANLON: For the record, the numbers
25 that I've been talking about come from an exhibit

1 that was attached to the deposition of Dr. Wise and
2 Dr. Howe (Phon.) that was taken in Boston on about
3 the 7th and 8th of January of this year. And those
4 exhibits were prepared by Mr. Foster for the purpose
5 of review of those witnesses and for preparation of
6 their testimony in the case.
7 And what it is is a rank order of expenditures
8 by district. And those numbers kind of stuck in my
9 head, so I kind of remembered them because those were
10 the rich guys out there and they came from Mr.
11 Foster, himself. So I'm trying to talk about their
12 evidence and the way they've prepared the data.
13 THE COURT: All right, sir.
14 MR. O'HANLON: And Mr. Foster is over there
15 nodding his head, so I guess we're okay.
16 THE WITNESS: We have confirmed they're
17 sending them to Harvard and flying them first-class.
18 BY MR. O'HANLON:
19 Q. Okay. Now, because they do it, does that mean that
20 Edgewood needs to do it, or Dallas needs to do it?
21 A. I wouldn't make that assertion, no, sir.
22 Q. Okay. So a better way of doing it in proportionality
23 of what's going on in the state is to count those
24 kids as 40 out of the some 3,000,000 kids in the
25 State of Texas rather than one out of 1,063, isn't

1 it?
2 A. You have tried that on me three times, and I am not
3 going to agree with you that that is the only way to
4 look at the data. I think you need to also look at
5 the district disparities and I think you all also
6 ought to be looking at a state system that allows
7 these disparities to exist.
8 Q. Well, would you allow me just a caution that you may
9 be mislead because of the disproportionality of the
10 numbers, that you have to look at sets of figures
11 with caution?
12 A. I would certainly want to look at it both ways if I
13 were analyzing the system. I always do.
14 Q. Okay.
15 Now, we talked about -- somebody wrote up here
16 -- could I ask you to look up just a couple of more
17 numbers with me.
18 Boles Home, do you know where Boles Home is?
19 A. No, sir. That's one I haven't been to.
20 Q. Do you know what it is?
21 A. No, sir, I do not. I never heard of it until they
22 started talking about it.
23 Q. Would you be surprised if it's an old orphanage?
24 A. If you tell me it is, I have no reason to question
25 you.

1 Q. Okay. Would you look up -- I guess I've got to do it
2 too, because everybody else has -- but would you look
3 up the test scores, please?
4 A. What region are they in or what page are they on,
5 whichever reference you want to give me.
6 Q. Boles Home -- let me find my notes here.
7 MR. E. LUNA: A-26.
8 MR. O'HANLON: Boles Home is at A-44 and
9 Loops is at A-26, I believe.
10 THE WITNESS: Boles Home is what now?
11 MR. GRAY: You had it reverse. Boles Home
12 is A-26, I believe.
13 BY MR. O'HANLON:
14 Q. Okay. Boles Home is A-26.
15 A. And you wanted me to read their test scores?
16 Q. Yes, sir.
17 A. 39, 44 and 40.
18 Q. 39, 44 and 40. And how about Loop?
19 A. And what?
20 Q. Loop.
21 A. Where is that?
22 Q. Loop is at --
23 MR. GRAY: A-44.
24 Q. A-44.
25 A. A-44. Loop test scores, 57, 43, 35.

1 Q. So Loop, despite all their spending, their increased
2 spending has got lower verbal scores, doesn't it?
3 Well, they're up here. I didn't change them.
4 MR. GRAY: Judge, we've introduced this.
5 We'll stipulate to this. We'll do anything to move
6 on.
7 BY MR. O'HANLON:
8 Q. And apparently Boles is taken off -- Loop is -- about
9 the only thing that accounts for this difference here
10 is taking that about $3,034.00 a kid and they're
11 buying them a hell of a math teacher; isn't that
12 right?
13 A. Well, if you've got the scores in the right place,
14 Loop over there is the one with the high math score.
15 Q. That's right. They're buying them a hell of a math
16 teacher, aren't they?
17 A. Well, who knows. They may be recruiting parents that
18 both have a college education.
19 Q. Well, the difference there -- one of the difference
20 here now is it's 162 kids. And we need to be a
21 little cautious about that because if you figure
22 equal distribution, that's not a whole heck of a lot
23 of kids, is it?
24 A. 162 kids, no, sir.
25 Q. If you figure more or less just random distribution

1 throughout the grades, we're talking about 10, 12
2 kids in that class who took that test?
3 A. A very small number, if you're talking about the 11th
4 grade test, which is what, I think, you referenced as
5 to what those scores represent.
6 Q. And you know, one bad kid or one good kid can make a
7 heck of a lot of difference when you're taking an
8 average of those scores; isn't that right?
9 A. That's the reason why I have to know a lot more than
10 TEAMS test scores to know something about the quality
11 of education in the district.
12 Q. And once again, when you're looking at averages,
13 you're going to be better off by dealing with large
14 numbers on a statewide basis, aren't you?
15 A. In terms of looking at the test score situation, you,
16 again, would need to look at both individual
17 districts, but you have to go behind those TEAMS test
18 scores numbers. You know, you just have to, because
19 the star math performer might have been sick that day
20 in Boles Home.
21 Q. That's right. And if that's the case, despite the
22 fact that they're spending half the money, maybe they
23 could have gotten that tax score; isn't that right?
24 A. They possibly could.
25 Q. So that's a problem when you're dealing with small

1 numbers that could be cured if you deal with the
2 state as a whole; isn't that right?
3 A. Yes, but we have 1,063 school districts.
4 Q. Well, and we've got 3,000,000 kids, don't we?
5 A. That's right. And we need to look at it both ways.
6 Q. Okay. Now, let's talk a little bit about the federal
7 range ratio.
8 Have you ever looked at it?
9 A. Looked at what?
10 Q. The federal range ratio.
11 A. In the sense that I'm aware of its existence. I have
12 not studied the federal range on it, if that's what
13 you mean.
14 Q. Okay.
15 MR. O'HANLON: May I approach the witness?
16 (Defendants' Exhibit No. 2 marked.)
17 Q. Dr. Hooker, I'm handing you now what's been marked
18 for identification as Defendants' Exhibit No. 2.
19 MR. KAUFFMAN: Excuse me, Counsel. Can you
20 call it another number because we're trying to get
21 sequential numbers here. We're going to have a mess.
22 MR. O'HANLON: It is 2. That's the next
23 number.
24 MR. GRAY: It is D-2. For
25 Defendant-Intervenors, the next one will be 5, but

1 this is D-2.
2 MR. KAUFFMAN: Excuse me.
3 MR. E. LUNA: This is Defendants' 2 and
4 ours is Defendant-Intervenors is the difference.
5 THE COURT: I believe that's right.
6 A. Yes, sir.
7 BY MR. O'HANLON:
8 Q. Have you seen that before?
9 A. Yes, I have seen the document before.
10 Q. Okay.
11 A. Not this particular copy, but, yes, I've seen a copy.
12 Q. And that sets out the disparity standing that you
13 talked about, about 25 percent, isn't it?
14 A. Yes, sir.
15 Q. But that's not the exclusive way, is it, for
16 determining whether or not you're entitled to federal
17 aid?
18 A. I'm sorry, I'm not understanding your question.
19 Q. Well, if you look at what's numbered as Page 555.
20 A. Yes, sir.
21 Q. There's something called the wealth neutrality test,
22 isn't there?
23 A. Yes, sir.
24 Q. And then you look at Page 557.
25 A. Yes, sir.

1 Q. And there's consideration for exceptional
2 circumstances listed in there.
3 A. Yes, sir.
4 Q. And in truth, the way it operates is is that you can
5 pass under any of those tests and still be entitled
6 to federal funds; isn't that right?
7 A. I can't testify to that in that I am not an expert on
8 these regs.
9 Q. So you don't --
10 A. I'm not questioning your word. I mean, I'm not
11 trying to be argumentative. I'm just not -- in
12 Texas, the federal range ratio has not been an issue,
13 nor was it an issue in Oklahoma, nor is it an issue
14 in Alabama.
15 Q. So this federal 25 percent, this federal range ratio,
16 doesn't really mean anything within the context of
17 Texas at least as far as the federal government is
18 concerned, does it?
19 A. In my opinion, that is my understanding, yes, sir.
20 Q. Okay. And you wouldn't know really whether they met
21 -- the way the federals measure it whether we met
22 the disparities standard or not?
23 A. If there's some exceptions to the 1.25 restricted
24 range, I would not, no.
25 Q. Or whether or not we meet the wealth neutrality test?

1 A. No, sir.
2 Q. Or whether or not we qualify for consideration for
3 exceptional circumstances that are set out there?
4 A. No, sir.
5 Q. So, when you talked about this federal range ratio,
6 that's simply -- I mean from your perspective -- a
7 number that was somewhere set out in the CFR?
8 A. Set out where?
9 Q. In the CFR, the Code of Federal Regulation.
10 A. Yes, sir.
11 MR. O'HANLON: We would offer Defendants'
12 Exhibit No. 2, Your Honor.
13 MR. GRAY: No objections.
14 THE COURT: All right. It will be
15 admitted.
16 (Defendants' Exhibit No. 2 admitted.)
17 BY MR. O'HANLON:
18 Q. Now, you spoke about the SCOPE Committee. That's the
19 Select Committee on Public Education.
20 A. SCOPE and not cope.
21 Q. That's right.
22 Now, the SCOPE Committee, itself, did not make
23 a specific level of funding request, did it?
24 A. No, it did not.
25 Q. Okay. And what did make a specific funding level

1 request was the -- shall we call it the SCOPE ad hoc
2 advisory group?
3 A. In terms of the revenue matters, I think that the
4 SCOPE report indicated a 900 and some odd million
5 dollar price tag associated with their
6 recommendations. But within the SCOPE
7 recommendations, what you have is a series of policy
8 statements about how the system ought to work from a
9 policy --
10 Q. The aid factors for equalization?
11 A. Yes, sir.
12 Q. And those were all pretty much taken into account in
13 House Bill 72, weren't they?
14 A. We certainly tried, yes.
15 Q. Okay. But the $2,100.00 figure for the basic
16 allotment, that was done by the SCOPE advisory group,
17 wasn't it?
18 A. Yes, sir --
19 Q. Okay.
20 A. -- in the sense that the advisory group essentially
21 created the mechanics that are in House Bill 72,
22 Article 2, and the people who were on the SCOPE
23 Committee then helped to try to get it passed. I
24 assume they supported it since they worked very hard
25 in the legislative process to pass it.

1 Q. Okay. Now, who was on this SCOPE advisory group?
2 A. Well, David Thompson.
3 Q. And he represented at that time the Texas Association
4 of School Boards, didn't he?
5 A. That's correct, he did.
6 A. Craig --
7 Q. Wait a second.
8 Is it fair to say that he had a vested interest
9 in the high level of funding at the time?
10 A. I hope he has a vested interest in it now in that he
11 cares about boys and girls.
12 Q. Okay. So we'll put a check out there by that.
13 Okay. Who else?
14 A. Craig Foster.
15 Q. He represents the Equity Center?
16 A. Yes, sir.
17 Q. Is it fair to say he had an interest in the high
18 level of funding for education?
19 A. I assume he did, and all people who care about
20 children did.
21 Q. Who else?
22 A. Anybody else in the courtroom? Richard Kirkpatrick
23 participated frequently.
24 We had Johnny Veselka from the Texas
25 Association of School Administrators.

1 Q. Otherwise called TASA?
2 A. That is correct.
3 Q. Mr. Kirkpatrick is Copperas Cove?
4 A. Yes, sir.
5 Q. He's superintendent?
6 A. Yes, sir.
7 Q. Okay. Now, is it fair to say that both of these
8 gentlemen had a vested interest in a high level of
9 funding?
10 A. I will repeat my statement. Anybody who cares about
11 kids in this state has a vested interest in
12 increasing the funding levels in the Foundation
13 School Program in Texas.
14 Q. Well, I'm not trying to be glib here. What I'm
15 trying to find out is, is that, is it fair to say --
16 I won't make you go down the list if you'll kind of
17 follow me here -- and that is that everybody that was
18 involved in the funding recommendation --
19 A. They were all educators representing community
20 schools, suburban schools, the Urban Council, about
21 every education interest in the state except
22 teachers, as a matter of fact, were at some point in
23 the game a part of this process.
24 Q. Is it fair to say that they were unified in their
25 endeavor and in their effort to maximize the amount

1 of money that was spent on education?
2 A. I never heard them talk in those terms, no. What
3 they were talking in terms of was providing the
4 opportunity for a quality education in every school
5 district in the state.
6 Q. But I mean their interest was funding for education;
7 isn't that right?
8 A. Sure, they were interested in funding for education.
9 Of course they were.
10 Q. They weren't interested in funding for prisons.
11 A. They weren't doing highways or prisons, no. I agree
12 with you.
13 Q. Or hospitals or any of a myriad of other things.
14 A. No, sir. That was one state function that they were
15 concerned about.
16 Q. And would you concede that there are a myriad of
17 other things in the state that may require state
18 funding?
19 A. I would certainly concede that we have many state
20 service needs, yes.
21 Q. And is it legitimate in terms of a governmental
22 entity, the Legislature of the state, to consider the
23 public fisc?
24 A. The public what?
25 Q. Fisc.

1 A. I'm sorry.
2 Q. The amount of money available out there in setting
3 finances and spending money?
4 A. State your proposition once more.
5 Q. Is it fair to say -- restated, is it fair to say that
6 the Legislature can be legitimately concerned with
7 other things besides education?
8 A. Absolutely, and how it affects --
9 Q. That in the marketplace of ideas that comprises a
10 legislative session, that there's a lot of
11 competition in there for scarce dollars, especially
12 now?
13 A. We always find ourselves in that position every
14 session, yes, sir, sometimes not as good.
15 Q. And in fact, would you then say that, in fact, the
16 Legislature would say "We're not going to spend any
17 more than a billion dollars more per year" is
18 arbitrary?
19 A. It wasn't just a matter of the expenditure level, it
20 was also the structure of the program which was
21 involved. And they lessened the local fund
22 assignments as well as refusing to spend the billion
23 dollars --
24 Q. I understand that.
25 A. -- spending 808 million, yes.

1 Q. On the appropriations side, on the let's raise the
2 money side, you know, and find where we're going to
3 get it, is it legitimate to say "Guys, we can't spend
4 any more than a billion dollars a year new money in
5 education"? Is that a legitimate concern?
6 A. On the appropriations side, certainly they have the
7 authority and the responsibility to deliver aid and
8 look at competing interests and decide on the
9 appropriations level. That's their right.
10 Q. So, putting it in your opinion and you were there, it
11 wasn't arbitrary that they said "We can't afford any
12 more than a billion dollars a year, two billion
13 dollars a biennium increase in public financing for" --
14 A. The only way it was arbitrary was that they decided
15 on what the tax bill was going to be instead of what
16 the needs were, and then they said to restructure the
17 school finance bill to meet the revenue that they
18 were going to make available.
19 Q. Well, now, the --
20 A. Not only that, but they said "Don't spend any more
21 than it takes on special education, and don't have so
22 many school districts losing money."
23 Q. Well, now, the way the Legislature works, I thought,
24 was that they kind of got to raise the money first
25 because Bob Bullock has got to certify that we have

1 it. Isn't that how it works?
2 A. That's certainly true.
3 Q. And if we have --
4 MR. KAUFFMAN: Excuse me, Your Honor. I'll
5 object to the questions. He's argumentative. He's
6 asked for a civics lesson, he has to sit down and
7 listen to it.
8 We object to the question and we ask the Court
9 to instruct the attorney for Defendants to allow the
10 witness to answer without interrupting.
11 THE COURT: Okay. Go ahead, put your
12 question.
13 And you all wait for each other so that you all
14 won't drive my court reporter crazy. She can't take
15 you both at the same time.
16 BY MR. O'HANLON:
17 Q. Isn't it true that before we could pass House Bill
18 72, that we had to pass the tax bill, and so Bob
19 Bullock could certify that we had the bond?
20 A. In order for it to be certified, yes.
21 Q. So, there was nothing arbitrary about that. That's
22 required by our Constitution, isn't it?
23 A. You're ignoring the methodology in terms of how one
24 determines how big the tax bill is going to be.
25 They didn't decide how much they needed for

1 education first and then decide how much the tax bill
2 was going to be. They decided how much the tax bill
3 was going to be and then decided how much they were
4 going to spend on education off that tax bill.
5 Q. Well, wasn't it the biggest tax bill in the history
6 of the State of Texas? Isn't that what Bill Clements
7 went around the state beating up old Mark White about
8 that he passed the biggest tax bill in the history of
9 the State of Texas?
10 A. Yes, sir. And we don't have a history of big tax
11 bills. And we rode the oil boom to greater and
12 greater revenues all during the 70s, and our
13 Legislature hasn't passed a tax bill since 1971.
14 Q. And education only got two-thirds of the biggest tax
15 bill in the history of the State of Texas.
16 A. 2.8 out of 4.8.
17 Q. Is that what it came out to be?
18 A. That's about right, isn't it David?
19 Q. So we didn't get $2 billion, we got $2.8 billion.
20 A. Over a three-year period, yes, sir.
21 Q. Okay. And is it arbitrary to say all we can afford
22 is $2.8 billion?
23 A. In my opinion, they made an arbitrary decision about
24 the level of the tax bill and then told us to
25 redesign the finance bill to fit the money and to cut

1 the number of losers --
2 Q. Well, they did --
3 A. -- and not spend any more on handicapped kids than
4 "X".
5 Q. And they made an arbitrary decision that they were
6 only going to spend the rest of the money on
7 highways, and then told them what highways they could
8 go out and build, and to cut the highways that
9 required more than that, didn't they?
10 A. It's been my impression that highways has always done
11 quite well in the appropriations process.
12 Q. And they make an arbitrary decision when they tell
13 the Attorney General's Office that they only had "X"
14 amount of money, and that they can go hire whatever
15 lawyers they can afford that are dumb enough to go
16 work for the salaries that they pay.
17 A. That was your statement and conclusions.
18 Q. I mean, you always start with the money first; isn't
19 that right. Isn't that the nature of the legislative
20 process?
21 A. That's not the way I teach superintendents to go out
22 and do business, no.
23 Q. Well, now, let's talk about a superintendent. Does
24 the superintendent start off with an add up all the
25 money that they actually want and then go say "This

1 is what I've got, and you're arbitrary, board of
2 trustees, if you don't give me every penny that I
3 want"?
4 A. Absolutely not and I didn't mean to imply that. It's
5 just the decision-making process that I was concerned
6 about.
7 Q. Now, because there's a give and take, isn't there,
8 even on a local level where the superintendent goes
9 in there and asks for everything that he can think
10 of, and the board of trustees says, "Hey, our
11 taxpayers can't afford this. We want you to bring
12 back something at an 80 cent tax rate because that's
13 all we can go."
14 A. What I am saying is that the superintendent needs to
15 assess the needs of the school district and to
16 present to the board proposals which accomplish the
17 objectives which are, in fact, set by the board. And
18 then the board can deliberate on the needs of the
19 school district and decide how much revenue it's
20 going to raise rather than the process of calculating
21 what they can spend, assuming the tax rate that they
22 had last year, assuming revenues from federal
23 government or whatever sources they're receiving it
24 from, and saying "Go build your budget, Mr.
25 Superintendent," regardless of what the needs of the

1 district are, regardless of how far away we are from
2 achieving the policies that, in fact, the board
3 established.
4 Q. Well, didn't we do that with House Bill 72? Didn't
5 we get that $987 million figure? And three times
6 $987 million is going to get real doggone close to
7 $2.8 billion, isn't it? Doesn't the research that we
8 did that the SCOPE Committee recommendations do
9 exactly that? Are we that far off to where the
10 example of the superintendent and the trustees is any
11 different?
12 A. If the Legislature had passed the Senate form of the
13 bill on current operations and had adjusted for
14 inflation each of the years since then, my answer
15 would be no.
16 Q. And then, are the trustees required to do the exact
17 same thing on the 1,063 school districts?
18 A. Required to do what?
19 Q. To adjust for inflation every year and to do
20 everything that the superintendent asked them to do?
21 The superintendent approaches them with the budget
22 and the trustees say "No, we want you to redesign
23 some things because we're more concerned about these
24 areas than we are these areas." And is the
25 superintendent allowed then to call his board of

1 trustees arbitrary and capricious because they don't
2 give him everything he wants?
3 A. I didn't say that.
4 Q. Well, isn't that what you are saying about the Texas
5 Legislature because they didn't give you everything
6 that you wanted, that they were arbitrary and
7 capricious?
8 A. All I said was that they were arbitrary in the
9 decision about the level of the basic allotment, the
10 level of funding for special education. And they
11 determined that by determining the tax bill first
12 rather than tailoring the tax bill to meet the needs
13 of the system as it had been defined.
14 Q. But how was that -- and I'm asking you -- how was
15 that different than a superintendent who gets, in
16 essence, virtually everything he wants in terms of
17 hard dollars from his board, but the board says "No,
18 I don't want you to fund at this level. I want you
19 to spend this money in a few other places that we've
20 got in mind."
21 A. If I agree with you and get on one knee, can I go
22 home?
23 Q. How was it any different?
24 A. I tried to explain it. I can't explain any better
25 than I have. Obviously I'm not very articulate. I'm

1 not an attorney and I tried. I did my best.
2 MR. GRAY: Judge, he has a 5:30 class. We
3 have him on a 4:00 o'clock airplane with a car ready
4 to take him to the airport. We told all of the other
5 counsel this. I intentionally kept my redirect very
6 short for that very purpose.
7 THE WITNESS: I'll be glad to come back
8 tomorrow.
9 MR. GRAY: Obviously, it's not worked. I
10 would ask -- we have another witness that we could
11 start, but I ask that he be excused so he can make
12 his class. He's been here right at a solid week on
13 the stand. We'll bring him back. We'll give them
14 all the shots they want out of him, but the timing of
15 this thing has kind of gotten out of control.
16 MR. O'HANLON: I have no objection in
17 proceeding in that fashion.
18 MR. E. LUNA: No objections.
19 MR. TURNER: No objections.
20 THE COURT: Okay. We'll stop for afternoon
21 break. We'll let him go on to his class and we'll
22 get started up again at a quarter till.
23
24 (Afternoon recess.)
25

1 MR. KAUFFMAN: Your Honor, the Plaintiffs
2 call Dr. Bill Sybert.
3 MR. BILL SYBERT
4 was called as a witness, and after having been first duly
5 sworn, testified as follows, to-wit:
6 DIRECT EXAMINATION
7 BY MR. KAUFFMAN:
8 Q. Good afternoon, Dr. Sybert. How are you, sir?
9 A. Fine, thank you.
10 Q. State your full name and what you do.
11 A. I'm Bill Sybert. I'm superintendent of the Socorro
12 Independent School District.
13 Q. Where is Socorro?
14 A. Socorro is in the western part of Texas, out near El
15 Paso. In fact, it's partially in El Paso and
16 partially out of El Paso.
17 Q. Will you tell the Court about your academic
18 background, Dr. Sybert?
19 A. I have a Bachelors and Masters degree from North
20 Texas State University. I have a superintendent
21 degree.
22 Q. Did you do any work past your Masters?
23 A. Yes, however I've forgotten most of what I've learned
24 in those courses.
25 Q. Are you one of those all but dissertation people?

1 A. Yes.
2 Q. Tell us about your professional background in the
3 field of education.
4 A. I had started my career in New Mexico as a teacher.
5 And I taught several grades in Lovington, New Mexico
6 and moved to Taos, New Mexico as a director of
7 instruction, and then back to North Texas State where
8 I did work toward my doctorate, and taught some
9 courses in the Education Department there, supervised
10 student teachers, went back to New Mexico again, this
11 time to Deming, New Mexico as a junior high school
12 principal and an assistant superintendent for
13 instruction.
14 After ten years in New Mexico, I decided to get
15 out of school administration, the goings was a little
16 rough. And so I went to El Paso, where my wife
17 agreed to teach and help support me and we could both
18 teach. And I taught in the El Paso schools for about
19 four months and then I took an assistant
20 principalship in an elementary school, moved to a
21 high school, became director of elementary education
22 and administrator in charge of one of El Paso's
23 decentralized areas and assistant superintendent for
24 evaluation, research and planning.
25 At the conclusion of 30 years, I thought again

1 I would like to get out of school administration, and
2 moved back to New Mexico where I could get Texas
3 Teacher Retirement, and also teach in New Mexico. So
4 I applied for two jobs, one was a classroom teaching
5 job in Alamogordo, New Mexico and about the same
6 time, the superintendency of Socorro -- and I live in
7 the Socorro area -- came open and some of my friends
8 on the board urged me to apply there. And I said
9 "We'll just see how it drops." The one in Socorro
10 came first. And so I still can't get back into
11 classroom teaching where I belong, but I try to teach
12 a class every day that I'm not in Austin in the
13 courthouse.
14 Q. So, Dr. Sybert, let me see now, you've been a
15 teacher, a junior high principal, an assistant
16 superintendent for instruction, an assistant
17 principal, an administrator, an assistant
18 superintendent for evaluation, and now you're a
19 superintendent?
20 A. Yes, that's correct.
21 Q. About how many of years has this been in Texas?
22 A. I guess about 25 of them in Texas, about ten in New
23 Mexico.
24 Q. 35 years in education?
25 A. That's -- I keep close tabs with the Texas Teacher

1 Retirement System, and I think I have 35 years
2 credit, yes, sir.
3 Q. Now, you say you're from the Socorro district. Tell
4 us a little bit about the Socorro district.
5 A. The Socorro district is one of the finest school
6 districts in the State of Texas. The Socorro school
7 district -- I told you something about the location --
8 has 9,250 students when I left home last week. We're
9 probably up to a couple of classrooms worth by now,
10 but we had about 9,250, about 480 teachers, between
11 35 and 40 administrators. We have a total number of
12 employees of about 950 people.
13 Generally, the district can be most
14 characterized by its growth. It's a very rapidly
15 growing district, 12, 15 percent a year, somewhere in
16 that range. Actually since this time last year,
17 we've drawn about 1,250 students since this time last
18 year.
19 It's a very rapid growing district, and growth
20 brings challenge and opportunities and some problems.
21 And today I want to talk some about those problems,
22 but I don't want to talk about problems entirely
23 because there's some things in Socorro that are
24 A-plus, okay. You're going to get both sides.
25 Q. All right. Good.

1 Now, back to the community a little bit.
2 Before you go more about the school district, talk
3 about the city, itself, or the area around the school
4 district.
5 A. Well, really we -- Socorro, Texas is the newest city
6 in Texas in one way of looking at it.
7 Another way of looking at it, it's the oldest
8 city in Texas.
9 In 1681, a Spanish mission was founded there.
10 This was an area that grew up after there was a
11 pueblo revolt up in Sante Fe, and the Spaniards came
12 down out of Sante Fe trying to get away from the
13 Indians on the war path and didn't want to go all the
14 way across the Rio Grande because they hoped they'd
15 come back some day.
16 So they set up a little settlement there around
17 that mission. And around that mission has developed
18 a little community. Until a few years ago, as Mrs.
19 Padilla pointed out, a very beautiful little rural
20 community, farms, big trees, irrigation ditches, kind
21 of just an ideal place to live, for people to live.
22 Around Socorro, however, immigration has really
23 taken its toll. Socorro is most responsive to the
24 condition of the Mexican economy. When the economic
25 situations get hard in Mexico, we receive lots and

1 lots of new people. Some of them perhaps are illegal
2 aliens; most of them, we think, are legal aliens.
3 But we don't make a particular difference in our
4 educational program. That's not our job. To enforce
5 the immigration laws are not part of our job. Our
6 job is to take those children and do our darndest to
7 do a good job of teaching them.
8 Q. Let's talk a little bit about those children that
9 are --
10 A. Mr. Kauffman, it would not be a correct picture of
11 Socorro if I stop right there. Can I say just
12 another word?
13 There are two other communities that go to make
14 up the Socorro school district, and one of them is
15 within the city limits of El Paso. I have three -- I
16 have two new elementary schools there and a third one
17 building. This is an area of houses from $40,000.00
18 to $50,000.00 and lots of young families.
19 Another community, known as the Rising Heights
20 community, that's largely retired people and
21 middle-class type housing.
22 Now please, sir, please go on with your
23 question.
24 Q. All right. You said that there are a lot of new
25 arrivals in your district. Are they living in any

1 particular area of your district? What are their
2 conditions like?
3 A. For the most part, they live in the old Socorro area.
4 For the most part, they live in illegal subdivisions
5 is what we call them. If this was Latin America, we
6 would call it Colonials. There is no planned
7 development. The people come in and they -- well,
8 typically what is happening is that a farmer sells
9 his land to a land developer. This land developer
10 then breaks the land up in acreage. He does not put
11 in the essential services. He doesn't put in water;
12 he doesn't put in electricity; he doesn't put in good
13 roads. There's no fire protection, no police
14 protection. He just sells acreage.
15 What typically happens then is that a family
16 buys a small little worn-out trailer house and they
17 drag it out to this acreage. And then as they can
18 become employed and they've got a couple of hundred
19 dollars to go buy some cinder blocks, they buy a
20 couple of hundred dollars worth of cinder blocks and
21 they put them up. They get another couple of hundred
22 dollars and they put that into the house, and they
23 use their weekends and their evenings and they build
24 their own homes.
25 So we see the homes are being built, and

1 they're all sorts of stages of development. And the
2 homes are being built in such a way that they don't
3 have essential services. Real problems exists in
4 terms of health.
5 Our county recently found that we have the
6 highest incidence of contagious diseases of any
7 county of the United States. And largely this is
8 concentrated in this particular area there where it's
9 uncontrolled sewage, uncontrolled water, living
10 conditions that are really bad.
11 The idea of Latin America colonials, this is
12 what we have in old Socorro.
13 Q. Is that just one small area of your district?
14 A. No. This is the largest geographical area of our
15 district.
16 Q. By this, you mean the area you described as colonials
17 basically?
18 A. Yes, that's right.
19 Q. The new children that come to your district, do they
20 have any language problems or --
21 A. Yes. We have about 30 percent of our youngsters are
22 classified as limited-English speaking. Most of our
23 children begin school without English language
24 facilities. Yes, they have lots of language
25 problems.

1 Q. How about the number that are below the poverty
2 level, free lunch kids?
3 A. We have relatively 70 percent are on free lunch, a
4 little over 70 percent by the time you add the free
5 and reduced lunch youngsters together. We provide
6 breakfast, we provide lunch for these youngsters.
7 Q. Now, when you're talking about a limited-English
8 proficient, what effect does that have on your
9 district?
10 A. It has a lot of effect in terms of how you structure
11 your educational program. It takes different kinds
12 of teaching techniques. It takes smaller groups,
13 which are more expensive groups. It takes special
14 teachers with special kinds of training, which are in
15 a very, very short supply. It has some real
16 difficulties there in terms of trying to build a
17 program.
18 We consider it an opportunity, and we look at
19 those youngsters that come to us and not speaking any
20 English and say, "In a couple of years, we're going
21 to have you speaking English. We're going to have
22 you in the mainstream of things to do things." We
23 take it as a challenge. I can't minimize that it's a
24 problem; it is.
25 Q. When you say it's a problem and you're going to do

1 something about it, does that have any implications
2 on your budget?
3 A. Oh, yes, it certainly does. We have to compete for
4 those special kinds of teachers. We compete with two
5 very large neighboring districts, the El Paso
6 Independent School District and the Ysleta
7 Independent School District, very, very large
8 districts who want that teacher with the bilingual
9 certification. And so we have to have a salary
10 schedule that matches theirs in order to get those
11 teachers. That's one effect.
12 Another effect, of course, are the special
13 kinds of classes, like bilingual education classes.
14 When you sort them out, you never get quite as
15 efficient in how many youngsters here and how many
16 youngsters there. We probably have more remedial
17 programs than most people have, remedial reading,
18 remedial mathematics. We have after-school tutorial
19 programs. And we operate an extensive summer
20 program, a very extensive summer program, somewhere
21 between a third to a half of our youngsters on every
22 campus will be back during the summer. And time on
23 task we found is the essential thing.
24 Q. Now, the summer program, what is that? Is that
25 elective courses or what do you do during the summer?

1 A. The summer program, we mainly concentrate on basic
2 skills. Youngsters who are not doing as well as they
3 could on the TEAMS test, for example, are referred
4 for summer work, but mainly it's a basic skills
5 program. We also do a pre-school program and
6 everything we can for those youngsters that really
7 don't have English facility.
8 Q. And of the programs you're talking about, does that
9 have any implications for your budget?
10 A. Oh, yes.
11 Q. What are those?
12 A. The summer program has a big implication for my
13 budget, you bet.
14 Q. What is that?
15 A. Well, you've got to bring back your teachers during
16 the summer, and they work on extended contracts. We
17 have to keep our buildings operational, which
18 requires special materials. All of our
19 administrative staff works 12 months. Many
20 administrative staffs work ten, ten and a half, 11,
21 11 and a half months. All of our administrative
22 staff goes 12 months because of our really big summer
23 programs.
24 Q. Well, if your administrative staff works 12 months,
25 do you have to pay them more or less than you would

1 if they worked 10 or 11?
2 A. We have to pay them a little more or they would
3 rather do something else if we don't pay them.
4 Q. Okay. You talked about having kids 70 percent free
5 lunch, I think you said, are below poverty level.
6 Does that have any implications for running your
7 district?
8 A. Oh, yes, it certainly does. If you look at our
9 operational monies in some of these figures that go
10 around, sometimes those figures indicate money we're
11 spending to feed the youngsters. Now, those dollars
12 are in there, too. And those are educational
13 dollars. A youngster with an empty stomach is not
14 going to learn very well, but there are educational
15 costs that accrue in a district like ours that not
16 every district runs up against.
17 Q. What are those?
18 A. I'm sorry. I don't understand.
19 Q. Okay. I'm sorry. You said it costs some money to
20 provide the free lunches for the kids on the program?
21 A. Oh, yes.
22 Q. What about those kids that are entitled to free
23 lunch? I mean, do they require you to spend more or
24 less money than regular kids?
25 A. Okay. All right. A youngster entitled to free lunch

1 frequently does not have the kind of cultural
2 opportunities at home that the youngster who can pay
3 for his lunch. They haven't made the trip to the
4 concert hall.
5 I've been trying to teach some kids Texas
6 history and I was referring to East Texas, and they
7 thought that was Fabens 30 miles to the east of us.
8 I'll go back now and tell them about Austin, and I
9 don't know whether they're going to believe me about
10 Austin or not. But I'm going to tell them.
11 Q. They can come over here and spend the night. We'll
12 see if they believe then.
13 But what implications does that have for your
14 budget, those things you're talking about?
15 A. That means we have to do things like field trips.
16 That means we have to do things like more
17 audio/visual aids. It means that you can't
18 concentrate just entirely on basic skills, but the
19 whole world of experience, the concerts, the outside
20 speakers, this whole world of experience has to be
21 brought to those youngsters.
22 And I'm sure a position that many of us in our
23 district have, that that is not held entirely by
24 everybody, but we believe an activity program is
25 essential for these youngsters, too.

1 The child who has come to us from Mexico, who
2 has been in a totally strange environment, and he
3 comes into us and he needs help to socialization and
4 Americanization, and we think that's a role of our
5 school. It's not just reading, writing and
6 arithmetic. That youngster is going to be successful
7 in our economic systems. And some of those things
8 are going to be pretty doggone important to them.
9 So we think our activity program. Yes, the
10 football teams. Yes, we think it's educational to be
11 a cheerleader, particularly for that kind of girl,
12 the girl who comes to us for that experience or
13 background. We think drill teams in which youngsters
14 learn to dress up. And many of them have to go
15 somewhere else to take a bath. We think drill team
16 is important to these children. If they're going to
17 learn the kinds of cultural expectations we have in
18 our society and participate in those, we think an
19 activity program is important.
20 And so, I can't say that the total measure of
21 success in our school district is based on the TEAMS
22 test. That certainly is not it. We've got to give
23 our youngsters much more if they're going to be
24 successful.
25 Q. You say much more. Now, wouldn't the kids in

1 Highland Park like to be cheerleaders and go to
2 concerts, too?
3 A. Certainly would. I hope they will be.
4 Q. But what about your kids. You say you need more.
5 Why is that?
6 A. I need more of these kinds of opportunities.
7 Q. Yes, for your kids.
8 A. Yes, I do. I need as many youngsters participating
9 in as many things like this as I can because of their
10 relatively awkwardness out of a different culture,
11 and their needing to learn to function in a
12 competitive economic society and being functional
13 American citizens. I need those opportunities for
14 them.
15 Don't spend very much on it, can't afford to
16 spend very much on it. Most of it has to go on basic
17 skills. But what we spend, I think is well spent.
18 Q. What about the drop-out rate in the district? Do you
19 know about what that is?
20 A. My drop-out rate, using the state formulas, is about
21 35 percent. Actually, I have some question about
22 those formulas. My own feeling is it's a little
23 higher than that, but some of the formulas that some
24 of us used to work it out, I think it would be closer
25 to 40, 45 percent. I think it may be a little higher

1 than 35 percent.
2 Q. Okay. Now, what do you mean by that percentage
3 drop-out rate? What are you comparing --
4 A. Well, the state formula seems to take youngsters from
5 each class, from the first of the year to the end of
6 the year and so forth. I think probably the best
7 measure of drop-out is the raw number. How many
8 youngsters did you have here when they were, say,
9 entered the ninth grade, and how many youngsters do
10 you have when you get to graduation. And except for
11 those who sent for a transcript -- and if they just
12 tell you you're going somewhere, don't believe it.
13 Wait until you see if you've got a transcript --
14 except for those -- now, don't count the
15 transfers-in, but use your raw number I think gives
16 you a better information than the formula stage to
17 come up with it.
18 Q. Is that what you did to get to the 40, 45 percent?
19 A. Yes. That's what my staff did. I haven't worked on
20 it personally.
21 Q. What does that mean for the kids in your district,
22 40, 45 percent drop-out rate?
23 A. Well, it means that their successful blending into
24 our economy is going to be very, very difficult.
25 Seems like the military service does not want the

1 drop-outs much any more. They really have an awful
2 hard time finding good employment. I want to keep
3 them in school.
4 I found that one thing that helps keep them in
5 school is our vocational programs. And it seems like
6 these vocational teachers, as they work with
7 youngsters, can encourage those kids that there's
8 going to be a little money down the line somewhere
9 and can kind of hold on to them.
10 These are expensive to operate. These are
11 countered to the current educational trends, too.
12 But for my kind of kid, we need those
13 vocational programs and they cost lots of money.
14 Q. Well, are you doing anything to try to confront that
15 drop-out problem?
16 A. Yes, we do. We're trying to operate -- I say the
17 vocational programs are probably my most successful
18 thing. We have -- Socorro High School faculty --
19 I've been through in-service about drop-outs, and
20 then they counsel with the kids. And we have a
21 counseling program at the high school in which --
22 actually upon entry into Socorro High School, we have
23 a three -- a three-way conference is required. A
24 counselor, a parent and the youngsters sit down and
25 talk about a four-year plan. And then they all sign

1 off on a contract for that plan. And then, to make
2 any change, that three-way meeting has to take place
3 again. We think that helps to confront it.
4 Q. Well, Dr. Sybert, you said you had a 40, 45 percent
5 rate. Is there anything you're planning to do to try
6 to reduce that?
7 A. I don't have a specific plan of anything brand new
8 yet, but I'm sure we'll continue to work with it.
9 Q. Have you all discussed any plans to offer kids jobs
10 or help them like that?
11 A. I wish we could. We got a grant a year or so ago
12 that seemed to really work with some youngsters. And
13 I wish I had the money to continue that kind of
14 program on. This was a private industry council
15 grant that we had for a while. And with that little
16 grant, we brought some youngsters who had just
17 dropped out or we knew they were just about to drop
18 out in and we let them work in the schools. Some of
19 them were clerical assistants, some of them helped
20 the teacher aids, some of them worked in our tutorial
21 program, some of them worked on maintenance. But we
22 gave these youngsters some jobs, and that job helped
23 hold a lot of them in school. It worked very
24 successfully. Now, having the money to put people on
25 the payroll so they'll stay in school is an expensive

1 program, but it seems to help.
2 My observation is that the youngsters who are
3 dropping out at Socorro High School are dropping out
4 for the most part because they're hungry. We feed
5 them a couple of meals a day, but their family is
6 hungry. Out of absolute economic necessity is what
7 is causing our drop outs. We've got some things like
8 cultural valuing and problems and so forth, yes, but
9 it's mainly a desperate economic situation, the
10 reason youngsters are dropping out. If they find a
11 way that their labor can be sold and contribute in
12 some way to that family, they're going to sell that
13 labor and they're going to try to contribute.
14 Q. Would you like to extend this program? The grant,
15 you said you had a special grant. Would you like to
16 extend that program over all?
17 A. How I wish I could. I wish I had for Socorro High
18 School 200 slots, maybe, that we could hire
19 youngsters and let them work as teacher aids in the
20 elementary schools, and let them do tutorials, which
21 would bring up basic skills programs. And work on
22 our maintenance at school, work in our offices, do
23 clerical work, whatever, but I wish I could extend
24 it. I think it would help with the drop-out problem.
25 Again, it's an expensive program.

1 Q. Well, why don't you do it?
2 A. It's a matter of priorities. It's a matter of
3 assessing priorities. I could perhaps run higher
4 teacher/pupil ratios somewhere and do that, or I
5 could drop cheerleading and do some of that. I feel
6 that assessing priorities in Socorro is kind of like
7 those -- if you've seen those jugglers, I was
8 watching a juggler on television the other night. It
9 was a Japanese fellow and he had some sticks, and his
10 friend was throwing plates at him. And his friend
11 threw a plate and he caught it on a stick and he was
12 holding it over here. And then his friend threw
13 another plate and he caught it on the stick and he
14 would hold it over here and he would put it up here
15 on his chin and he had it going around and around up
16 here, and then he caught a third plate. So here he
17 was, he was holding this plate and that plate and one
18 on his chin.
19 Trying to juggle the priorities of the dollars
20 we've got and the needs of those kids is just about
21 like that Japanese juggler. Anytime I try to start
22 paying too much attention over here, that plate is
23 going to fall over there.
24 So that's kind of where we are. Seems like
25 I've got about four of those plates coming at me.

1 And I guess the first plate is trying to run the
2 state's required minimum accredited program. Hey,
3 there's nothing new about that. Every superintendent
4 in this room right here is doing that one. They're
5 all trying to do that and they've all got their
6 problems and trying to make that thing pay out is
7 problem enough.
8 But then, I'm trying to work with that
9 overwhelming growth, that 15 percent or so growth
10 that comes at me, and then I'm trying to work with
11 the cultural -- the difference, the linguistically
12 different or what some people call the high cost kid.
13 And then I'm trying to work with low, low property
14 wealth.
15 So, instead of those three plates that juggler
16 had, I think I've got four. And I think I can handle
17 one of those problems all right. I think maybe
18 sometimes I can handle two of them all right. But
19 the four of them altogether, they're kind of
20 perplexing.
21 Q. Let's talk a little bit about those one by one. Now,
22 you said overwhelming growth. Now, doesn't the
23 state's program give you more money when you have
24 more kids?
25 A. Oh, the state's program gives me more money. It

1 gives me money to run the state's program.
2 Q. Uh-huh.
3 A. And they put in some money that applies toward the
4 high cost kids. I don't think it's enough.
5 Q. Uh-huh.
6 A. But they help me run the state's program and they
7 help me with the high cost kids, not quite enough
8 help there. But the state says, "If you want to
9 build some school buildings, then you've got to go
10 tap that low tax base you've got out there or you've
11 got to take it out of another pocket." And actually,
12 I've been doing both. Whenever we get a cash balance
13 built up -- and I let a cash balance build up
14 sometimes by not fully implementing all of the
15 state's required programs. I get in trouble for it,
16 too, David. I wish you would tell them to lay off of
17 me sometimes. But I get in trouble for it.
18 By not fully implementing all of the state's
19 required programs, sometimes I let a little cash
20 balance build up in order -- so I can float it over
21 next year to try to get a building built or we pass a
22 bond issue.
23 Now, the people in Socorro are great. They,
24 here a few years ago, voted for a $30 million bond
25 issue. I think just confidence in their board of

1 trustees -- and we have an excellent board of
2 trustees. And they voted this out, and we're trying
3 to build buildings.
4 But my problem is that my tax for interest and
5 sinking fund on that bond issue is about 50 cents.
6 Now, as I understand it, the statewide average tax is
7 about 11 cents or something like that for that same
8 kind of thing.
9 Q. Interest and sinking fund, now what is that for?
10 A. That's to retire those bonds with.
11 Q. And those bonds build your buildings?
12 A. Those bonds build some of my buildings. I chisel a
13 little bit out of my operating money, too.
14 Q. Okay.
15 A. But the operating -- and then my operating money is
16 45 cents. Now, that's 45 cents on a $69,000.00 per
17 pupil value, and 55 cents on a value. But it's 95
18 cent tax rate on very, very low values.
19 Now, we're headed for trouble. We're headed
20 for trouble. I'm in trouble, but we're really headed
21 for trouble.
22 Q. It's bad, but it's getting worse?
23 A. Yeah, it's getting worse. We're not operating the
24 way any smart businessman would operate. What we're
25 doing is we refinanced all of our bonds a short time

1 ago when the rates went down, and we refinanced
2 everything. Now, what we did is we set those bonds
3 up so about most nearly all of them, about 26 million
4 of them are set up for five years, we make
5 interest-only payments. We're not paying any part of
6 the principal off.
7 At the same time I'm having to build two more
8 buildings every year to keep up with the growth.
9 I've told the board this, and so I guess I don't mind
10 saying it at Austin, we're headed for what I think is
11 an imminent financial collapse. And I'm predicting
12 it's coming on August 1, 1989, exactly one month
13 after my retirement.
14 Q. That was an accident, I'm sure.
15 I'm supposed to make the jokes, Dr. Sybert.
16 A. I've been rehearsing these for weeks, Mr. Kauffman.
17 Q. Maybe for 35 years.
18 All right, Dr. Sybert, let's back up a second
19 now. We don't want to have you appear to the Judge
20 to be doing anything illegal. Now can you do that,
21 just continue paying interest and not paying any
22 principle?
23 A. Oh, yes. We employed a very competent bond attorney
24 in order to check all of this out and assure us we
25 are doing the right thing.

1 Q. Well, let's make sure it's clear now. This year, you
2 owe 26 million.
3 A. That's right.
4 Q. In five years, you're going to owe the same 26
5 million on those buildings; is that right?
6 A. That's exactly right.
7 Q. Okay. Now, if you build any more buildings during
8 that time, is that going to add on to the 26 million?
9 A. Well, we still have a little bit of -- a little bit
10 of that 26 million is not spent yet. We'll be
11 spending out of that, and I'll be chiseling a little
12 more money out of my state appropriation.
13 Q. Okay. If you build other buildings at two buildings
14 a year, are you going to have to add on to that 26
15 million in the next few years?
16 A. I think we're going to make it until August 1, 1989.
17 Q. Now, on your two buildings a year, how much do those
18 buildings cost, Dr. Sybert?
19 A. We spend, by the time you figure the land in and all
20 of the development costs, and we have to build a
21 road, and we have to put in a septic tank and
22 everything, we've spent about three and a half
23 million dollars for an elementary school to house
24 approximately 1,000 students.
25 We incidentally build them big, because we

1 think they're more economical to operate that big. I
2 don't like them educationally that big. That's not
3 an educational choice; it's an economical choice. I
4 believe Dr. Hooker called it the economy of scale or
5 something like that.
6 Q. So, now when you build these thousand-student
7 buildings, you mean like an elementary school, a
8 thousand students?
9 A. Yes, that's right. It would be a kindergarten or
10 pre-kindergarten through eighth-grade school.
11 Q. All right. Now, about how many of the new students
12 have you had each of the last two or three years?
13 A. I think maybe three years ago, 600, and then maybe
14 800, and this year, we're up to 1,250, I guess, since
15 last year.
16 Q. So in the last three years, about 3,000 new students?
17 A. Yes.
18 Q. Okay. And how many school buildings have you had to
19 build in the last three years?
20 A. In the five years I've been with the district, the
21 first year I opened one, the next year I opened two.
22 Then I skipped a year. Last year, I built two, and I
23 have two under construction.
24 I also have gone back and made major additions
25 to my smaller elementary schools. And we're putting

1 a $10 million addition on to the Socorro High School.
2 Q. Let's talk a little bit about the schools you do have
3 now. Were you here when Mrs. Padilla testified?
4 A. Yes.
5 Q. She talked a little bit about, I think, an elementary
6 school called Escontrias. Are you familiar with
7 that?
8 A. Yes, sir.
9 Q. What sort of building is that?
10 A. We had an old Escontrias primary school building. It
11 was in terrible condition. It looks like some of
12 these old deserted gins that you see out across the
13 country. It's a metal building. And we were able to
14 get the youngsters out of that building just this
15 year and into a new building. It's beautiful, it's
16 gorgeous, it's air-conditioned, it's a first-class
17 facility on credit.
18 Q. On credit?
19 A. On credit.
20 Q. Okay. On credit. Until August 1, 1989?
21 A. Exactly.
22 Q. What about some of the other buildings in the
23 district? Generally, what condition are they in?
24 A. Since our district generally is a new district and
25 has just done all of its growing in the last five,

1 six, seven years, I think we probably have one of the
2 finest school plants in the State of Texas.
3 Q. Okay. Now all you have to do is pay for it.
4 A. Yes, sir, that's right.
5 Q. Okay. What about the facilities now? Do you have
6 enough classrooms for all of your kids?
7 A. At this moment, yes. However -- and probably will
8 have when we open next fall. It's close. I say, we
9 have two buildings under construction right now. And
10 we stay -- we're in a race all the time to make sure
11 we have enough.
12 Q. How about the state's requirements in terms of class
13 size and all? Have you ever had to ask for any
14 waivers of that sort of stuff?
15 A. Yes, sir. We asked for a waiver -- we've asked for
16 waivers from time to time on the K -- on the K --
17 excuse me -- well, the primary grades, the 1-to-22.
18 From time to time, we have problems in a
19 particular school area where going on up 23, 24 is
20 necessary. I'm getting close on that one. I've been
21 on waivers every year, but I'm getting real close.
22 And I think I hope to meet that next year. I hope to
23 meet that next year, but then here is that middle
24 grades is coming at me and I'm going to have to catch
25 up on that.

1 Now, I'm about to catch up on the primary, I've
2 got the middle grades coming at me. But we were not
3 able to meet it right off. It took us a while.
4 Q. When you say the primary, the 22-to-1, what does that
5 mean? Explain that to the Court.
6 A. It means for one teacher, you don't have more than 22
7 kids registered.
8 Q. Okay. Now, so far, has Socorro been able to meet
9 that for all of its classrooms?
10 A. No, not everywhere. Many of our rooms have met it,
11 then some of them have not. I can be meeting it
12 today and I can go home tomorrow and I won't be
13 meeting it tomorrow. It goes up and down like that.
14 And I'm tight enough on space I don't really have a
15 whole lot of flexibility. But it's been a priority
16 of ours. We put it in our accreditation compliance
17 plan. We said we're going to do it by next year. So
18 that's one of the spinning plates we're going to pay
19 the most attention to. By next year, we're going to
20 do that.
21 Q. Okay. Now, if you can meet that requirement, will
22 that have an effect on any of the other plates?
23 A. I'm sure it will. I don't know. It's already had an
24 effect on the high school particularly. We have
25 really run our high school class sizes up real big in

1 order to put the money into the primary. And some
2 people say that's all right.
3 In our case, we don't think it is all right,
4 because we've got the kind of kid that he may come to
5 us when he's 14 years old with hardly any education
6 out of Mexico. And we don't want to put that
7 youngster into a primary school. We put him into an
8 ungraded type program in the high school. And we've
9 got lots of those youngsters that need ESL classes,
10 or bilingual classes, or remedial classes at the high
11 school level.
12 But I've got lots of high school classes that
13 are up around 35. I've got a lot of high school
14 teachers, for example, high school English teachers
15 that are meeting 175 youngsters a day. Now, if
16 you're meeting 175 youngsters a day in English
17 classes, and you are asked to give one minute a day
18 to scoring written work for each kid, do you suppose
19 that teacher is going to do it? Socorro's teachers
20 probably will. I don't think other districts can do
21 that.
22 Q. That's about three hours a night for one minute a
23 day; is that what you're saying?
24 A. If they gave each kid one minute a day in terms of
25 paper score. I'm sorry we have 175 kids per English

1 teacher. We have some of our English teachers who
2 carry loads like that, and math teachers, and social
3 studies teachers, and others in basic areas who
4 really had to load up the high school classes in
5 order to meet those lower-grade priorities.
6 Q. In terms of these classes, if you have the teacher
7 who teaches 175 kids, based on your experience, do
8 you have any opinion on whether that affects the
9 educational opportunities of the kids in the class?
10 A. I certainly do have an opinion. I don't have a lot
11 of studies, I don't do a lot of studies. I just have
12 more opinions.
13 Q. Tell us what you say based on your experience?
14 A. Okay. My opinion is that the youngster is not
15 getting as good a break as he would as if the teacher
16 had a little more time to talk to him, if the teacher
17 had a little more time to read his work, if the
18 teacher had a little more time to prioritize him and
19 think about him and try to structure and plan lessons
20 for him. My opinion is the youngster is not getting
21 as good an education, particularly this kind of child
22 that I'm talking about in old Socorro that needs so
23 much attention.
24 Q. So for kids in general, they need more attention.
25 And for your kids that have special needs, they need

1 more --
2 A. They really need attention. They really do.
3 Q. And do you feel that under the amount of money you
4 have to spend, you can give them that attention?
5 A. I don't feel like I can right now. You asked me a
6 while ago if I had any shortage of classroom space,
7 and I think I answered in terms of elementary. I
8 have a real critical shortage at the high school of
9 classroom space. We have a lot of construction going
10 on there, and we'll get out of it one of these days,
11 on the credit, again, but we're going to get out of
12 it. But right now I do have classroom shortages at
13 the high school level. No, right now, I can't give
14 our high school kids the kind of attention that they
15 need, no.
16 Q. Now, you talked about the 22-to-1 ratio, and I think
17 that applies to kindergarten, first, and second
18 grade, is that about right?
19 A. That sounds about right.
20 Q. Now, eventually, is there going to be something where
21 that applies to upper grades as well?
22 A. It moves on -- I believe in 1988, it moves on into
23 third and fourth, I believe that's correct.
24 Q. Okay. Do you have any opinion whether you're going
25 to have any trouble meeting that standard?

1 A. I'm going to have a hard time, a lot depending on how
2 fast the population continues to grow, yes, and how
3 fast we can continue to build buildings.
4 Q. As it stands now, do you think you're going to have
5 enough buildings in 1988 to have no more than 22 kids
6 in the classroom all the way through the fourth and
7 fifth grade?
8 A. No. I think we're going to make it at the primary.
9 I don't think we're going to make it in the middle
10 grades.
11 Q. Okay. Now, let's make sure we're talking about the
12 same thing now. Primary, you're talking about K
13 through two?
14 A. Primary ends at third grade in my definition.
15 Q. Okay. Middle grades, you're talking about the third,
16 fourth and fifth area, is that right?
17 A. Fourth, fifth, right.
18 Q. Okay. So you think you can make it for the K, one,
19 two, three, but not for the fourth?
20 A. Well, we prioritize that and some other things has to
21 give, but we're going to make it, yes.
22 Q. All right, good. You're going to pay for it starting
23 August 1, 1986?
24 A. No, sir, 1989.
25 Q. 1989, excuse me.

1 A. Uh-huh.
2 Q. Okay. Now, this 22-to-1 ratio, 22 kids in a
3 classroom for one kid, in your opinion, is that a
4 concept that's helpful or very important to kids who
5 are about to get an education in your district?
6 A. I think it's helpful. I think it was a very -- I
7 think it was a very wise thing to come out of House
8 Bill 72. I think it's very helpful. I think it will
9 help kids.
10 Q. Okay. Now, if you can't meet it, is that going to
11 have any effect on the kid's education, do you think?
12 A. Oh, yes, I think so.
13 Q. What is that effect? You need to tell us, we don't
14 know these things.
15 A. I think unless you hear a youngster read every day,
16 you don't know whether he's reading very well or not,
17 you don't hear his progress, you don't give him the
18 individual coaching that you need. You get real big
19 classes where you don't have that individual contact
20 with most of our kids, they don't learn as well, not
21 if you walk off and leave them, no. You've got to
22 stay with them.
23 Q. Okay. When you say stay with them, though, I mean,
24 is the difference between 24, 25 a kid -- and what
25 would you like to be in the classroom, do you think,

1 to give this sort of individual attention?
2 A. In Horizon Heights School, which is the middle-class
3 area of our district, I think 1-to-25 would be all
4 right.
5 In the old Socorro area, I think to effectively
6 operate, we need 1-to-12, 1-to-15, something like
7 that to have a real effective operation with those
8 kinds of youngsters.
9 Q. Okay. In the old Socorro area, do you have that
10 1-to-12 or 1-to-15?
11 A. Oh, no, we're way, way off. We can't meet the
12 1-to-22 every day.
13 Q. Okay. Now does that have any effect on the kids not
14 being able to meet that 12-to-1 or 15-to-1?
15 A. You know, our youngsters don't do real well on TEAMS
16 tests. I don't know whether that has any effect on
17 them or something else coming from somewhere else has
18 that effect. But generally speaking, our youngsters
19 are not doing real well. I guess that's the only way
20 I can answer it.
21 Q. Okay. Based on your years in the classroom and as an
22 administrator, does it make any difference that you
23 have 15 kids to the classroom or 12 versus 20, 25?
24 A. Depends on what you're trying to do.
25 Q. Okay. Well, let's say we're trying to teach the kids

1 in old Socorro early reading opportunities --
2 A. Yes, that makes a difference. If you're trying to
3 give a Texas history lecture, it doesn't make a lot
4 of difference. But if you're trying to teach the
5 children in old Socorro primary reading, it makes a
6 big difference.
7 Q. Now, I think about two, three years ago, you had a
8 visit from TEA to look at some of your accreditation
9 standards or where your district was, is that right?
10 A. That's right.
11 Q. Okay. Did they recommend anything to you about the
12 guidance and counseling in the district?
13 A. They said we ought to have an elementary program. We
14 didn't have much of anything in the way of elementary
15 program, but --
16 Q. When you say elementary program --
17 A. Elementary, to me, is kindergarten through eighth
18 grade.
19 Q. Okay.
20 A. We haven't been able to afford to implement the
21 junior high school concept. That takes a special
22 building with special teachers, activities, so we run
23 a K-8th kind of program.
24 Q. All right. In K-8th up until a year or two ago, how
25 many counselors did you have for all of your K-8th

1 students?
2 A. We didn't have any. I hired one counselor last year.
3 I hired one counselor to develop a counseling
4 program. This year he has about 7,000 youngsters,
5 but he's not -- he doesn't try to counsel 7,000
6 youngsters. He develops a counseling in-service
7 program and he goes about from school to school and
8 works with the teachers so that they can implement
9 certain counseling techniques.
10 Q. Now, that counselor, then, is the only counselor for
11 7,000?
12 A. He's the only one that really develops programs for
13 the kindergarten through eighth grade, but it
14 wouldn't be fair to say he's the only counselor. We
15 try to make all teachers counselors. In fact, some
16 of the best counseling is done by the school janitor.
17 Q. Sure. Do you have more than one person, though,
18 that's certified by the State of Texas to be a
19 counselor?
20 A. I've just got one.
21 Q. You've just got one, okay.
22 Do you feel like that's enough?
23 A. No, I really don't. Those seventh and eighth graders
24 are pretty wild and wolly, and they don't know who
25 they are or what they are. And since I have them on

1 every campus, I would love to have a counselor on
2 every campus, and probably I would ask him to put in
3 at least half of his time with those seventh and
4 eighth graders.
5 Q. Well, what difference would that make if you had a
6 counselor at each school for the seventh and eighth
7 graders?
8 A. I think that a counselor needs to help the kids
9 adjust. And our youngsters have lots of trouble
10 adjusting. Any seventh and eighth grader has lots of
11 trouble adjusting. Even if he's out of the
12 Carrollton-Farmers Branch, he has trouble adjusting.
13 But when he's just come from deep in the heart of
14 Mexico and this whole world is new and strange and a
15 little overwhelming to him, he really needs help with
16 adjustments and finding himself and who he is, and
17 how to live with his parents, and how to live with
18 teachers, and how to live with society, and where
19 he's going, and I think counselors have worked out
20 techniques that they can help these kids do those
21 things better. And when they can do those things
22 better, it probably has some implications for the
23 TEAMS scores.
24 Q. Well, do you feel that having that counselor would
25 have any effect on the educational opportunity for

1 those kids in the seventh and eighth grades?
2 A. Yes, I do.
3 Q. And what is that effect and why?
4 A. Self-concept seems to be an important -- you've got
5 me talking like a psychologist. I'm not a
6 psychologist. But self-concept seems to have a lot
7 to do with it. If they believe in themselves and
8 believe they can succeed, we see them start
9 succeeding.
10 We put a lot of emphasis on self-concept in
11 Socorro. One of the things we talk about is pride.
12 At every school board meeting, we introduce two or
13 three students, and some parents, and some teachers.
14 At the very start of the meeting, we get them
15 to stand up there and we tell everybody how wonderful
16 those people are and how great they are.
17 If I were to have a faculty meeting, I would go
18 tell those folks they're the best faculty in the
19 United States. We build the best school buildings in
20 the United States. We stay the cleanest, we stay the
21 best maintained. We don't have a piece of paper on
22 our playground.
23 The youngsters may not have a place to take a
24 bath at home, but we have some showers down there off
25 of the gym and they take a bath down there. And yes,

1 sir, we spend a little money giving them a bath. We
2 have to hire teachers to go down there and supervise
3 that bath.
4 But we try to build pride. And as they get
5 that pride, and they start believing in themselves,
6 they read better, and they pass their Texas history
7 test better, and they do a better job in auto
8 mechanics, and they're not near as prone to dropout.
9 Q. Do you think you can afford your kids that sort of
10 opportunity to develop that pride and interest in an
11 elementary school with a thousand kids in it?
12 A. I could do it a lot better if the school was smaller.
13 A thousand kids in an elementary school is not really
14 efficient in the experience that I've had with
15 elementary schools. I would love to have half of
16 that.
17 Q. Why would that make a difference?
18 A. An elementary school, you need to personalize a kid's
19 experience. That's an awfully big world for a little
20 bitty kid. Those halls are awfully long and there
21 sure are a lot of people in his life. And he just
22 came from home. He needs to be broken in a little
23 more gently, I think, than thrown in with these
24 thousands -- we do our darnedest not to let them
25 become factories. When you build an elementary

1 school for a thousand kids, they start feeling a
2 little bit like factories.
3 Q. Well, why don't you just have more elementary
4 schools, then?
5 A. Well, there's that economy of scale. You've got to
6 build two buildings instead of one, and two
7 buildings, you don't buy for the price of one.
8 You've got to have two staffs instead of one,
9 and that's going to cost a little bit more when you
10 split that staff up, too. It's not just a matter of
11 another principal or something like that.
12 And then the big cost comes in terms of the way
13 your class sizes break. You get a thousand kids, you
14 can start breaking those class sizes up into nice
15 little even chunks of whatever you're trying to break
16 them up in chunks of. If you get down to 500 kids,
17 they don't start breaking that even. And the economy
18 of scale really does work out a heck of a lot better
19 with a big school.
20 Q. Well, does having two schools for a thousand kids
21 instead of one, does that have any implications on
22 your budget?
23 A. Oh, yes, operationally, yes. And of course, the
24 thing that really hits our budget is building all the
25 time, yes.

1 Q. Do you think having the large elementary schools
2 instead of the smaller ones has any effect on the
3 educational opportunity of the kids in your district?
4 A. An opinion is that we could do better in a smaller
5 school.
6 Q. Well, that opinion, now, is that based on your guess
7 or is that based on any experience you've had or
8 what?
9 A. Well, I've had a lot of experience and I also do a
10 lot of guessing. It may be a mixture of both.
11 Q. Even lawyers guess once in a while, Dr. Sybert.
12 So what you're telling us is based on the
13 experience you've had in schools for what, 25, 35
14 years.
15 A. Yes.
16 Q. Now, when you got this accreditation visit, was there
17 any question about the laboratory facilities you had?
18 A. Yes. We didn't have the facilities at that time to
19 give the youngsters the 40 percent lab time that is
20 required in the seventh and eighth grade. We didn't
21 have the facilities at that time. We've been
22 building like crazy since then. We're nearly there
23 on that one, too. It's been a priority. We went and
24 put it in our compliance plan and say we're going to
25 do that. We're nearly there. I think next year,

1 we're going to make it on that one.
2 Q. Who cares whether you have kids in the lab 40 percent
3 of the time? What does that --
4 A. Well, the Texas Education Agency cares, the science
5 teacher cares, and I care. These youngsters need to
6 learn how to manipulate laboratory equipment like
7 other kids learn to manipulate the stuff. I think
8 it's important.
9 Q. Why is it important to the kids?
10 A. Hopefully, some of these youngsters are going to go
11 to college, and hopefully, a lot of them will. And
12 they'll manipulate college laboratory equipment.
13 They'll go into high school lab classes and
14 manipulate stuff. I read the other day about
15 somebody dropped out of pre-med when he fainted
16 cutting up a frog. I want them to cut up a frog in
17 the seventh and eighth grade, not get shocked later.
18 Q. Okay. Do you think it has any effect on kids in your
19 district not to have that lab time?
20 A. I think it has not been good for our youngsters.
21 We're getting there. We're going to make it. Next
22 year, those kids are going to have that lab time.
23 Q. Have they yet?
24 A. Not all of the kids. Most of them, but not all of
25 them.

1 Q. Dr. Sybert, I think as we were discussing your
2 district, we talked a little bit about the
3 availability of computers for your kids to work on.
4 Have you all had any issues surrounding that in your
5 district?
6 A. We haven't been able to afford the number of
7 computers we think we need for that elementary
8 program, which was done in the seventh or eighth
9 grade. Now, we've met the state requirement, because
10 theoretically, the state doesn't require you to have
11 a computer there in the computer literacy course. We
12 never did figure out how we could draw the keyboard
13 on a piece of paper and put it on the desk and let
14 the kids practice computers like that.
15 So we felt like to really teach computer
16 literacy, you need some computers around. We've had
17 to buy -- we haven't been able to provide them in a
18 laboratory setting in each school. We've been able
19 to buy some computers and move them around from
20 school to school. I would like to be able to leave
21 them on those campuses so youngsters can have a lot
22 more experience with them.
23 Q. Why don't you just leave them on the campuses?
24 A. Well, whenever we get to the point we can buy enough,
25 we're going to. When we can buy enough, we're going

1 to.
2 Q. Why can't you buy enough?
3 A. Well, that's one of those plates that I'm -- I'm
4 going to ignore it a while while I look at another
5 plate spinning over here right now.
6 Q. Okay. Dr. Sybert, also, when we were talking about
7 your district a little bit, you mentioned something
8 about kindergarten full day versus half day. Can you
9 explain what's going on there?
10 A. We offer a half-day kindergarten program, which is
11 one of the allowable programs.
12 Q. Uh-huh.
13 A. And I would like to operate a full-day program. I
14 believe that time on tasks for a youngster trying to
15 learn English is awfully important. If we had him
16 all day, I think we could teach him more English,
17 perhaps at a faster rate.
18 But we don't have enough classrooms to operate
19 the full day. If we ever get enough classrooms I
20 hope we can implement it.
21 Q. Well, what is the difference between full day and
22 half day in terms of time on task or in terms of the
23 education for the kid?
24 A. Well, you probably don't pick up -- you probably
25 don't get twice as much time on task by going on a

1 full day, because you've got lunch time, and nap
2 time, and bathroom break, and all of those other --
3 sand box, and all of those other things that you do
4 in kindergarten. But you probably pick up another
5 hour of instructional time at least, I mean a direct,
6 hard instructional time of the youngsters by going
7 the full day. I think it would be well worth it.
8 Q. Okay. What would you do during that extra hour of
9 instructional time? I mean, is that important?
10 A. I would have teachers reading to the youngsters,
11 reading them stories, telling them stories, talking
12 to them, asking them questions, getting a response
13 back and forth, practicing English, counting sticks,
14 picking out the colors of things, figuring out what
15 the relationship between Mom and Daddy and Spot and
16 all of those other people are, doing all of those
17 kinds of things you do in kindergarten.
18 Q. Okay. The fact that you offer half day instead of
19 full day, does that have any effect, do you think, on
20 the kids that are in those kindergarten programs?
21 A. I think the effect on the kids would be better if we
22 could offer them full day programs.
23 Q. Dr. Sybert, during Mrs. Padilla's testimony, there
24 was some talk about your administration building in
25 Socorro. Is there a new administration building

1 there?
2 A. Yes, sir, and it's a fine one. But we didn't spend
3 $2 million on it.
4 Q. Okay. How much did you spend?
5 A. It cost $970,000.00.
6 Q. All right.
7 A. The $2 million you mixed up, that was
8 Carrollton-Farmers Branch.
9 Q. Oh, okay.
10 Now, Dr. Sybert, when you moved into that new
11 administration building, what did you do with the
12 building that you left?
13 A. Put kids in it. As a matter of fact, we were
14 operating out of elementary schools our
15 administrative functions, and we gained ten
16 elementary classrooms by getting administrators out
17 of them. And I guess that's about -- ten elementary
18 classrooms is about a fourth of an elementary school.
19 In other words, we gained back in terms of
20 instructional space about as much as we spent for the
21 building.
22 Q. Now, Dr. Sybert, on some of the other things you have
23 in your district, if we could talk just a little bit
24 about that. What about your buses, what do they look
25 like?

1 A. They look beautiful. They're well painted. They're
2 clean as a pin. We wash them every day and shine
3 them up. They're tuned up, but they're older than
4 the hills. We still have got the first bus the
5 district ever bought. You know, for some reason or
6 another, it's called old No. 2. And they tell me
7 it's the first we ever bought. I said, "Why do you
8 call it No. 2?" But it's a 1961 model and it cranks
9 up every morning and goes out after kids.
10 Q. Okay.
11 A. Hey, listen, we have found a source of buying school
12 buses.
13 Q. I have a feeling I should ask where you got them.
14 A. Well, we're not buying from the transient company in
15 Juarez, that's not what I mean.
16 Q. Maybe I shouldn't have asked. Where do you get them?
17 A. Actually, if you'll call up the State Transportation
18 Division, they'll tell you what other school
19 districts are selling their buses. And after other
20 school districts have totally worn them out and found
21 them totally uneconomical to operate, then we pick up
22 their -- I think Dr. Hooker will probably say --
23 diseconomies.
24 Q. So you pick up their diseconomy and run it?
25 A. We pick up their diseconomy and keep operating it.

1 We don't have the up-front money to pay all of that
2 money for a brand new school bus. We go to Killeen,
3 we go to a rich school district up in the Panhandle,
4 Odessa, Monahans. We're negotiating right now in
5 Houston. If they've worn their buses out, we'll pick
6 them up.
7 We've got some real good mechanics to keep
8 those things tuned up, we've got some people that
9 scrub them until they just gleam and look beautiful,
10 and we're proud of them. They go down the road and
11 probably cost us a fortune to keep them on the road,
12 but nevertheless, we can't afford new ones, so we buy
13 from other people secondhand.
14 Now, occasionally, we buy a new bus and we
15 celebrate it and send the varsity football team out
16 on it, and so forth. But most of our purchasing
17 lately has been the secondhand ones.
18 Q. Let's talk a little bit about the schools that you do
19 have, the buildings, whatever. Do all of your
20 schools have running water, sewage services, things
21 like that?
22 A. Well, we all have running water and we have a type of
23 a sewage. But I need to explain how the water
24 system/sewage systems work. They're not exactly like
25 other peoples.

1 You know, we're talking about all of those
2 doctorate level courses I took at North Texas.
3 Nobody ever told me one thing about septic tanks. It
4 has been a major emphasis of mine, and I never had
5 had an educational course to tell me about such
6 things.
7 We're building a new school right now. It's
8 called Bauman School. It's down in the Valley. And
9 let me tell you some of the things I've run into that
10 cost me a lot of extra money, and a lot of extra
11 budget effort to try to keep that thing running. I
12 ran into trouble with the County Health Department on
13 putting a septic tank system in down there. They
14 said our problems -- our communicable diseases are so
15 great down here already, we don't want to let you put
16 that in. So the only way we're going to let you
17 operate that school is to let you go get a truck and
18 haul that stuff off. Well, we bought that truck.
19 The kids called it a honey wagon.
20 Q. You're going to send that to Carrollton-Farmers
21 Branch and trade it for a bus?
22 A. Now, that's the way I'm going to take care of sewage
23 down there. I'm going to haul it off with a honey
24 wagon.
25 Q. Okay.

1 A. Now, the water.
2 Q. Water.
3 A. All right. Now, there's no running water out there
4 where that school has to go in. Two miles down the
5 road, back toward the city, I've got another school
6 that does have running water. I've gone to the
7 Public Service Board. I said, "Can you let me run
8 pipes two miles on out here from this other school.
9 Let me run the pipes on out here two miles and hook
10 that school up." And they said, "No way. We'll never
11 let you do it."
12 But they will let me get another truck, go down
13 to Hilley School, fill it full of water and haul it
14 up to the new Bauman school, pump it out of that
15 truck into a pressure tank, put a pressure pump on
16 there and, of course, we check it every day for
17 sanitation and all of that, and operate that way. So
18 I got a water truck and a sewage trunk and I'm going
19 to paint them different colors to make sure they
20 don't get mixed up.
21 Q. Are you paying me enough for this?
22 All right. I'm sorry. After all is said and
23 done with these trucks and the water and all of that,
24 I mean, does that have any effect on your budget?
25 A. It sure does. Those trucks and those drivers cost

1 money that do not occur in the normal operations.
2 Q. Okay. We understand that.
3 Now, you said a little bit something about your
4 kids. Did I ask you what your percentage of
5 Mexican-American was?
6 A. About 90 percent.
7 Q. Okay. What about your percentage going on to
8 college? Do you have any idea what that is?
9 A. It is very low. I wouldn't anticipate it being more
10 than about 10 percent. That's one of our priorities
11 to get that raised.
12 Q. Okay. Now, we're talking about going to college, I
13 want to make sure that percentage is clear, too.
14 You're talking about a percentage of high school
15 seniors or high school graduates that do go on to
16 college?
17 A. I'm giving you an estimate, my own guesstimate, in
18 fact, of what is happening to our graduates.
19 Q. Okay.
20 A. Most of them are not staying in after they go out.
21 In fact, the University of Texas at El Paso did a
22 study on one of our graduating classes some time ago
23 and they found that not a one of our graduates who
24 had entered that year had finished in the four-year
25 period. Now, I'm sure some of them came back in five

1 years, six years, and so forth and they finished out.
2 But we didn't have one that finished out in four
3 years.
4 Our record in preparing kids for college is not
5 good. And it's got to be one of our priorities to
6 improve that record.
7 One way we're going at that, incidentally, is
8 through the vocational preparation. That may sound
9 unusual, but we found the reason our kids don't make
10 it through college is they starve out. I can send a
11 kid down there that knows how to press pants, instead
12 of frying hamburgers, pressing pants pays a little
13 bit better. He can be an auto mechanic or a
14 beautician or horticulturist or whatever, if we can
15 put kids into college with all of the required
16 courses to get into college and still know how to do
17 something, their chance of making it through college
18 is a lot better. They don't starve out as fast.
19 Q. Now, you've talked about your high school and your
20 number of students for each teacher, does that have
21 any effect on the types of courses you can offer
22 those kids in high school?
23 A. Oh, it certainly does. I would like to offer more of
24 the advanced elective kind of course, and yet I don't
25 have too many takers for it. I need 15 right now to

1 form a section, and it's hard for me to pay for it
2 even at 15. I can't pay for very many of those. If
3 I can get that -- I would like to drop that down
4 around 10 or 12 kids, if I could, and offer more of
5 those kinds of electives.
6 Q. You say you need 15 per section. Is that a state
7 requirement?
8 A. No. That's where we feel like we can afford to pay
9 for it, and we're probably stretching to do that.
10 Q. Okay. If you could afford courses with smaller
11 sizes, like eight, nine, ten kids, are there any
12 additional courses you could offer your kids?
13 A. I think we would offer more advanced physics, more
14 advanced mathematics, probably some advanced English
15 electives. Yes, I think we would.
16 Q. When you say advanced, is that part of college
17 preparatory programs?
18 A. Yes, that's right, college prep types of things.
19 Q. Are those courses you can't offer because you don't
20 have enough teachers or what?
21 A. They're courses that occasionally I will offer, but I
22 would offer more of them if I could afford a smaller
23 section.
24 Q. Okay. Do you feel that your inability to offer more
25 of those courses has any effect on the educational

1 opportunity of your high school kids?
2 A. Oh, yes.
3 Q. Okay. What sort of effect, do you think?
4 A. I think a youngster who has had those kind of
5 courses, his expectations of success in college are
6 certainly going to be better. Yes, I think he is
7 better prepared for college if he has had those kinds
8 of courses.
9 Q. Those kind of courses are the advanced college prep
10 courses you can't offer?
11 A. Yes, that's right, that I can't offer in the number
12 that I want to.
13 Q. You talked a little bit about your tax rate. What is
14 your tax rate this year?
15 A. 95 cents, and sometimes the decimal fluctuates.
16 Q. And how much of that was for building and how much
17 for maintenance and operation?
18 A. 50 cents for interest and sinking fund for buildings
19 and the remainder for maintenance and operations.
20 Q. Now, when Ms. Padilla was here, she admitted that
21 there was a decrease in tax rate in your district one
22 year in '85/'86. Why was that?
23 A. I think during my five years, we've had -- and I may
24 not be recalling it exactly, but I recall 94 cents,
25 $1.42, $1.04, and then it dropped to 75 cents and

1 we're back to 95. I think that's the trend.
2 Now, when we went down to 75 cents, actually
3 the homeowner was paying more money than he paid the
4 previous year due to a reevaluation of his property.
5 I owned a house in the district. I paid more tax
6 under the 75 cents rate than I paid the previous
7 year. Also, we took a three percent -- what they
8 call a three percent increase.
9 My business manager told me this weekend in the
10 five years I've been superintendent there, that four
11 of those years, we have taken 8 percent and one of
12 those years, we've taken 3 percent. Now, 8 percent
13 is kind of a magic number. You can take more than 8
14 percent, but what you do is you trigger the roll back
15 provisions of law.
16 In other words, if you take more -- if you go
17 over the 8 percent, than the people have a right to
18 petition for an election and roll you back to your
19 previous year's tax rate. If anything like that were
20 to ever happen to us, we would be completely wiped
21 out. I don't think it will.
22 In Socorro, people generally support the
23 schools real well, but we're not going to flirt with
24 that kind of danger. We don't want to play with
25 that. So four of the years I've been there, it took

1 the 80 cents, and one year, it took the third.
2 Q. When you say take the eight and take the third,
3 explain to us what eight is?
4 A. 8 percent is more money in your M&O.
5 Q. In your maintenance and operation?
6 A. It's figured out by a formula far too complicated for
7 me to understand, but that's about what it comes out
8 to.
9 Q. Okay. So if we've got it right then, if your total
10 maintenance and operation's tax levy increases by
11 more than 8 percent, your voters can go out and try
12 to turn it back?
13 A. That's right. That's right.
14 Q. You didn't want to take that chance?
15 A. No. We haven't. But we've taken eight or three
16 every year.
17 Q. Okay. Well, eight or three here, let's make sure
18 we've got it then.
19 A. Four 8's and one 3 is what my business manager said.
20 Q. Okay. So four years, you increased at least 8
21 percent over all and one year there was a 3 percent?
22 A. That's right.
23 THE COURT: Counselor, that might be a good
24 place to stop.
25 We'll stop there. We'll see everybody again

1 tomorrow morning at 9:00.

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6 (Proceedings recessed until

7 January 28, 1987 at 9:00 a.m.)

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3-87-190-CV

CAUSE NO. 362,516 C 8353

EDGEWOOD INDEPENDENT SCHOOL DISTRICT, ET AL	>	IN THE 250TH JUDICIAL
VS.	>	DISTRICT COURT OF
WILLIAM KIRBY, ET AL	>	TRAVIS COUNTY, TEXAS

FILED
IN SUPREME COURT
OF TEXAS

JUN 21 1989

JOHN T. ADAMS, Clerk
By_____Deputy

STATEMENT OF FACTS

VOLUME VI OF XLVI

FILED
OCT 09 87
THIRD COURT OF APPEALS
SUSAN K. BACE, CLERK

TAKEN JANUARY 28, 1987

MONICA ROSS WEIDMANN
Official Court Reporter
250th Judicial District Court

Travis County Courthouse • Austin, Texas 78701

1 CAUSE NO. 362,516

2 EDGEWOOD INDEPENDENT SCHOOL > IN THE 250TH JUDICIAL
DISTRICT, ET AL >
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>
4 VS. > DISTRICT COURT OF
>
5 >
>
6 WILLIAM KIRBY, ET AL > TRAVIS COUNTY, TEXAS

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7 STATEMENT OF FACTS
8

---

9 BEFORE THE HONORABLE HARLEY CLARK, JUDGE PRESIDING

10

11

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6 ATTORNEYS FOR THE DEFENDANT-INTERVENORS

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17 BE IT REMEMBERED that on this the 28th day of
18 January, 1987, the foregoing entitled and numbered
19 cause came on for trial before the said Honorable Court,
20 Honorable Harley Clark, Judge Presiding, whereupon the
21 following proceedings were had, to-wit:

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1 JANUARY 28, 1987

2 THE COURT: All right, sir.

3 MR. BILL SYBERT

4 was recalled as a witness, and after having been reminded

5 he was still under oath, testified as follows, to-wit:

6 DIRECT EXAMINATION (CONTINUED)

7 BY MR. KAUFFMAN:

8 Q. Good morning, Mr. Sybert. How are you doing?

9 A. Good morning, Mr. Kauffman.

10 Q. Mr. Sybert, I think we saw each other for breakfast

11 and you told me that overnight, you thought about

12 something you said that wasn't exactly right, so

13 clarify it for me.

14 A. Yes, it's not exactly right. We were talking about

15 the year that our tax rate went down from 94 cents to

16 75. And I mentioned that we were paid actually more

17 tax and even on my house, I figured, at that time,

18 because we took a percentage increase, either three

19 or eight. The last five years, we've taken eight

20 four times, three once. So actually, we were paid

21 more tax regardless of what that rate was. That's I

22 think only half correct.

23 The total tax is made up of two separate taxes.

24 The I&S tax and the maintenance operations tax. The

25 percentage increase applies only on the M&O tax, and

1 then you arrive at a total.
2 So frankly, I don't know what that total would
3 have been for that particular year. You collect the
4 amount it takes to make your bond obligations that
5 particular year, and so I wanted to make that clear.
6 Q. Okay. Thank you.
7 Mr. Sybert, we were talking at the end of the
8 day and we mentioned something about summer school
9 programs and the ones that you offer at your school
10 district. What sort of summer programs have you been
11 offering?
12 A. We offer a lot of things for the primary children
13 particularly in developing the English language
14 ability. And we offer remedial-type classes for the
15 upper grade kids and for the high school kids,
16 particularly youngsters who are not doing well on the
17 TEAMS are referred to the summer school.
18 We probably have anywhere from 30 to 40
19 percent, maybe some campuses half of the youngsters
20 back every summer in some kind of summer program. We
21 fund these by our compensatory education funds and
22 through federal funds. Of course, that means again,
23 you're prioritizing expenditure of those funds.
24 Although we may not have quite as many tutorials
25 running during the regular year or remedial classes

1 during the regular year or something like that as we
2 would like to have in order to get the money to apply
3 to a summer program. That seems to be the best way.
4 Q. So for this summer program, you're using some of the
5 money you get from the state --
6 A. Yes.
7 Q. -- as well as the local tax money for that summer
8 program?
9 A. Yes, along with some federal money.
10 Q. Okay. Now, whatever money you spend on the summer
11 program, you have to take out of the rest of your
12 program?
13 A. I can only spend it one time.
14 Q. Okay. Do you feel that that summer program is an
15 important thing for your kids to have?
16 A. Yes, I really do. I feel time on task -- our
17 youngsters are kind of behind to start off with --
18 is very important.
19 Q. By doing that, you said you had to cut back on such
20 things as tutorials and the rest of your program
21 during the rest of the year. The things you have to
22 cut back on, do you think that has any effect on the
23 educational opportunities of the kids during the
24 year?
25 A. Yes, I think so. It may not be major and sweeping,

1 but it certainly has an effect. We have some
2 tutorials during the year. We don't eliminate them.
3 We would probably -- I would have more such things
4 during the year if I were not spending the money in
5 the summer, yes.
6 Q. Do kids in your district need more for those programs
7 during the year?
8 A. They need all I can give them, yes, they do.
9 Q. Is all you can give them more than you can give them
10 now?
11 A. That's right. All I need to give them is more than I
12 can give them now, it sure is.
13 Q. Okay. When we were talking, we also mentioned
14 something about the libraries in the district. Can
15 you describe the library system and what's going on
16 there.
17 A. We tried to develop a central library on each of our
18 campuses, but the Texas Education Agency standards
19 have not been met yet. They're banging away at
20 those. We prioritize compliance with those
21 standards, but the standard has been seven books to
22 each student.
23 Q. Uh-huh.
24 A. And that standard is going up to ten. We were just
25 about to get to the seven-to-one and the standard

1 keeps going up. So we're a long way from the
2 ten-to-one.
3 Actually, our library spaces are not big enough
4 to house the ten-to-one either in most cases. So
5 we're going to have to expand some space in order to
6 house the ten-to-one.
7 Q. Okay. So the TEA standard was seven-to-one, and you
8 haven't gotten to that yet?
9 A. We were getting close when they went to seven-to-one.
10 Q. Okay. And ten-to-one, are you anywhere near that?
11 A. No. We've got a long way to go.
12 Q. Okay. Now, you say spaces, what do you mean spaces
13 for the library?
14 A. The room, itself, in which the library is located,
15 the library room.
16 Q. Okay. At an average elementary school, then what
17 sort of space do you have for a library?
18 A. In our modular design for our building, we have a
19 centrally located space right off the main hall. We
20 used to build at the equivalent of about two
21 classrooms. We're building a little larger now. I'd
22 say it's approximately the size of this courtroom is
23 what we're building now. That will hold the
24 ten-to-one for a thousand youngsters when we finally
25 get developed.

1 Q. Okay. Now, these numbers sound pretty small,
2 seven-to-one, ten-to-one and all of that.
3 A. Well --
4 Q. Let me finish my question, Mr. Sybert.
5 A. Excuse me.
6 Q. The court reporter has suggested we do that, let's
7 try it.
8 This seven-to-one and ten-to-one, does that
9 make any difference to your kids in your district?
10 A. I think it makes a lot of difference. I think we've
11 got to create the richest environment in learning
12 materials we can possibly create. The richer that
13 environment is, the better education we can give.
14 Yes, in my opinion, it does.
15 Q. Does that mean anything special to your kids versus
16 other kids around the state, that sort of
17 environment?
18 A. A youngster that has a better library, I think, has
19 some opportunities that our kids may not have, yes.
20 Q. Okay. Now, when your kids get out and graduate,
21 they're going to go out in the world and compete, I
22 guess, with other kids around the state?
23 A. They certainly are.
24 Q. Okay. Do you think that things that we've talked
25 about, the libraries, teachers, summer programs, all

1 of that, do you think you can give them what they
2 need to compete with the kids from Highland Park and
3 Carrollton-Farmers Branch and those places?
4 A. I think we've got to give them a lot more to put them
5 into competition. I don't want to take anything away
6 from Highland Park or Carrollton-Farmers Branch. I'm
7 proud those kids have got everything they've got. I
8 just want my kids to have some of it, too.
9 Competition of those kids, it may start right
10 with the vitamins that the mother takes when she's
11 pregnant. Maybe our vitamins are not enough and the
12 mothers in our community may not. And in that total
13 home environment, as a very young child, the kind of
14 experiences, the places the family goes, the books
15 that are in the house, the things the family talks
16 about, these are all some advantages in terms of the
17 competitive economic world that actually exists. And
18 we have to do lots of things with our youngsters to
19 kind of make up for some of those differences.
20 I've got some youngsters who will do a really
21 good job of competing. I've got a lot of youngsters,
22 unless they get a lot of special help, aren't going
23 to compete too well.
24 Q. We talked a little about teachers yesterday, Mr.
25 Sybert. Where do you go to get your teachers?

1 A. We have to go a long way. I guess we really try to
2 rely on our local sources as much as we can, but it's
3 not that reliable.
4 Last year, in the spring, the University of
5 Texas of El Paso graduated approximately 150
6 candidates with teaching credentials.
7 The three larger districts in El Paso County,
8 which are El Paso ISD, Ysleta ISD and Socorro, the
9 three of us together needed 500. We don't have any
10 other resource locally except that. We're very much
11 an island unto ourselves. 300 miles to the east,
12 there's Sul Ross, not too many candidates there. And
13 after that, there is nothing until you get to Austin.
14 So there are three districts needing 500 and
15 trying to divide up that pool of 150. So we put our
16 administrators out on the road. They're trying to go
17 to states that have over supplies of teachers. We
18 particularly worked Arkansas and Oklahoma to try to
19 recruit there.
20 When we recruit locally, we have very little
21 housing in our area where teachers want to live. And
22 so, most of our teachers live in either El Paso ISD
23 or in Ysleta ISD. I've got to attract them to come
24 to Socorro and teach rather than maybe teach a couple
25 of blocks from the house. And I need to make -- I

1 need to outpay those people a little bit to make that
2 commuting cost and to get them. I don't -- right
3 now, I match my salary for recruiting purposes, try
4 to match it dollar for dollar with Ysleta, but we do
5 have a hard time.
6 Q. Okay. Ysleta you said is a bigger district than
7 yours.
8 A. Yes.
9 Q. You have around 10,000; they have, what, around
10 50,000?
11 A. Ysleta probably 47, 48. We were 9,250 when I left
12 home.
13 Q. 9,250?
14 A. 250, right.
15 Q. Okay. Now, when you go out to Oklahoma and Arkansas
16 and mention your salaries, who are you competing with
17 for teachers there?
18 A. Unfortunately, Dallas has been there. Dallas really
19 goes out and recruits the same places we do. They
20 have a much better schedule. Houston goes -- they
21 have got a better schedule, lots of more suburban
22 districts.
23 We'll get there, but we particularly have
24 people we interview that say, "I talked to Houston, I
25 talked to Dallas, and they're paying all this money.

1 I'm not sure I want to talk to you."
2 Q. Okay.
3 A. We still get some of them, we still get some.
4 Q. You say they have a better schedule, what do you mean
5 by a better schedule?
6 A. It pays more money at whatever experience level or
7 degree level the teacher might be.
8 Q. Okay. For the Court, those of us who, I guess, live
9 with this stuff all the time, know these words, we
10 just need to make this clear. By schedule, you mean
11 each district has a system where the first-year
12 teacher makes --
13 A. Yes, that's right.
14 Q. -- 18,000, a second-year makes 19, third-year makes
15 20, that sort of thing?
16 A. Well, it doesn't go up that fast.
17 Q. Okay.
18 A. But basically, that's right.
19 Q. Okay.
20 A. For your number of years experience, you get so much
21 money. And we also acknowledge the difference
22 between a bachelor's and master's degree.
23 Q. Okay. When you say Houston and Dallas schedules are
24 better, what do you mean there?
25 A. I mean that the teacher with equivalent years of

1 experience and equivalent degrees will draw more
2 money in Houston and Dallas than they would working
3 in Socorro.
4 Q. Now, if I can go back a second to the libraries and
5 the teachers and things. Do you feel you would like
6 to have a higher schedule for Socorro?
7 A. Yes, I would. I would really like to recruit. I
8 would like to have people breaking down the door
9 trying to get in, I certainly would.
10 Q. Okay. Why would you like to?
11 A. So I could be selective. Our youngsters need the
12 very best. I don't want any kid anywhere to have a
13 poor teacher, but particularly the youngsters with
14 the needs our youngsters have, they need the very
15 best. And that's what I want to get.
16 Q. Okay. Does the need to compete with these other
17 districts of higher schedules, does that have any
18 effect on your budget?
19 A. The biggest part of our budget is devoted to salaries;
20 we're a labor intensive industry. It certainly has
21 an effect on my budget. I don't finalize my budget
22 really until I see what Ysleta is going to do in
23 terms of their teachers schedule. When they move,
24 I've got to move. I used to try to be creative with
25 that schedule, but I learned that what I've got to do

1 is follow suit with them and I usually don't try to
2 go over them and I would have a terrible time trying
3 to go over them, but I try to match them so the
4 teacher doesn't have to feel like she needs to go to
5 Ysleta.
6 Q. In terms of competing with Dallas and Houston and
7 these other districts for teachers, I mean, why can't
8 you pay as much as they can?
9 A. It's adequacy of funds or, if you like,
10 prioritization of funds. We could give up lots of
11 bread and butter things in our operation, put it all
12 on a schedule, but I'm not sure we could even get to
13 that level then, but we could improve the schedule.
14 It's a matter of balancing all of those plates again
15 with your priorities.
16 Q. Okay. Now, the libraries you talked about not even
17 having seven-to-one, let alone ten-to-one, why don't
18 you have more books in the library?
19 A. I think we're fighting to keep up with our growth,
20 1,250 new kids this year. It's just -- the limited
21 -- our limited tax base and our growth are just two
22 problem factors it takes to keep up with an adequate
23 library.
24 Q. Mr. Sybert, I think you -- have you begun to offer a
25 pre-kindergarten program in the district?

1 A. We began this year. We were on waivers last year and
2 we didn't have enough space last year to start it.
3 But we did begin a pre-kindergarten this year.
4 Q. Okay. When you say you're on waivers, now, did House
5 Bill 72 have something to say about pre-kindergarten?
6 A. Oh, yes. It set up the program, funded the program,
7 and so forth. We had to wait until we had enough
8 classrooms to implement it. This year, we were able
9 to implement it.
10 Q. Okay. Now, when you say you were on waivers, you
11 need to tell us what that means then?
12 A. Well, on waivers is that we write a letter to the
13 Texas Education Agency and request permission not to
14 do something that their minimum program requires us
15 to do.
16 Q. Uh-huh.
17 A. And we give the best evidence we have as to why we
18 can't do that.
19 Q. Uh-huh.
20 A. Our evidence usually has to do with inadequate
21 classrooms in most programmatic things. We just
22 don't have the classrooms, but we now have that
23 program. We were on waivers last year.
24 Q. Okay. So I guess, for the first two years of House
25 Bill 72, you didn't have the pre-K program?

1 A. That would be correct.
2 Q. Okay.
3 A. Yes.
4 Q. And the reason you didn't offer during those two
5 years is lack of classrooms?
6 A. Lack of classrooms, that's the primary reason, yes.
7 Q. Okay. And what's the primary reason for lack of
8 classrooms?
9 A. Lack of classrooms is lack of money.
10 Q. Okay. Do you think that it had any effect on the
11 educational opportunity of the kids who were coming
12 into your system not to have pre-kindergartens for
13 those times, those years?
14 A. I think it does, particularly with the child that's
15 having problems with language. Those early language
16 experiences seem to mean so much more than they do
17 later. Get the child real young, real young to give
18 them language experience, he seems to do a lot
19 better.
20 Q. Mr. Sybert, I've asked you to look at your records.
21 I know that teachers are required to be certified by
22 the state to teach in the schools, is that right?
23 A. Yes, that's correct.
24 Q. Now, some teachers, though, teach without
25 certification. They sort of get a permit or a waiver

1 or something?
2 A. Some teachers do not have all of the full range of
3 courses and experiences and things that they're
4 supposed to have for what I would call full
5 certification. We have permits and emergency,
6 temporary things, and then we have an alternative
7 certification program in the district. We have quite
8 a few people that have some kind of special
9 credential, because they don't have all of the full
10 certification, yes.
11 Q. About how many teachers do you have?
12 A. Total?
13 Q. Yes.
14 A. Classroom teachers, that would exclude administrators
15 and others, probably about 480.
16 Q. About how many do you have on some sort of permit or
17 special assignment permit and all of that?
18 A. A lot of them, roughly, a minimum of 50, I would say,
19 have some kind of special credential or something
20 we've had to ask the agency to acknowledge, yes.
21 Q. Okay. Now, again, just to make it clear, when you
22 say special credential, do you mean that they don't
23 have what they need to be a regular teacher, so you
24 have to get them in with some lower standard. Is
25 that what you're saying?

1 A. They're working off some course work that eventually
2 they'll turn it in and their credential will be
3 what's considered a regular credential. They don't
4 have everything yet, and the agency says, "Go ahead
5 and use them, they're qualifying themselves. We
6 understand your problem and go ahead." But we don't
7 have anybody at the agency that doesn't say, "It's
8 okay to use them." But they're all cleared up on
9 things.
10 Q. Okay. Now, as an educator with your years of
11 experience, would you prefer to have people that had
12 met all of the standards to be teaching?
13 A. Generally, yes. Generally, I'm pretty well pleased
14 with this alternative certification program we've got
15 going. But generally, the answer is yes, I would
16 rather have the full certificate to start with.
17 Q. Okay. Why can't you have all of your teachers with
18 full certificates?
19 A. We have a teaching shortage in our area.
20 Q. Okay. And again, to meet that teacher shortage, what
21 do you need to do?
22 A. Well, I think with our recruiting out of state, that
23 money would turn the trick.
24 Q. Okay. Now, when you're out competing for those
25 teachers, I guess you tell them about your district,

1 the conditions of your district, supplies and
2 salaries in your district, don't you?
3 A. Yes, we do. We have printed materials, pictures of
4 the district, and so forth. The people that go out
5 competing are big boosters of the district.
6 Q. Sure.
7 A. I only send people that love the district and love
8 the kids and their enthusiasm for it to rub off on
9 others.
10 Q. Now, when they go out, though, and tell about the
11 district, they have to tell about the things we've
12 been talking about, about the libraries, the lack of
13 classroom space, the large classrooms, the crowded,
14 all of that sort of stuff. Do you think that has any
15 effect on your ability to get those teachers?
16 A. Well, it may, but when we tell those things, we tell
17 them there is challenges and opportunities. We don't
18 talk about them like they're problems.
19 Q. Okay. Fine.
20 Mr. Sybert, now, if we can go back now, you've
21 had about 35 years in education, 25 in Texas?
22 A. Approximately, correct.
23 Q. Okay. And at least your last 25 years have generally
24 been low wealth districts, El Paso, Socorro?
25 A. I guess practically all of my career has been in low

1 wealth districts, most of it.
2 Q. And during those years, I guess you've read reports
3 from TEA, and studied your own budgets, and know your
4 own procedures, and know TEA procedures, and studied
5 all that to some extent?
6 A. I'm certainly no expert, but those are the things
7 I've been involved in for many years.
8 Q. Based upon your years of experience in the area and
9 your work with Socorro and your knowledge and
10 education, do you have any opinion about whether you
11 think your district can afford a student a right to a
12 basic adequate education in the State of Texas?
13 A. I think the answer is no, that we can. The answer is
14 no. I won't I say I think. The answer is no. We
15 can't afford the basic education requirements of the
16 kind of youngsters we have in school. The really
17 big, overwhelming problem is not just putting on the
18 program, it's trying to put a roof over their heads,
19 too.
20 With all of those factors of low wealth, high
21 cost kids, constant growth, we just can't keep all of
22 those plates spinning at the same time. We're doing
23 the best we can. We've got a good program and
24 everything else, but we're not there yet.
25 Q. Okay. To keep those plates going, does that have

1 anything to do with money or not?
2 A. Yes, sir. It has everything to do with money, it
3 sure does.
4 Q. Mr. Sybert, we might later on in this trial hear some
5 people say that additional money on a program doesn't
6 really make a difference to the quality of education
7 the kids receive. Do you have any opinion on that
8 theory?
9 A. I need to buy quality teachers in a competitive
10 market. I need to buy things for youngsters to use,
11 like library books and Science laboratories. I need
12 to buy extended time, like summer programs and
13 after-school tutorials. All of the things and all of
14 the services that I want to provide for my kids cost
15 money.
16 It seems to have something to do with
17 education, yes. Money does seem to have to do with
18 that.
19 Q. Now, you say it seems to, what does your experience
20 say about whether it does or not?
21 A. It does.
22 Q. What was that?
23 A. It does.
24 Q. Okay.
25 MR. KAUFFMAN: We pass the witness, Your

1 Honor.
2 MR. O'HANLON: May I proceed, Your Honor?
3 THE COURT: Yes, sir.
4 MR. O'HANLON: I'm going to move this where
5 you can see it.
6 THE COURT: Okay.
7 CROSS EXAMINATION
8 BY MR. O'HANLON:
9 Q. Now, Mr. Sybert, you were superintendent of the
10 Socorro Independent School District prior to the
11 passage of House Bill 72, were you not?
12 A. That's correct.
13 Q. At the time of House Bill 72 or immediately prior to
14 the passage of House Bill 72, you were spending how
15 much money per child on your educational program?
16 A. I don't recall.
17 Q. Okay. Are you familiar with Bench Marks?
18 A. I'm not real familiar, but I've seen the book and
19 occasionally thumbed through it.
20 Q. Okay. I'm going to show you what Bench Marks shows
21 that your district is spending and see if that
22 doesn't kind of refresh your memory.
23 A. You'll have to show me the column. I don't know it
24 that well.
25 Q. All right. I'm in the wrong district.

1 A. Okay, fine.
2 Q. Does that look about right?
3 A. It's hard for me to confirm that figure, because I
4 haven't worked with the figure. But it looks about
5 right. A very general kind of answer, looks about
6 right.
7 Q. Okay.
8 MR. KAUFFMAN: Your Honor, we would
9 continue our objection to the use of Bench Marks in
10 that it does include federal funds. I think every
11 year it does include federal funds. And the witness
12 has already said he's not really familiar with the
13 document. Possibly, there's some other document that
14 the State has that he might be more familiar with to
15 use.
16 THE COURT: What do we have here? What
17 document is that?
18 MR. O'HANLON: We've got Bench Marks.
19 THE COURT: That's not '86-'87?
20 MR. O'HANLON: No, Your Honor. This is
21 Bench Marks for '84-'85. What that contains is the
22 '82-'83 school year data which is the last year prior
23 to the implementation of House Bill 72 -- I mean
24 '83-'84, excuse me.
25 THE COURT: Okay. What's your objection

1 now?

2 MR. KAUFFMAN: Well, my objection is the

3 use of the document to show the expenditures of

4 districts since it does include federal funds, which

5 I think Dr. Hooker said is generally not included in

6 terms of any sort of equity analysis of school

7 districts in the state.

8 I also said if there is a better document, it

9 might be easier for him to use it. The witness has

10 said he's not familiar with this document or exactly

11 what it means.

12 THE WITNESS: I've certainly seen Bench

13 Marks, but I can't use it the way people have been

14 using it here in this courtroom. I don't know my way

15 around it that well.

16 THE COURT: All right. I'll overrule the

17 first objection. I don't know if the second comment

18 is an objection or not.

19 MR. KAUFFMAN: Oh, it does. I would object

20 to the use of the document, it's not a best evidence

21 objection -- well, to some extent, it is a best

22 evidence objection, I guess, in that there are

23 certainly other documents that the school district

24 has produced in which the Defendant certainly have

25 which are going to show the data in a form that the

1 witness is more able to use.
2 MR. O'HANLON: I find myself somewhat
3 surprised. That they've introduced one year of Bench
4 Marks, it's the Plaintiffs and Intervenors' exhibits,
5 and I'm going to ask him to compare some of the
6 figures.
7 THE COURT: Well, this year's Bench Marks
8 that he has in his lap is not in evidence, so your
9 objection, again, is that it's not the best evidence
10 of his expenditures for that year, is that the idea?
11 MR. KAUFFMAN: Yes, Your Honor.
12 MR. O'HANLON: A, it's a public document
13 and I'm using it to refresh his recollection. I'm
14 trying to find out what this district spent. And I'm
15 just handing this witness to see if we can get some
16 common ground here.
17 MR. KAUFFMAN: Well, of course it's not a
18 public document. It's put out by a private research
19 group. It's not a state document.
20 THE COURT: I'll sustain.
21 BY MR. O'HANLON:
22 Q. Does that document -- don't put it away, yet. Does
23 that refresh your recollection about what
24 approximately you were spending prior to House Bill
25 72?

1 A. No, sir, it doesn't. However, it gives me a kind of
2 a feeling that it's somewhere close to right, but I
3 hate to testify on a feeling that something is close
4 to right.
5 Q. And that feeling that was something close to right is
6 that you were spending somewhere in the neighborhood
7 of about $2,000.00 per child for your total program
8 including federal funds?
9 A. That's what this book says.
10 Q. Okay. Is it fair to call the days before the
11 implementation at least for your district, before the
12 implementation of House Bill 72, the bad old days?
13 A. Well, now, I wouldn't accept that, no.
14 Q. All right. So, you were spending about $2,000.00
15 total per ADA, is that about right?
16 A. Somewhere feels -- the number feels about right.
17 Q. Okay. Now, I hand you what's been marked as
18 Plaintiff's Exhibit No. 205 and ask you to look at
19 two columns here. One is the total current operating
20 expense which is this column (indicating) which is
21 how much?
22 A. Okay. $3,051.00.
23 Q. Okay. It's actually 3,151, isn't it?
24 A. Yes, that's right.
25 MR. KAUFFMAN: Your Honor, again, I'm going

1 to pursue the objection again. He said he's not
2 familiar with this document. I don't want to make
3 too much of this. He is familiar with the general
4 numbers. What I'm objecting to is the use of
5 absolute numbers as his actual per-pupil
6 expenditures, especially since they include federal
7 funds which we object to.
8 MR. O'HANLON: It's his own exhibit.
9 THE COURT: Okay.
10 MR. KAUFFMAN: It's actually not
11 Plaintiffs', it's Plaintiff-Intervenors' Exhibit.
12 THE COURT: Okay. I'll overrule. I think
13 that what we've been doing here last week and this
14 week is using Bench Marks in particular, handing it
15 to the witness and asking the witness, since Bench
16 Marks for '86-'87 is in evidence, we've been asking
17 the witness if something isn't right --
18 MR. KAUFFMAN: Uh-huh.
19 THE COURT: -- so that the lawyer doesn't
20 have to stand up here and say "Does Bench Marks say
21 this?" I mean, that's just sort of the way it has to
22 go to get enough information up on the board or out
23 in the open out of Bench Marks.
24 MR. KAUFFMAN: Okay.
25 THE COURT: So, I'll overrule your

1 objection.
2 BY MR. O'HANLON:
3 Q. Okay. So 31, that was your operating expense, isn't
4 that right?
5 Would you read this column, Column 42, and tell
6 us whether or not what your total state and local
7 taxes were, simply state and local taxes per ADA.
8 A. State and local taxes, 3,207. Is that what I'm
9 supposed to be reading?
10 Q. Uh-huh.
11 A. Okay.
12 Q. And the fact that your tax revenues are higher than
13 your expenditures indicates that you'll save more
14 money?
15 A. I would not concede that it is a savings, but we have
16 a -- we've been trying to end the year with a little
17 bit of money in the bank so we can transfer it over
18 to our building fund, yes.
19 Q. Sir, I'm not accusing you of stealing it. I'm saying
20 that you're banking it a little bit to use for
21 capital and other kinds of purposes.
22 A. That's right.
23 Q. Okay. So, if we're comparing here, prior to House
24 Bill 72 including federal funds you had available to
25 you at $2,000.00, and after House Bill 72 in '85 and

1 '86, you had $3,207.00 in state and local revenues,
2 and that doesn't include federal. Does that number
3 sound about right?
4 A. That sounds somewhere in the ball park, yes.
5 Q. Okay. How much is the federal program work out to
6 per child? Do you have any idea?
7 A. I would have to research the information out of my
8 records. I can't tell you.
9 Q. Have you got a rough guess for us?
10 A. No. Do you have a number?
11 Q. No, because I don't know how many people are in your
12 district. And so there's something -- so you've got
13 that in addition, isn't that right?
14 A. We have some federal funds.
15 Q. Okay. In addition to that, you've got bond revenues
16 and you've got interest and things of that nature on
17 the money that you've got in the bank.
18 A. That's right.
19 Q. How much more program -- what did you do with the
20 increase? Now, this increase shows to be in excess
21 of $1,200.00 per student, isn't that right? Does
22 that sound right to you?
23 A. That would sway -- the arithmetic would check there,
24 yes.
25 Q. Okay.

1 MR. KAUFFMAN: Your Honor, I would, again,
2 object to this as the actual facts of the matter.
3 We, again, pursue our objection that the Bench Marks
4 is -- first of all, some of the numbers include
5 federal funds. These particular numbers, as a matter
6 of fact, are divided by the wrong years ADA. They
7 take the total and they divide it -- they take the
8 total for '85-'86 and they divide it by '84-'85 ADA,
9 number of students.
10 And Mr. Sybert's district, he grew about 10
11 percent kids in that year, so this number is
12 artificially high.
13 So we would, again, object to the number.
14 MR. O'HANLON: The document is produced.
15 The document is in evidence. We've got that problem
16 with the whole way through. We haven't tricked
17 Socorro or done anything any different than anybody
18 else. This is the way the document is put together,
19 the data that's available at the time. And this
20 document has been admitted into evidence.
21 THE COURT: Okay. I'll overrule.
22 BY MR. O'HANLON:
23 Q. Now, in addition, your district got approximately an
24 increase for this year of about $2.5 million in state
25 funding, didn't it?

1 A. We had some increase. I haven't checked the exact
2 amount. I can check it with our records at home, but
3 I don't have that number. I can't testify to it.
4 Q. Does that sound about right?
5 A. It's somewhere in the ball game.
6 Q. Okay. And even at 9,000 kids, that translates out to
7 a pretty healthy -- even at 10,000, that's $250.00 a
8 child, isn't it?
9 A. Yes. And I don't know how much of the two and a half
10 million is because of the growth population. That I
11 can't tell you.
12 Q. Okay. Is it fair to say that House Bill 72 was a
13 huge increase in the amount of money that was
14 available to your district?
15 A. House Bill 72 was a very good increase for Socorro
16 and really helped the Socorro schools.
17 Q. Okay. Is it fair to say that the list -- and we'll
18 talk about some of the specifics in it -- that things
19 that you've been able to provide for the district --
20 for the kids in your district may not have been able
21 to be provided prior to House Bill 72?
22 A. I think House Bill 72 has helped us to obtain those
23 things, yes.
24 Q. Okay. How much money have you been able, since House
25 Bill 72, to transfer from your operating fund to your

1 construction fund?
2 A. I recall a transfer of about a year -- about 15
3 months ago, probably at least a million dollars. We
4 have funds in our operating fund right now that we're
5 going to transfer as soon as we see how the cash
6 flows from the state. I may be able to transfer
7 another two million sometime soon, but that will be
8 operating -- that will be coming from the operating
9 fund and going into a building fund.
10 Q. Okay.
11 A. That money will go there.
12 Q. Would it surprise you that that amount about 15
13 months ago was in excess of $2 million?
14 A. No, it doesn't surprise me. You have access to some
15 numbers, I don't have anything here.
16 Q. Okay. So if that $2 million is correct, we're
17 talking about since 1984, your district has been able
18 to put aside about $4 million?
19 A. Yes, by not fully implementing all of the House Bill
20 72 program, and we couldn't, because we didn't have
21 rooms to run it in.
22 Q. Uh-huh.
23 A. We've been able to save some money to apply to the
24 building fund.
25 Q. Now, the Education Agency hasn't jumped on you or

1 done anything about that. They're kind of letting
2 you spin those plates the best way you can.
3 A. The agency writes up an accreditation report and
4 gives us some gigs, but they haven't been nasty.
5 They've been relatively nice about it.
6 Q. Well, let's talk about it.
7 MR. O'HANLON: May I approach the witness,
8 Your Honor?
9 THE COURT: Yes.
10 (Defendants' Exhibit No. 3 marked.)
11 Q. I'm handing you now what's been marked as Defendants'
12 Exhibit No. 3 and ask you if you're familiar with
13 that document, please, sir?
14 A. Yes, I'm familiar with this document.
15 Q. What is it?
16 A. It is a report written by Dr. Sherry Strain following
17 the accreditation visit to our school district.
18 Q. Would you look through the document and see if its
19 complete?
20 A. Well, I --
21 Q. That's a summary, isn't it?
22 A. Yes, it's a summary. I don't know whether it's
23 complete or not. I see a lot of the document here
24 and it all looks familiar, but complete, I couldn't
25 tell you.

1 Q. Okay.
2 MR. O'HANLON: We would offer Defendants'
3 Exhibit No. 3, Your Honor.
4 MR. KAUFFMAN: Your Honor, I guess we would
5 object until we -- let's see it and see if it is a
6 complete document. He sounds as though it's not.
7 Your Honor, we will not object as long as the
8 Defendant agrees to produce the whole document and
9 add that to the exhibit so that we can have the whole
10 document here.
11 MR. O'HANLON: We've made all this stuff
12 available to them for months, Your Honor. All these
13 files have been available to Mr. Kauffman and the
14 lawyer for both the Plaintiffs and the
15 Plaintiff-Intervenors.
16 THE COURT: Well, if he wants it, he can
17 get it.
18 MR. O'HANLON: Sure.
19 MR. KAUFFMAN: Can you bring it tomorrow?
20 MR. O'HANLON: Sure.
21 THE COURT: It will be admitted, 3.
22 (Defendants' Exhibit No. 3 admitted.)
23 BY MR. O'HANLON:
24 Q. Would you read for the Court the second paragraph?
25 A. "The findings of the visit are summarized in the

1 attached report. Among the areas in which your
2 district was found to be exceeding substantial
3 compliance were those of governance and the
4 accreditation planning process. The district also is
5 to be commended for the developmental work done on
6 new curriculum documents, the quality of health
7 services provided to students, the instructional
8 leadership displayed by principals, the success of
9 the mandatory tutorial program, and the excellent
10 overall operation of the personnel office."
11 And here is the clincher. "We found Socorro
12 Independent School District to be a progressive,
13 forward thinking district."
14 I couldn't agree more.
15 Q. I was just going to ask you, you don't disagree with
16 any of those findings?
17 A. Absolutely not, I agree with that finding.
18 Q. Do you think that you're running a pretty good school
19 district out there?
20 A. I think we're running a fantastically good school
21 district.
22 Q. Do you think you're providing a good education for
23 the kids in your district?
24 A. Generally, yes. There's much more that needs to be
25 done, but what we could accomplish, we're doing it

1 well.
2 Q. Okay. You're familiar with the essential elements
3 that are set forth in statute and in Chapter 75 of
4 the Texas Education Agency regulations?
5 A. I'm familiar with those.
6 Q. Are you meeting all of the accreditation standards
7 with respect to what you're teaching in your
8 curriculum?
9 A. I've had no criticism.
10 Q. Okay. So you're teaching all of the subjects that
11 are required?
12 A. Yes.
13 Q. Your lesson plans and your curriculum that is
14 developed by your district is forward thinking, I
15 suppose, if you --
16 A. I like those words.
17 Q. Okay. So you're teaching all of the subject matters,
18 you're exposing the kids to everything that's
19 required by state law?
20 A. I think we do better than expose.
21 Q. Okay.
22 A. I think some of it catches.
23 Q. Okay. You're teaching?
24 A. Yes, uh-huh.
25 Q. And in addition to that, your remedial programs --

1 could you detail for us your remedial programs that
2 you're able to offer.
3 A. We offer an extensive summer program, for one thing.
4 We give tutorials in mathematics, tutorials in
5 reading, tutorials in writing skills. We offer some
6 remedial reading, remedial math, English as a second
7 language, bilingual education.
8 Q. Okay.
9 A. I am sad that I'm not entirely satisfied with the
10 extent of those program offerings. I feel like we
11 need more. We don't have enough. But, yes, we have
12 those offerings.
13 Q. Okay. Do you have tutorial sessions before and after
14 school for kids that want to avail themselves of
15 that?
16 A. Yes, we do.
17 Q. Okay. What time sequences? Could you tell us kind
18 of before and after, how much time?
19 A. Oh, we usually have something beginning about 7:30
20 and school starts at 8:00. We also have something
21 starting about 3:15 or something and running for 45
22 minutes or so in the afternoon. But our summer
23 program is probably the most effective thing.
24 Q. Okay. But for a child that wants it, can go to
25 school from 7:30 to 4:00 and pick up tutorials on

1 both ends?
2 A. Some of them, most of the kids. We don't have enough
3 -- we can't afford enough sections, but many of the
4 kids are in those tutorials.
5 Q. Okay. Now, there are some things in that report that
6 they say that you're not doing.
7 A. Yes, they do.
8 Q. Okay. You mentioned a few, you mentioned a library
9 that you're working on correcting that. Now, that
10 library is a function of growth more than it is --
11 you said, if you're growing by a thousand kids,
12 that's 10,000 --
13 A. I think it's a combination of both. It's a function
14 of growth and a lack of money to respond to all of
15 the growth needs as fast as we need to respond to
16 them.
17 Q. Okay. What other things that are in there?
18 A. I think in here you'll hear something about Science
19 laboratories at the seventh and eighth grade. We're
20 working on that.
21 Q. Okay. That's a question of primarily space?
22 A. That's been primarily a space question, that's right.
23 Q. And you've got enough elementary schools, you think,
24 to catch up?
25 A. We're going to get there some day.

1 Q. Okay. What other things are in there?
2 A. Oh, there are probably some things in here about our
3 pupil/teacher ratios, we're working at that. I don't
4 recall if there is or not, but I know this is one of
5 the accreditation things we're trying to get right
6 on.
7 Q. Okay.
8 A. Let's see if I can find the others.
9 I see a lot of combinations here.
10 Q. Okay. Have you told us kind of the major problems?
11 Have you got any other major accreditation problems?
12 A. Compliance with the ratios is my most extreme
13 problem.
14 Q. Now, that's the 22-to-1 ratio?
15 A. That's right.
16 Q. Okay.
17 A. And then Science laboratories, which we're getting
18 there on. Adequate provision for the computer
19 education course, we're working on that. I don't
20 have anything that we're not addressing, and I feel
21 like in a year or two, we're going to get there in
22 terms of the accreditation problem.
23 Q. Okay.
24 A. But when you prioritize these things, something else
25 gives somewhere else.

1 Q. Okay. Now, how was it that your district, with the
2 $69,000.00 -- well, let me talk -- let me ask you, is
3 it fair to say that the property values in your
4 district are substantially higher than they were at
5 the time of House Bill 72?
6 A. That's not a number I would call substantial, no. We
7 were low then; we're low now.
8 Q. But you've gone up about 50 percent in the property
9 wealth in that district, haven't you?
10 A. Well, that 50 percent may be $20,000.00 a child.
11 Q. Okay. Well, is it going to -- as the suburbs from El
12 Paso kind of grow out into, I believe you said, the
13 eastern part of your district, you would expect that
14 the property wealth will increase along with that.
15 A. That wouldn't be my expectation. What's growing --
16 the El Paso suburb that's growing into our area is
17 the kind of suburb where the homes run about
18 $45,000.00, $50,000.00, and they produce more kids
19 than they produce revenue. Those are -- that -- that
20 value of home is full of kids. So I don't see any
21 real hope for that -- the number of kids divided into
22 the total wealth, I don't see any hope for that
23 getting much better.
24 Q. Well, it also produces the 7-Eleven stores --
25 A. Yes.

1 Q. -- and things of that nature?
2 A. Yes, it does.
3 Q. And no kids associated with 7-Eleven stores, right?
4 A. That's right.
5 Q. And they pay taxes?
6 A. Uh-huh.
7 Q. Okay. And the problem associated with growth is, is
8 that when you're on the upward curve, then you're
9 always chasing it, isn't that right?
10 A. Exactly.
11 Q. And once a subdivision matures a little bit, then you
12 start to catch up?
13 A. I watch that happen to a degree in the El Paso
14 Independent School District. And it seems like
15 there's about an 18 to 20-year curve there where a
16 family has all of these young children and a lot of
17 high school children marry, and then it becomes
18 Grandpa and Grandma still keeping the house and not
19 too many kids around. You can figure in an 18 to
20 20-year cycle, it seems to work through that.
21 Q. That doesn't have anything to do with wealth. That
22 has to do with how a subdivision and neighborhood
23 develops, and how people go about moving in and
24 staying there until their kids grow up, isn't that
25 right?

1 A. That's true. We're at that expensive age, right.
2 Q. You're in kind of a situation as a lot of suburban
3 school districts that are out chasing growth, trying
4 to build schools out ahead of their subdivision,
5 isn't that right?
6 A. Probably, probably.
7 Q. Okay. So the problems that you encounter are really --
8 just a growth are no different that the problems that
9 the Eanes School District in Harrison County or any
10 fast-growing suburban district?
11 A. Well, I don't know what Eanes has in terms of
12 property wealth to respond with, but I think there's
13 another kind of growth of a suburban district or any
14 kind of district that is not true in our case.
15 Very frequently, a big industry is founded or
16 an oil field is discovered or something is going on
17 in a commercial or industrial sense, and the families
18 come to that economic resource, they gather around
19 it. In our case, we don't have any industrial or
20 commercial property that is attracting people. We're
21 just simply a spill over No. 1 out of the City of El
22 Paso and No. 2 out of the nation of Mexico. We're
23 just a spill over place not coming to anything that
24 actually produces wealth.
25 Q. Has your district done anything to enhance, to work

1 with the new City Council or anything of that nature
2 to enhance development within the area?
3 A. I work very closely with the people on what we call
4 the Industrial Development Board at our Chamber of
5 Commerce, meet with those folks, and talk with them
6 frequently. And we haven't produced much, but we're
7 doing our best to work with them on that.
8 Q. Okay. So, I mean, that's something that a district
9 can do to help itself?
10 A. Well, it hasn't accomplished anything so far, but
11 we're really trying, you bet. I wish I could find me
12 a great big smoke stack. That's what we need.
13 Q. You want to move the ASARCO plant out to your
14 district?
15 A. Doesn't smell very good, but it would be worth it.
16 Q. How did you spend this increase?
17 A. We have bought a lot more teachers than we used to
18 have.
19 Q. So have you lowered your pupil/teacher ratio?
20 A. Oh, yes, yes. In the primary grades, we've -- in the
21 upper grades in high school, we've probably pushed it
22 up some. But in the primary grades, we've lowered
23 the ratio. I believe we're going to be in compliance
24 next year on through the third grade.
25 Q. Okay. Do you know what your pupil/teacher ratio is

1 in the district?
2 A. No, sir, I don't.
3 Q. The Bench Mark here, Page A-51 says it was for
4 '85-'86, 19.9. Does that sound about right?
5 MR. KAUFFMAN: Your Honor, we would, again,
6 object. And, in fact, I think we could actually help
7 the State on this one. They also have a record
8 called the Annual Performance Report. It's something
9 the State, itself, has published and it has
10 information about pupil/teacher ratios for the
11 Socorro district up to date. And if Mr. O'Hanlon
12 would use this as an exhibit, I think we might be
13 able to agree with that.
14 We, again, disagree with using the Bench Marks.
15 This is the most recent data produced by the agency,
16 itself. I think it shows pupil/teacher ratio for
17 Socorro of 21.9 against a state average of 17.5.
18 Would you like to use this?
19 MR. O'HANLON: I don't understand if that's
20 an objection. I'm using the document. He's
21 objecting to the information contained in there.
22 MR. KAUFFMAN: I'm objecting to the use of
23 the document is not the best evidence, in fact, not
24 even the best evidence in control of the Defendants.
25 THE COURT: Okay. I'll overrule.

1 A. Mr. O'Hanlon, you're going to have to put your finger
2 on that number for me. I'm not accustomed to this
3 document.
4 (Conference between attorney and witness.)
5 BY MR. O'HANLON:
6 Q. That document says it's the pupil/teacher ratio, it's
7 19.9?
8 A. That's what this document says. It's interesting
9 that this document also seems to show us as having
10 the highest in the regional area, yes, 19.9.
11 Q. Okay. Is it fair to say that you've lowered after
12 House Bill 72?
13 A. Yes, it is. I think it's better than it was. The
14 general overall, let's say, we probably went up to
15 high school in upper grades and down in the lower. I
16 think, generally, overall, it probably went down a
17 little bit.
18 Q. Okay. You've improved your student/teacher ratio --
19 well, let's make a list.
20 Were you able to raise your salaries?
21 A. Yes, we were.
22 Q. You were substantially able to raise your salaries,
23 weren't you?
24 A. We have improved the salaries. It hasn't made us
25 much more competitive, but we have improved the

1 salaries.
2 Q. Well, you're competitive with Ysleta, aren't you?
3 A. Yes, sir. We're trying to march step by step with
4 those folks.
5 Q. Okay. So you're competitive with the people in your
6 immediate area?
7 A. No. El Paso ISD can outpay us pretty well.
8 Q. Okay.
9 A. And I guess they get most of the teachers.
10 Q. Okay. Now, what else did you do? I say in there --
11 just as a basis of comparison, I say that you're
12 looking at the '84 to the '85-'86, you raised your
13 teacher salaries by averaging of about $600.00.
14 A. We got some money to set aside into the building
15 program.
16 Q. Okay. Now, this is money, once again, that you could
17 spend on your program. You made a value judgment
18 that it's more important to set it aside for
19 construction?
20 A. Yes, it's a value judgment. I think it's absolutely
21 essential. Unless you have a place to have the
22 program, you can't do a program.
23 Q. Okay. Now what other things were you able to do
24 with --
25 A. I'm sure we bought materials, equipment, supplies and

1 so forth.
2 Q. Anything else?
3 A. We put in a really fine in-service training program.
4 Q. Now, do you have any complaint about the teachers in
5 your district?
6 A. Yes.
7 Q. What's wrong with the teachers in your district?
8 A. I'm not making a blanket statement about teachers in
9 my district. I would like to be able to hire more
10 teachers that have full certification and not have
11 them tied up in permit people and so forth, not be
12 employing those all the time.
13 And also, also we rate some teachers
14 unsatisfactory. We have to get rid of some teachers
15 every year. But as a general complaint, no, it's not
16 a general complaint about the staff. There are a
17 number of specific instances, there were
18 improvements.
19 Q. All right. How many teachers -- the first academic
20 year that you got additional funding, and I guess
21 were able to raise salaries was '84-'85, is that
22 right?
23 A. That would have been correct, uh-huh.
24 Q. Okay. So in the spring of '85 is the first time you
25 came up for contracts on teachers having that

1 additional amount of money available, is that right?
2 A. The spring of '85?
3 Q. Yeah, you got the money in '84, but you had already
4 let the contracts?
5 A. Oh, oh, no, we adjusted some salaries after the
6 passage of House Bill 72.
7 Q. But, I mean, you had already picked your teaching
8 staff back in prior --
9 A. Oh, yes, yes. Well, we picked most of them. We
10 probably had a lot of vacancies. The way we grow is
11 we recruit all summer.
12 Q. How many teachers in the spring of '85 did you
13 non-renew?
14 A. I don't recall.
15 Q. Was it a lot?
16 A. It's never a lot. The amount of work you have to go
17 through, the due process procedures, it's always a
18 few in any district. But there are a few each year,
19 never a lot.
20 Q. Despite the paper work, you wouldn't leave a bad
21 teacher in the classroom because you didn't want to
22 go through the paper work, would you?
23 A. No, sir.
24 Q. Okay. Can you gave me a ball park number on how many
25 you non-renewed?

1 A. I would say that in an ordinary year, we would
2 non-renew -- or we would propose to non-renew seven
3 or eight teachers. Hopefully, most of those will
4 resign before we go that long route of due process.
5 I assume that that year was about like our other
6 years.
7 Q. Okay. So despite the fact that you're paying more
8 salaries, you didn't really take that opportunity to
9 purge your teaching staff or anything?
10 A. I don't think any purge is called for in a district
11 that gets as many accommendations for the state as
12 we've had.
13 Q. Okay. So what that tells me is -- and see if you'll
14 agree with it -- is you really don't have any
15 fundamental problem with the composition of your
16 teaching staff?
17 A. Yes, I do have some fundamental problems and that's
18 my teacher turnover.
19 Q. Now, I'll talk about that in a second. With who you
20 got --
21 MR. KAUFFMAN: Excuse me, Your Honor. I
22 object. He did not let him finish the answer. The
23 question is premature.
24 THE COURT: I think it was a complete
25 answer.

1 BY MR. O'HANLON:
2 Q. We'll talk about turnover in a minute.
3 A. All right.
4 Q. I mean, who you got, you're not dissatisfied with?
5 A. Generally, that's correct.
6 Q. You may be dissatisfied that they leave.
7 A. (Witness nodded head to the affirmative.)
8 Q. What's your turnover ratio?
9 A. An estimate would be around 15 percent.
10 Q. Okay. That's not really any different than any most
11 other districts in the state, is it?
12 A. My neighbors tell me they make it about 10 percent.
13 Q. Okay.
14 A. We have a lot of very young teachers. If I were
15 going to improve the teaching staff, I would like to
16 get a little more experience in. I think our average
17 years of experience is about six years or something
18 like that. I would like -- and we have a lot of
19 teachers without the full -- without full
20 certification.
21 Q. Okay.
22 A. So we have some problems in upgrading the quality of
23 our teaching staff.
24 Q. With respect to certification, how many teachers do
25 you have that are in the alternative certification

1 program?
2 A. My attorney has those numbers there. I don't know.
3 MR. KAUFFMAN: If you'll believe me, I'll
4 say 20.
5 THE WITNESS: That sounds right.
6 BY MR. O'HANLON:
7 Q. Okay. It's about almost half, or 40 percent of the
8 non-certified staff that you've got are in the
9 alternative certification program.
10 A. Yes.
11 Q. Now, can you explain to us how that works?
12 A. The alternative certification program is a program
13 where we cooperate with the university -- in this
14 case, the University of Texas at El Paso -- to
15 recruit people who have degrees, but not teacher
16 preparation to come in and simultaneously take
17 courses in teacher preparation and begin to work with
18 us in the field under very careful supervision at the
19 same time and be developed into a teacher.
20 Q. Now, those people have a degree in, I assume, the
21 subject matter that they're called on to teach,
22 essentially, isn't that right?
23 A. No, not always. Right now, we're picking up a lot of
24 petroleum engineers.
25 Q. I'll bet you are.

1 You've got them teaching math and science?
2 A. Some of them are teaching -- a lot of them are
3 teaching elementary grades, all kinds of things.
4 Some of them relate to those subjects and they
5 have certain number of hours that they correspond to
6 a subject, but we're using some of them in elementary
7 school.
8 Q. Okay. They have to take the examinations that
9 certify teachers.
10 A. Oh, yes. It's a rigorous preparation program.
11 Q. Okay. And they have to do some preparatory classes
12 before you ever let them in the classroom --
13 A. That's right.
14 Q. -- at the university?
15 A. Yes.
16 Q. Then they get in-service by the district as they're
17 going along?
18 A. Yes, they do.
19 Q. And I believe you said you're satisfied with those
20 people that come through that program?
21 A. That program is doing all right, yes. I'm satisfied
22 with the program at this point.
23 Q. Okay. Have you talked to TEA about the list of over
24 30,000 people that have passed the TECAT?
25 examination and are certified that are in the pool?

1 A. I've talked with the Commissioner about it, yes.
2 Q. Okay. Have you interviewed any of those people and
3 followed up on any of that stuff?
4 A. No, we haven't.
5 Q. Okay. You're aware, are you not, that there's a long
6 list of folks out there that might be able?
7 A. The Commissioner showed me his printout, and it's
8 about that thick (indicating).
9 Q. Okay. Mr. Sybert, let's talk about -- well, let's
10 wait for the Judge to get done, then we'll talk.
11 Mr. Sybert, let's talk about the $30 million
12 bond program. When did you issue those bonds?
13 A. It seems to me that would probably have been in the
14 spring of '85, the best of my recollection.
15 Q. Did you participate in the guaranteed bond program?
16 A. Yes, we did.
17 Q. Okay. Could you tell the Judge how that worked?
18 A. I think what it amounts to is that the resources of
19 the state's permit school fund are pledged as
20 securities. And the TEA reviews your bonds and
21 agrees to make that pledge and it puts you in a
22 better bond rating racket.
23 Now, we had been shopping for a bond rating,
24 and we kept getting Triple B, and that's pretty bad.
25 I think --

1 Q. That's bad, bad, bad.
2 A. Bad, bad, bad, yes, it was.
3 The guaranteed bond program let us sell them at
4 an interest rate that perhaps corresponds to a DoubleA.
5 Q. Okay. So you're able, by the auspices of the
6 guaranteed bond program to essentially compete with
7 any district in this state or in this country?
8 A. In terms of a rate.
9 Q. And in terms of convincing somebody to underwrite
10 them.
11 A. Yes. In some cases, it might do a little better.
12 The last time we did refunding on our bonds, there
13 was very, very little money left anywhere to do that
14 thing with. And when I called the Commissioner, he
15 said that he recognized the kind of financial
16 problems that our district had and that he had -- he
17 had, under his authority, he could approve a few.
18 And by gosh, ours were one he was going to improve
19 and he extended himself and he did it. And we're
20 deeply grateful for that.
21 Q. Okay. Is it fair, then, to say that the Education
22 Agency was helpful in assisting you all in issuing
23 the bonds to do the construction that you needed in
24 your district?
25 A. Yes.

1 Q. Did they give you any problem about the fact that you
2 weren't paying -- that you were only going to pay
3 interest only for five years?
4 A. No.
5 Q. Okay. And as a matter of fact, the whole system of
6 bond issuance in the State of Texas gives a district
7 an enormous amount of flexibility to structure a
8 program that is best for that district.
9 A. I can't respond to that. I don't know the state
10 program that well.
11 Q. Okay. But you are allowed to structure a situation
12 in which you paid interest only?
13 A. Yes, that's right.
14 Q. Okay. And I suppose you could do it -- you could
15 roll them over and do it again in five years if
16 that's what you needed to do, isn't that right?
17 A. We have rolled the second time on this bunch, and we
18 probably could keep rolling for a while. I hope so.
19 We're having to bet that we can do some things
20 like that, because we can't just walk off and ignore
21 these kids, we've got to get a building for them with
22 all kinds of innovative financing techniques that we
23 can think of. We can't lose a generation. We've got
24 to go ahead and get those buildings and we've got to
25 get them now.

1 Q. Okay. And you were able to do that under the system
2 that we've got here.
3 A. Until now.
4 Q. Okay. Or until -- what did you say, August 1, 1989?
5 A. August 1, 1989. That's the point which I think we'll
6 have spent all of the bond money. We'll have no more
7 dollars in bond money. I don't anticipate any carry
8 over out of current operating expenses at that point.
9 And I anticipate we'll be pre-enrolling another 1,200
10 kids. That's where I see the real crunch coming is
11 August 1, 1989.
12 Q. Okay. Now, but there's things you can do about that.
13 You can maybe roll them over again and maybe even
14 issue some more on top of them, isn't that right?
15 A. Those are maybes that make me very, very nervous.
16 Q. Okay. But that's going to depend on conditions,
17 property wealth, things of that nature. What you're
18 going to be able to do is going to depend a lot on
19 what your district looks like, say, the year prior
20 when you start to sit down and start working about
21 how you're actually going to deal with the situation,
22 isn't that fair?
23 A. I'm sure that's going to have something to do with
24 it.
25 Q. Okay. Now, let's talk about what goes into the two

1 separate tax rates.
2 A. Okay.
3 Q. I assume these bonds that you issued were unlimited?
4 A. I'm not sure I know what you mean by unlimited.
5 Q. Well, there's two kinds of bonds in the state. One's
6 limited; one's unlimited. If you issue an unlimited
7 bond, you don't have to go back to the voters to
8 approve an increase in the tax rate. In other words,
9 the district is authorized --
10 A. Okay.
11 Q. -- to issue whatever tax rate is necessary to pay off
12 those bonds?
13 A. That's right. We can assess the taxes it takes to
14 pay them off, that's right.
15 Q. Okay. So, the roll-back election and things of that
16 nature that you talked about doesn't have anything to
17 do with the --
18 A. No.
19 Q. -- I&S side?
20 A. Roll-back is related to the M&O side.
21 Q. Okay. So, when you get down and talking about the
22 roll-back election, you're talking about 45 cents of
23 your total tax rate, not the 95 cents?
24 A. That's correct.
25 Q. Okay. And do you think that the voters in your

1 district would approve an M&O tax rate if you went to
2 them and said that it was necessary, that you just
3 needed that extra money for conditions in the
4 district?
5 A. If things get real desperate and we have to do that,
6 we'll do our best to persuade them.
7 Q. Okay.
8 A. I don't know what they'll do. There's a real tax
9 burden on our folks right now and it's coming from
10 all kinds of angles. They've got their school tax,
11 and then they just reactivated their city government.
12 So for the first time, they've got a new city tax.
13 They have just approved in the last session of
14 the Legislature, got approval to set up a water
15 district which is going to take three or four years
16 to get implemented and really get rolling, but
17 they've got that new water tax district. So they've
18 got a real tax overburden building up where
19 previously, they didn't have anything but school
20 taxes.
21 I am not hesitant to ask for anything those
22 children need. I'll go to the community and I'll do
23 my doggonest to sell it for whatever they need,
24 regardless of how high the taxes are coming from
25 everywhere else.

1 I'm not real optimistic about getting the
2 voters to go much beyond where we are right now with
3 all of those new burdens on them.
4 Q. Okay. So, I mean, that's one of the things that
5 you've got to juggle --
6 A. That's right.
7 Q. -- is the tax rate against the needs of the kids?
8 A. Well, as far as I'm concerned, the needs of the kids
9 usually win.
10 Q. Okay. Is it fair, then, to say that the reason why
11 the Socorro Independent School District has a tax
12 rate, a maintenance and operations tax rate at 45
13 cents is that that's the balance that you've struck
14 between tax burden and the needs of the children in
15 the district?
16 A. I think that would be fair to say about any district,
17 yes, any district including Socorro.
18 Q. Okay. And the fact that it's a little bit below
19 state average, that still is a balancing that you've
20 got to to do?
21 MR. KAUFFMAN: I would object to the form
22 of the question as being unclear. He said the fact
23 that "it." Does he mean M&O tax rate?
24 BY MR. O'HANLON:
25 Q. At the M&O tax rate?

1 A. The M&O tax rate -- what is the M&O tax rate
2 statewide?
3 Q. 52.3.
4 A. M&O?
5 Q. Yes, sir.
6 A. What is the total statewide?
7 Q. Pardon me?
8 A. What is total tax rate statewide?
9 Q. Oh, the total tax rate is about 75 --
10 A. Okay.
11 Q. -- or it was in '85-'86. So you're balancing one
12 side of the M&O and the I&S --
13 A. Yes. It seems to me that the I&S statewide is about
14 11 cents.
15 Q. Uh-huh.
16 A. We're making a 50 cent effort, nearly five times as
17 much effort as the statewide average, plus the 45 as
18 opposed to 52 cents, so we're making a little bit
19 less of the effort on the M&O side because of our
20 tremendous effort on the I&S side, yes.
21 Q. Okay. You say that you're making five times the
22 effort of the statewide average in your I&S tax rate?
23 A. If the state average is around 11 cents, it's nearly
24 five times.
25 Q. But you've got about seven or eight times the growth

1 in your district as the statewide average?
2 A. We sure do. I'm not sure that any district in the
3 state has a higher percentage growth than we do. I
4 don't know of it, if they do.
5 Q. So a lot of that tax effort has to do with growth,
6 again, rather than with the wealth of your district.
7 A. We're putting everything we can rake and scrape into
8 buildings, yes.
9 MR. O'HANLON: I don't have any further
10 questions.
11 CROSS EXAMINATION
12 BY MR. TURNER:
13 Q. Mr. Sybert, I'm Jim Turner and I represent a group of
14 school districts that are Intervenors in this case
15 that are seeking to uphold the constitutionality of
16 our current finance system.
17 And as I understand it, you've intervened in
18 this lawsuit, and your school district is seeking to
19 have our current finance system declared
20 unconstitutional.
21 A. Mr. Turner, we are Plaintiffs. I think there might
22 be a difference between Intervenors and Plaintiffs.
23 Q. All right. But that's basically the position you've
24 taken in this case?
25 A. Yes, that's right.

1 Q. Mr. Sybert, you mentioned you had this, I believe,
2 $30 million worth of bonds that were authorized?
3 A. That was our last bond issue.
4 Q. And how many did you say or did you say that you have
5 currently expended of that 30 million?
6 A. We have maybe $10 million or maybe a little more
7 left, but we've got lots of projects currently
8 underway. Those monies are being spent out every
9 day.
10 Q. So when you authorize that $30 million, you really
11 intended to spend it out over a period of time, is
12 that correct?
13 A. I intend to spend it over a five-year period. The
14 population is coming a lot faster than I thought, so
15 it will probably going to be spent out in about four.
16 Q. So the fact that you still have ten million in
17 authorized bond money, does not mean that you don't
18 need it, it just means that you're just building
19 buildings about as fast as you can reasonably plan to
20 do it in the accommodation of growth?
21 A. That's true.
22 Q. Mr. Sybert, I notice you had a comment about your
23 teacher salaries being lower than the salaries
24 offered in Houston and in Dallas. That really
25 shouldn't be a surprise to us, should it, that in

1 more urban areas, where pay scales are higher, that
2 they would be paying their teachers higher than you
3 would?
4 A. Of course, we are an urban area. We're a city of
5 half a million people in El Paso. And I'm a little
6 bit surprised that they pay as much as they do in
7 Dallas and Houston, yes.
8 Q. All right. Do you feel your pay scale is generally,
9 in the area of your district, would be comparable to
10 Houston and Dallas or would they be a little less?
11 A. No, no, they would be a little less, generally.
12 Q. Mr. Sybert, do you all offer a supplement there at
13 Socorro for state salary schedule?
14 A. We don't pay just what the state puts out, no. We
15 pay above the state's.
16 Q. You pay above the state's?
17 A. Oh, yes.
18 Q. Can you tell me how much you pay above the state?
19 A. No, sir, I couldn't. I can tell you that our
20 beginning salary for a teacher, for a 183-day
21 contract is $16,500.00. And the ending salary is
22 $29,500.00 for a master's degree and a whole bunch of
23 experience.
24 Q. Is that about a thousand dollars above state minimum?
25 A. I'm not informed.

1 Q. All right, sir. Mr. Sybert, I was interested in your
2 comments yesterday about the emphasis that you place
3 on your vocational programs there in Socorro. And
4 you made a comment, as I recall, that your philosophy
5 on that wasn't consistent with the current thinking.
6 A. That's true.
7 Q. And I was wanting you to expand on that and tell us
8 what you're feeling was about that, your view versus
9 what you call the current thinking?
10 A. The state's guidelines on vocational programs, I
11 think, are being written tighter and tighter each
12 year, really with the idea of discouraging vocation
13 programs. I don't think House Bill 72 funded
14 vocational programs maybe as well as they had been
15 funded prior to House Bill 72.
16 I read the tendancies across the state right
17 now to really emphasize, number one, basic skills,
18 and number two, academic excellence. Our youngsters
19 have some really basic survival kinds of needs that
20 vocational training is awfully essential to. I don't
21 want to put down those other two emphasis either. I
22 believe them, which is, we've got needs in the
23 vocational area.
24 Q. We have an exhibit in evidence here that I could show
25 you that's the report of the Select Committee on

1 public education, which was the SCOPE Committee I'm
2 sure you're familiar with --
3 A. Yes.
4 Q. -- that made recommendations prior to House Bill 72
5 being enacted. And I notice that they recommended
6 that vocational and distributed education courses be
7 electives and that such electives receive no special
8 state financial support. And you probably remember
9 that.
10 A. I remember that -- I remember that recommendation.
11 It's not quite that bad, thank goodness.
12 Q. When that came out, people who think like you do were
13 probably violently opposed to that kind of a program
14 of education?
15 A. Scared us to death, you bet.
16 Q. Mr. Sybert, in terms of contributing to the ultimate
17 objective of educating a child like you see in your
18 district, what do you think those vocational programs
19 do for them?
20 A. It gives them the ability to be economicaly
21 self-sufficient. It gives them the ability to do
22 something above the minimum wage rate when they
23 graduate from high school. It supports a number of
24 them as they attempt to go on to college, because
25 they can earn their way. It gives them an activity

1 program during the day that doesn't call entirely for
2 language facilities and academic skills, but calls
3 for some other kinds of learning that are very
4 valuable to them. I think those vocational programs
5 contribute to the economy of a depressed community
6 like ours, and they build the character of the
7 youngsters saying, "I can work, I can perform, I can
8 be a part of this society." It builds that kind of
9 confidence in them.
10 Q. I believe you told us earlier that only about 10
11 percent of your high school graduates go on to
12 college or higher education?
13 A. I think that would be a fair estimate.
14 Q. And, of course, you're aware that in some school
15 districts in this state, that percentage is much
16 higher?
17 A. Oh, yes.
18 Q. Do you feel it's the duty of your school and your
19 programs that you offer to produce the same kind of
20 percentages in the Socorro district as you see in
21 some other districts of the state with respect to
22 number of students that go on to higher education, or
23 do you view your function and role as different?
24 A. No, sir. It would be my desire that we get a lot
25 more students into higher education. I think what

1 our duty is, we have to look at each child and get to
2 know that child and we have a different duty to every
3 child, but it would be my desire to get a lot more
4 kids in higher education.
5 Q. Mr. Sybert, I've reviewed the TEAMS scores that were
6 given to you in the form of an annual performance
7 report, which I understand you received probably in
8 the mail sometime ago?
9 A. That's right.
10 Q. And I was looking at the TEAMS scores results by
11 grade.
12 As I understand it, TEAMS scores are
13 administered in the third, the fifth -- or TEAMS
14 tests are administered in the third, fifth, seventh,
15 ninth, and eleventh grade. Does that seem correct?
16 A. That seems right, yes.
17 Q. Does that occur annually?
18 A. Yes. Well, I think in maybe in some cases, there's
19 more administrations than that, yes.
20 Q. I notice that your TEAMS scores that are given at
21 that first level, the first chance, the first time
22 the test is administered in the third grade, showed
23 your TEAMS scores to be significantly below the
24 statewide average --
25 A. Correct.

1 Q. -- of TEAMS scores, is that correct?
2 A. Yes.
3 Q. And I also note that by the time students reach the
4 ninth grade, that your TEAMS scores are much closer
5 to the statewide average.
6 A. They're beginning to move up.
7 Q. What accounts for the fact that you start lower and
8 then you seem to be able to catch up?
9 A. I think we're overcoming some difficulties that a lot
10 of our children have with the English language. As
11 the child grows older, he begins to develop an
12 English facility.
13 The TEAMS test is a test given in English.
14 Unless you know something about English, you're not
15 going to do very well on it.
16 Q. So, you get students in your system that are lacking
17 in the English language proficiency, and that's, you
18 think, the basic cause of the differences in those
19 scores?
20 A. Yes, I do, uh-huh.
21 Q. You told us earlier about some of the economic
22 conditions that exist in Socorro district. Do you
23 think any of those differences, that those children
24 begin with in terms of some TEAMS scores, could also
25 be related to maybe economic conditions or interests

1 of the parents in the child or some things like that
2 that come in to your system that you have to deal
3 with in addition to that English language deficiency?
4 A. I think there could be -- excuse me, I'm sorry. I
5 think there could be a different -- some differences
6 attributable to the economic problems of some of the
7 families. I don't find a significant difference in
8 interest in the child between Socorro and what I know
9 about places like Highland Park. Our parents have a
10 tremendous interest in the child. We have a PTA
11 meeting at one of our elementary schools, we'll have
12 hundreds of people come out. We have people coming
13 up to the school for counseling all day.
14 Now, what is different is the ability to guide
15 that child through educational experiences when the
16 parent may not have had as many of those educational
17 experiences the Highland Park parent may have had.
18 But interest, I don't think there's a difference in
19 interest. Our people care intensively about their
20 children. I think Mrs. Padilla, who was here the
21 other day, is not an exception. She is very
22 representative of the Socorro parents.
23 Q. But if I understand, your view of what your duty is
24 and the role of public education as you perceive it,
25 is you take that child as he comes into that system

1 and you try to bring him through that system and, I
2 suppose, make him or her a productive member of our
3 society. And in your view, that emphasis on
4 vocational education contributes to that.
5 A. Absolutely, it certainly does.
6 Q. And if you were controlling state education, you
7 wouldn't want to deny your district the right to
8 promote vocational education even though Highland
9 Park might think it's not very beneficial to them,
10 would you?
11 A. I don't know how to answer the part about Highland
12 Park, but I would not deny my district to access
13 monies for vocational education, no, I wouldn't.
14 Q. And I guess you would believe it wouldn't really be
15 fair to measure the performance of your school
16 district by the number or percentage of high school
17 graduates that go on to college?
18 A. That's one performance. And it's one of our
19 objectives. And in that particular performance,
20 we're losing. But there are some other performances
21 we have that we're doing pretty well in.
22 Q. All right. So in terms of the way you would
23 structure and try to run your school system, you look
24 at a lot of factors regarding the ultimate output at
25 the end of the twelfth grade other than how many of

1 those children go to college as compared --
2 A. A broadly comprehensive educational program is what
3 Socorro needs, yes.
4 THE COURT: Counselor, why don't we stop
5 there for morning break. We'll get started up again
6 at five till.
7 (Morning break.)
8 THE COURT: All right, sir.
9 CROSS EXAMINATION (RESUMED)
10 BY MR. TURNER:
11 Q. Mr. Sybert, we were discussing a few moments ago your
12 feeling about the importance of vocational education
13 in your district and the contribution it made to the
14 program.
15 Earlier you also made some comments about some
16 of these difficulties you've had complying with
17 various state mandates.
18 As a result of House Bill 72, is it fair, in
19 your judgment, to say that the state imposed some
20 additional requirements on you that you didn't have
21 before?
22 A. Yes.
23 Q. And I guess you're aware that this trend toward more
24 state control is also kind of consistent with what
25 was supported in the SCOPE Committee report as well?

1 A. Yes, I am.
2 Q. What's your feeling about the importance of
3 maintaining local control of an educational system?
4 A. I feel rather deeply about local control and local
5 decision-making. I think we need to maximize it
6 within the system.
7 Historically in Texas and elsewhere in the
8 United States, it's been a system that works out
9 pretty well. I think you've got a voting populous
10 just like you do at the state or national level.
11 You've got a board of trustees, which is an elected
12 legislator or Legislature responding to the needs of
13 its people, an executive, which is the superintendent
14 and its staff, performing those government functions.
15 I think in general, American public education has
16 done well and produced a lot of fine citizens with
17 that kind of a system. I'm hesitant toward going
18 toward too much state control.
19 Now then, that is not totally my philosophy
20 when it comes to funding. When it comes to funding,
21 it seems to me that a district that is unable to help
22 itself to the degree that's necessary to produce
23 competent Texas citizens is going to have to be
24 helped by the state. And it's going to require as
25 many local funds and as many state funds as can be

1 put into it or need to be put into it in order to
2 assure that we are developing good citizens.
3 Q. All right. And in your district, that degree of
4 state support is fairly limited?
5 A. It's very large, it's very large.
6 Q. In fact, I was looking at some of your budget
7 figures, and the calculations that I made showed the
8 state funds going into general operations in your
9 district accounts for 83 percent of your total
10 budget.
11 A. Yes, it does. Our children are Texas children, and
12 supported by -- 83 percent of their support is Texas
13 support. They are going to live in this state, be
14 citizens in this state, they're going to contribute
15 economically to the state, they're going to pay taxes
16 to the state. The state has an obligation to those
17 children.
18 Q. That current state aid, if my figures are correct,
19 show an increase of, according to your budget
20 figures, $10 million in additional state aid that
21 occurred from the year prior to the implementation of
22 House Bill 72 to the current year. Would that sound
23 about right?
24 A. That would be over a three-year period.
25 Q. Yes, sir.

1 A. Much of that, of course, is offset by growth
2 population.
3 Q. Yes, sir.
4 A. So we're not -- how much would have occurred had our
5 population remained static, I'm not sure of. But
6 with the growth of our population, that sounds about
7 right.
8 Q. And the figures that I have show that 7.2 percent of
9 your total operating revenue currently comes from
10 local taxes. Would that be about --
11 A. I haven't calculated it. I'm sure the state share is
12 much, much larger than the local share.
13 Q. And you mentioned a minute ago that you believed in
14 local control and you thought the fact that you had a
15 voting populous there, that has some input into the
16 process is important in terms of structuring
17 education properly in this country.
18 Even though an only small part of your budget
19 is raised locally, do you think it's important that
20 local taxpayers in a district contribute financially
21 to education?
22 A. Yes, I do. Yes, I do.
23 Q. Mr. Sybert, there's been some suggestions made
24 earlier in this case and you may have been in the
25 courtroom at the time, I don't recall. But one of

1 the suggestions made that we might look at as far as
2 changing our current system would be to consolidate
3 school districts.
4 MR. KAUFFMAN: Your Honor, I object.
5 That's not the record. Dr. Hooker never said to
6 consolidate school districts.
7 THE COURT: Okay. I think Hooker was
8 pretty clear now. He wasn't interested in
9 consolidating school districts as such. He was
10 interested in multi-district taxing authorities, as
11 he would say.
12 BY MR. TURNER:
13 Q. All right. Mr. Sybert, maybe I was in error about
14 what Dr. Hooker said. But I'll just ask you, would
15 you, as an educator and as a superintendent, want to
16 consolidate your school district with other school
17 districts?
18 A. If I could consolidate with Highland Park, I think it
19 would be good for my children to share in that
20 wealth.
21 If we consolidate in the El Paso area, we are
22 all probably in the bottom third of wealth. And in
23 fact, around me are districts as poor as I am or
24 maybe a little poorer. And we would just be sharing
25 the poverty. It would not help us to put on any

1 better program.
2 Q. All right, sir. Mr. Sybert, I have looked at the
3 percentage of your state contribution to your program
4 as compared to the statewide average, and it doesn't
5 surprise you at all that your percentage of your
6 program that's funded by the state is much larger
7 than the average?
8 A. No, it doesn't surprise me.
9 Q. Mr. Sybert, I was looking at your total tax levy
10 figures from your budgets. And we talked about the
11 fact, I believe, that in '84 and '85, there was a
12 reappraisal of all property in the district resulting
13 in you being able to lower your rates.
14 A. (Witness nodded head to the affirmative.)
15 Q. But it appears that your actual levy of taxes did
16 decrease somewhat between 1984 and '85, and '85 and
17 '86. Was that an intentional reduction of the total
18 tax burden locally, or does that just happen as a
19 result of selection of raises?
20 MR. KAUFFMAN: I object to the question.
21 There's no facts in the record to that effect and he
22 hasn't given us any idea where he got those. At
23 least he should do Mr. Sybert the justice of showing
24 him where he got those numbers. He knows, but you
25 said it's a fact --

1 MR. TURNER: I believe I, in an earlier
2 question, pointed out that I had looked at the
3 official budget of the Socorro Independent School
4 District, which I assumed that he was familiar with
5 and this information would not come as a surprise to
6 him.
7 A. Mr. Turner, I would need time to get the same
8 information, calculator and advisement staff and see
9 what it says. I don't know how to respond right now.
10 Q. All right, sir. Mr. Sybert, I tried to calculate
11 some percentages of change in certain elements of
12 your program there in Socorro comparing the year of
13 '83-'84, right before House Bill 72 funds began to
14 flow, and to compare that to the present -- I say the
15 present -- to the '85-'86 school year, which is the
16 latest year we have any data for.
17 And you had testified earlier that you had a
18 substantial enrollment increase during those three
19 periods of years.
20 A. Yes, sir.
21 Q. And I calculated that increase to be from 1983-'84 to
22 1985-'86, over that three year period, 16.5 percent
23 increase in student population. Would that sound
24 about right to you?
25 A. I would think it might be a little higher than that,

1 but on the other hand, we got 1,250 kids this year
2 and maybe I'm -- I would think maybe a little higher,
3 but we had a considerable increase in population,
4 yes.
5 Q. All right. But the figures I was working from, and
6 these may sound familiar to you, the average daily
7 attendance figures for '83-'84 was 5,789, and then
8 for the '85-'86 year, the average daily attendance
9 was 6,746. And that's the way I calculated that 16.
10 A. I would not dispute the figures, Mr. Turner. I
11 simply haven't had an opportunity to study them.
12 Q. I recognize that you do not have the benefit of
13 having made these calculations.
14 I tried to calculate the change in total
15 current operating expenses per ADA. And Mr.
16 O'Hanlon, I believe, went through that with you
17 earlier. And I show from '83-'84 to '85-'86 an
18 increase in total operating expenses per ADA of 52.2
19 percent. Would that figure sound correct to you?
20 A. According to the figures Mr. O'Hanlon presented a
21 while ago, that would be an approximate percentage.
22 Q. All right, sir.
23 And, of course, you've talked about your
24 building program, and those figures certainly show up
25 as well. The expenditure for capital outlay per ADA

1 over that period of time from '83-'84 to '85-'86
2 shows an increase of 366.7 percent.
3 A. That's the furniture and equipment that went into
4 those new buildings, yes.
5 Q. And I expect that also includes the -- that includes
6 some of the buildings, themselves, would it not?
7 A. It might. I'm not sure.
8 Q. Your debt service went up slightly, that you're aware
9 of, over that three year period. I think we --
10 A. It had gone up a whole lot if we weren't paying
11 interest only.
12 Q. Right. It shows 26 percent increase over that time.
13 And your payroll in the Socorro district per ADA
14 shows an increase of 48 percent over that period of
15 time. And that's one figure that I wanted to ask you
16 to --
17 A. We've added a lot of teachers, yes.
18 Q. All right. I didn't know what accounted for that.
19 A. Yeah, we've had a lot more students, we've had a lot
20 more teachers.
21 Q. All right. So when you had a 16 percent increase in
22 enrollment over that period, we had a 48 percent
23 increase in payroll per ADA --
24 A. Oh, okay.
25 Q. -- which would show that we actually gained in terms

1 of --
2 A. A portion of it, of course, is to compete for
3 teachers within the teachers' market, a portion of it
4 had to be for that.
5 Q. Your average teachers salary increased over that
6 period 22.7 percent. Is that a result primarily of a
7 new salary schedule?
8 A. That would be a result of new salary schedules
9 designed to compete in the market, yes.
10 Q. All right. Your administration costs per ADA show to
11 have gone up from '83-'84 to '85-'86, by 58 percent.
12 And I wanted to ask you what might go into that
13 factor.
14 A. Possibly fire insurance. We added quite a few more
15 buildings that a lot of insurance has to be taken out
16 on them. We don't have very good fire protection
17 there. And I realize that that's probably not the
18 answer you expect, Mr. Turner, but in calculating
19 administration, that budget calls for lots of things
20 besides salaries.
21 We added more administrators, we had new
22 schools, we had to put staff in there. But such
23 things as fire insurance, for example, is in that
24 same kind of figure.
25 Q. Thank you, Mr. Sybert.

1 MR. TURNER: I pass the witness.
2 CROSS EXAMINATION
3 BY MR. R. LUNA:
4 Q. Mr. Sybert, my name is Robert Luna. I'm also one of
5 the attorneys for the Defendant-Intervenors, and I've
6 got just a few questions for you.
7 I was interested in your bonds that you
8 currently have and what type of indebtedness, in
9 particular, your interest rates and the amount of
10 interest that you're paying each year, do you know
11 what those figures are?
12 A. I don't have those at hand. They can be reproduced,
13 but I don't have them at hand.
14 Q. Do you know what your interest rate is?
15 A. Not offhand, no, sir.
16 Q. Well, would it be under 10 percent?
17 A. Yes.
18 Q. And it would probably be over 6 percent, wouldn't it?
19 I think those are what bonds are currently selling
20 for.
21 A. I would like to answer this as a certainty because
22 we've definitely got a percent, but I don't have the
23 figures there.
24 Q. Okay. If you -- well, let me ask you this question
25 first. Do you have any portable classroom facilities

1 there at Socorro?
2 A. Yes, we have between 30 and 40 portables.
3 Q. When did you purchase those?
4 A. They were on there before I came on board five years
5 ago. They've been in the district a long time. We
6 use them largely to respond to an emergency wherever
7 the emergency exists. If there are more kids in one
8 place, we get them out there until we can build a new
9 school or put an addition on.
10 Q. And you've been there five years, you say?
11 A. That's correct.
12 Q. What is the life on those portables?
13 A. I don't have any idea. They're pretty well beat up
14 now. Everytime we move them, we bang them up pretty
15 good. So I don't know what you'll anticipate their
16 life. I imagine the number of times they're moved
17 would have something to do with it.
18 Q. Is it safe to say they've got a life from anywhere
19 from 20 to 25 years with any kind of decent care at
20 all?
21 A. Sitting in one place, they probably would. Being
22 moved every year, I would cut that in half.
23 Q. So in the worst of circumstances, you could get 12
24 years out of them?
25 A. I'm sure we could.

1 Q. Do you still have a classroom space problem?
2 A. Yes, we do, most critical right now at the high
3 school. In fact, I believe we have probably 90
4 percent of our portables are now at the high school
5 where we have a real intensive problem.
6 Q. Have you considered the use of the portable buildings
7 there?
8 A. I say we have about 90 percent of our portables are
9 now on the high school campus.
10 Q. Oh, excuse me. I didn't understand that.
11 And 10 percent are in the elementary schools?
12 A. That's right.
13 Q. You don't have a junior high, as I recall.
14 A. No. We can't afford to operate the junior high
15 program. We run the K-8 program that doesn't take
16 the special buildings, the special equipment, the
17 special facilities, the special teachers that a
18 junior high program takes.
19 Q. Have you considered using additional portables at the
20 high school rather than building these multi-million
21 dollar facilities?
22 A. That would call for a lot more cash up front.
23 We're in a position where we need to do things
24 on the credit and defer the payments. And I don't
25 like them nearly as well, educationally.

1 You pull ten portables up beside the building,
2 you over tax the hall, the lockers, the office, the
3 restrooms. Those buildings are not made for hanging
4 another ten classrooms on them. They really are not
5 desirable kinds of things to do.
6 We have lots of portables. We use them to move
7 around and respond to crisis when we have a crisis,
8 but to say we're going to move into a portable
9 village and let that be our school is not a goal of
10 ours, no.
11 Q. But it's certainly a technique that's used all over
12 this state to accommodate students for periods of
13 time and in some cases, for many years?
14 A. And technique we're using, too, but I hope we can
15 limit those years.
16 Q. I was just doing some rough figuring on your $30
17 million bond issue. As I understand it, you only
18 have $10 million of your bond which has not been
19 issued, is that right?
20 A. No. I think all of the bonds have been issued. We
21 have some money left that is not spent that we'll
22 have to start responding next year to building
23 buildings with.
24 Q. All right. So you've sold all $30 million worth,
25 it's just that you're holding $10 million in the

1 bank?
2 A. For our future construction.
3 Q. All right.
4 A. And I don't testify that that is $10 million. We're
5 holding a sum somewhere in that neighborhood.
6 Q. You know, if you were paying a 6 percent interest
7 rate, and obviously you're paying in excess of that,
8 you would be paying something for your bonds around
9 $1,800,000.00, that's each year. Have you ever
10 stopped to figure out how many portable classrooms
11 that would buy?
12 A. No, sir, I haven't.
13 Q. Well, using the student population figures of
14 '85-'86, which was 6,746 students, and if you put
15 only 22 children in each room, those are the figures
16 that I used rather than some of the large figures
17 which you gave to the Court earlier, I come out with
18 306 classrooms is what it would take to house your
19 entire student population from grade school all the
20 way through high school. Do you know how much those
21 portables cost new and in brand new condition?
22 A. I haven't priced one in sometime.
23 Q. Would the figure of $17,000.00 sound approximately
24 correct to you?
25 A. No, it sounds too low, much too low.

1 Q. It does?
2 A. Yes.
3 Q. How much too low?
4 A. It just sounds too low.
5 Q. Well, what figure do you have in your mind?
6 A. I don't have one in my mind. That one just sounds
7 low.
8 Q. Does $20,000.00 sound better to you?
9 A. I think you're getting closer, but I think you've
10 still got a way to go.
11 Q. Well, you've obviously got some figure in your mind
12 that I don't have.
13 A. No, sir, I don't have a figure in my mind. I'm
14 simply testifying that I have not priced portable
15 buildings. I don't know how much they cost. And
16 when you throw out a figure, all I can do is give you
17 my feeling about it. I don't have any information.
18 Q. So, if I were to tell you that in 1986, portable
19 classrooms are bought by many districts for
20 $17,000.00, you wouldn't have any reason to argue
21 with that, would you?
22 A. I probably want to check that out, yes, sir.
23 Q. But you wouldn't have any reason offhand to argue
24 with that, would you?
25 A. Well, unless I was in the business of buying

1 portables, I probably wouldn't think about it twice.
2 Q. 306 classrooms at $17,000.00 a year --
3 MR. KAUFFMAN: Your Honor, we object. He
4 did not agree to the $17,000.00. He's arguing with
5 the witness unnecessarily.
6 THE COURT: It's hypothetical. Here we go.
7 BY MR. R. LUNA:
8 Q. Let us assume for a moment that we have a figure of
9 $17,000.00, 306 classrooms would cost $5,212,200.00.
10 That's a total permanent price of 25 years for those
11 buildings assuming they stayed in place.
12 You're currently paying more than $1,800,000.00
13 a year on your debt service for your new facilities
14 including your million dollar administration
15 building.
16 A. $970,000.00.
17 Q. I rounded that off to roughly a million.
18 That means that in just several years, a
19 district could, if it wanted to, supply all of its
20 children with classrooms with a roof and a building
21 that's certainly functional, maybe not as pretty as
22 some of the buildings you've been putting up with
23 your bond issues, but something that would certainly
24 allow education in the process to take place and it
25 could be totally paid for in cash in just a very few

1 years. As a matter of fact, I think you said you
2 have pulled out since House Bill 72, $2 million once
3 out of your operating funds and you have $2 million
4 now --
5 A. That's right.
6 Q. -- that you're getting ready to use. So you've had
7 available to you $4 million in cash. And according
8 to my calculations, that would leave you about a
9 million two in debt if you used portable classrooms.
10 So that is an alternative that you apparently have
11 never been interested in considering.
12 MR. KAUFFMAN: Your Honor, again I assume
13 that question is hypothetical. It's still based on
14 the $17,000.00 which this witness didn't agree to.
15 THE COURT: I believe that's right.
16 BY MR. R. LUNA:
17 Q. Let me rephrase my question.
18 You apparently have a very strong interest in
19 not using and not purchasing any new portable
20 classrooms because none have been purchased since
21 you've been there?
22 A. Where are kids going to go to the bathroom? Where
23 are they going to eat? What hall are they going to
24 go down? What locker are they going to put their
25 things in? Are we going to have them in there with

1 wet feet every day? How much is our utility bill
2 going to be with all of those utilities going out the
3 windows? Where are we going to locate them? How
4 will they stand up to the sand storms out there.
5 They're ugly. They are not the kind of thing that my
6 parents want to see when they come to school if they
7 can afford better.
8 When we cannot afford to do anything else or
9 we're in an emergency and we can't build our own,
10 we've been using portable buildings, but portable
11 buildings were designed to do just exactly what their
12 name implies. They were designed to be portable, to
13 respond to crisis when there is a crisis. Portable
14 buildings were never designed to be a permanent
15 school plant. It's not in my plans. I'm not saying
16 that if things get too critical, I could put it in my
17 plans. But at this moment, I would not recommend
18 that to my district. And I think Texas children
19 deserve better.
20 Q. You stressed several times the fact that they were
21 ugly.
22 A. They are so -- the ones we have now that we've drug
23 all over the district that are all beat up and bent
24 up and everything else, yes, they are ugly. And they
25 don't take very many moves until they get that way.

1 Q. Well, in all of the factors that we've discussed so
2 far in the educational process, how high on the scale
3 would you rate the fact that a portable building is
4 not particularly attractive?
5 A. I don't know how to answer your question.
6 Q. That wouldn't be very high in the educational
7 process, would it?
8 A. I don't know how to answer the question.
9 Q. Arlington is a wealthy district by your standards,
10 isn't it?
11 A. I'm not advised on Arlington.
12 Q. Would you be surprised to know that they have 228
13 portable buildings at Arlington --
14 A. I wouldn't be surprised.
15 Q. -- that houses at 22-to-1, 5,016 school children.
16 But you're saying your parents and your kids
17 wouldn't go and wouldn't use those kind of
18 facilities, is that right?
19 A. We're using about 40 of those now as portable
20 buildings. My parents, my children might, if driven
21 to the wall, start teaching exclusively out of
22 portables, a colossal mess. I don't know where we
23 would put the bathrooms. We would find something.
24 If we had -- but I'm not ready to accept that for my
25 children without trying to get something better

1 first. It's not a program currently under serious
2 consideration.
3 Q. All right. Now, you mentioned bathrooms, let's just
4 address that very briefly, and then we'll go on. I
5 don't think it's that important, but obviously
6 buildings are portable --
7 A. When you're in the third grade, it is.
8 Q. There are also portable toilets, and all sorts of
9 portable facilities that can be transferred around,
10 isn't that true, sir?
11 A. Yes, I've seen those things.
12 Q. So it's not something impossible that couldn't be
13 accomplished?
14 A. It's not something impossible that couldn't be
15 accomplished.
16 Q. The thing that you're telling the Court, in essence,
17 is on a local basis, you have made a decision to
18 spend your funds in a manner that is particular to
19 you, your school board, and your parents and
20 students. And while it may not be the way another
21 district somewhere else might spend their funds,
22 nevertheless, that's the way you choose to spend your
23 funds. And in your opinion, that local choice, that
24 local control of what you do with your money is
25 important to you in your district?

1 A. Yes.
2 Q. You've stressed several times that you have factors
3 which you feel are unique to your district and must
4 be addressed.
5 A. Yes.
6 Q. And to a certain extent, every district across the
7 state has its own unique factors that may be
8 different from anyone elses' that must be addressed
9 at their level.
10 A. Yes.
11 Q. Several times you have mentioned that in order to
12 fully implement the state-mandated programs, you
13 have, as I use your words, chiseled money out of the
14 state appropriations in order to get that done?
15 A. In order to put it into buildings, yes.
16 Q. I never did understand exactly, though, what programs
17 it was that you short-changed a little bit to come up
18 with two or $4 million?
19 A. 22-to-1 primary is the main thing. That's the most
20 expensive of the state's requirements. And since I
21 can't do it, not having the rooms to put it in, then
22 there has been a little bit of cash savings that I
23 can start buying rooms with. If I ever catch up on
24 rooms, then I can start doing 22-to-1, but catching
25 up in our district, when the youngsters are coming in

1 so fast will only do for a while -- quite a while.
2 Q. Were there any other ways that you cut on the
3 state-mandated programs?
4 A. Oh, I'm sure we have not bought the number of library
5 books we need as rapidly as we could. And some of
6 that has gone into money for buildings, sometimes
7 libraries.
8 Q. Were there any other ways?
9 A. Those are two that occur to me offhand.
10 Q. But by making those local adjustments, again, using
11 your words, you think that now Socorro has some of
12 the finest school plants in Texas and the best
13 buildings and the cleanest buildings in the United
14 States?
15 A. Yes, I do, I really do. Next year, we will have only
16 one building in the whole district that I will
17 consider inferior. When we open school next year, I
18 think we'll have generally superior facilities,
19 well-kept, beautiful facilities.
20 Q. On more than one occasion, you've used the phrase
21 that you're going to have to prioritize.
22 A. Every day.
23 Q. Doesn't everyone have to prioritize?
24 A. I'm not aware of everyone, sir.
25 Q. Wouldn't you think that there isn't a superintendent

1 of schools --
2 A. All of the superintendents I know prioritize.
3 Q. All right. And not only do all of them prioritize,
4 but would you think that there are many
5 superintendents in the State of Texas that couldn't
6 use additional funds for some purpose within their
7 own district?
8 A. Superintendents can always use additional funds. The
9 needs of children, whether they be in Highland Park
10 or Socorro, are great. I'm sure that the
11 superintendent of Highland Park doesn't feel that
12 he's doing all for his children that he can do. And
13 I sure don't feel like I'm doing all for mine I can
14 either.
15 Q. My final question is in regard to House Bill 72 and
16 all of the vast changes that it has brought to you
17 which are very evident in the numbers, and the big
18 increase and the dollars flowing into your district.
19 And let me ask you if, in general, you think
20 that you have, as of this date, felt all of the
21 effects of House Bill 72 or whether or not it's going
22 to take a number of years for all of those effects to
23 be fully implemented and fully realized in your
24 district?
25 A. I haven't given thought to that question. I don't

1 know how to answer it.
2 Q. Okay. Thank you.
3 MR. R. LUNA: No further questions.
4 MR. DIPPEL: Your Honor, we have no
5 questions of this witness.
6 THE COURT: All right.
7 REDIRECT EXAMINATION
8 BY MR. KAUFFMAN:
9 Q. Mr. Sybert, were you sent by the Texas Education
10 Agency some information called your Annual
11 Performance Report?
12 A. Yes, I was.
13 Q. Okay.
14 MR. KAUFFMAN: May I approach the witness,
15 Your Honor?
16 THE COURT: Yes.
17 Q. Is that what you received, Mr. Sybert?
18 A. This is one page of the material I received, yes.
19 Q. Okay.
20 MR. KAUFFMAN: We'll call this Plaintiffs'
21 Exhibit 190.
22 (Plaintiffs' Exhibit No. 190 marked.)
23 Q. Mr. Sybert, if I can just stand up here and look with
24 you at this for a second. What does this show your
25 pupil/teacher ratio to be?

1 A. It reads: "For all grades in our district,
2 21.9-to-1," I assume that's what it is.
3 Q. Okay. What is it for the state?
4 A. The state is 17.5-to-1.
5 Q. All right. So you're about four and a half higher
6 than the state?
7 A. That's correct.
8 Q. Okay. How about elementary?
9 A. Elementary, we're at 22.6-to-1, the state is
10 18.4-to-1.
11 Q. So again, you're about four higher?
12 A. Yes.
13 Q. Okay. How about junior high?
14 A. We don't actually have junior high, but I'm sure
15 they're taking up certain grades there. That's
16 23.1-to-1 as opposed to 17.6-to-1.
17 Q. That's about five and a half higher than the state.
18 How about high school?
19 A. We're 20.4-to-1, and the state is 16.6-to-1.
20 Q. Then you're about four higher than the state?
21 A. Yes, that's correct.
22 Q. What about professional salary per student in your
23 district?
24 A. Show me where those numbers are. $1,197.00 in our
25 district, and $1,705.00 in the state.

1 Q. Okay.
2 MR. KAUFFMAN: Your Honor, we move that
3 Plaintiffs' Exhibit 190 be admitted.
4 THE COURT: Any objection?
5 MR. O'HANLON: No objection.
6 THE COURT: All right. It will be
7 admitted.
8 (Plaintiffs' Exhibit No. 190 admitted.)
9 BY MR. KAUFFMAN:
10 Q. Mr. Sybert, have you had prepared for you by your
11 staff a list of the non-renewable contracts in your
12 district for, I guess, the '86-'87 school year?
13 A. Yes, I asked my staff -- oh, non-renewable contracts.
14 Yes, I have that list.
15 Q. Okay. Did you also have them prepare a list of the
16 people in your district on emergency permits?
17 A. Yes, I did.
18 Q. Okay. Will it refresh your recollection on the count
19 of those things if you can look at this document a
20 second?
21 A. I'm sure it would.
22 Q. Okay. About how many non-renewable contracts were
23 there?
24 A. 17.
25 Q. So there's 17 people non-renewed for, I guess, the

1 '86-'87 year?
2 A. Well, those folks would have had the recommendation
3 by their supervisor that their contract should not be
4 renewed. Many of them probably resigned upon receipt
5 of that information. Some of them went through due
6 process hearings, but many of them probably just
7 resigned.
8 Q. Okay. And on permits, if we can look for that for a
9 second, your teachers on emergency permits, if you'll
10 just check and add with me, on one-year permits, you
11 have 39 people, is that right?
12 A. That's correct.
13 Q. And on temporary classroom assignment permits you
14 have eight?
15 A. Correct.
16 Q. And on vocational permits you have 12?
17 A. Right.
18 Q. And on emergency teaching permits you have 22?
19 A. Correct.
20 Q. Okay. And so if we add those up, 39 plus eight, 47,
21 59, if you'll trust my math here, that's about 81
22 people on permits?
23 A. That's about right.
24 Q. Okay. And that is in Socorro for the '86-'87 year?
25 A. That's correct.

1 Q. Okay. Now, Mr. Sybert, I think that Mr. O'Hanlon was
2 talking to you about some of the things that happened
3 in House Bill 72 through -- or some things have
4 happened in your district since then, improvements of
5 pupil/teacher ratios, increase in teacher salaries, a
6 building program, some materials and supplies,
7 in-service training program, all of those things cost
8 extra money?
9 A. All of those things cost a lot of money, they sure
10 do.
11 Q. Okay. What effect do those things have on the kids
12 in your district?
13 A. Those things have a positive effect on the education
14 of kids.
15 Q. Okay. What is your opinion on the effect they had on
16 the educational opportunity for the kids in your
17 district?
18 A. They certainly improve the educational opportunities.
19 Q. Now, Mr. Sybert, on your bond system, there has been
20 some questions about that. I want to go back over
21 and clarify something. I think you said at this
22 time, you're only paying the interest on your bonds?
23 A. On -- most of our bonds are being handled that way.
24 We may have a small sum that we're paying some
25 principal, but most of our bonds, it's interest only.

1 Q. Okay. Now, how many years down the line is it going
2 to be before you have to sell more bonds?
3 A. We're going to -- according to the plan that has been
4 developed by the board's building committee, we will
5 be out of bond money and our probable operating
6 expense set aside money sometime in the summer of
7 1989. There will be no more money to build any more
8 buildings, and we will continue to have kids coming
9 somewhere in the summer of 1989.
10 Q. Okay. So, at the present rate, then, you're going to
11 need to continue paying on just the interest on the
12 bonds you've already got, is that right?
13 A. Yes, that's right.
14 Q. Okay. And then you're going to have to add on
15 additional bonds for the new schools?
16 A. We will need to go to the public and ask them if they
17 want to vote another bond issue, that's right.
18 Q. Okay. Now, what is that situation going to do in
19 your district over the next few years?
20 A. It's going to -- in the next two years, we're going
21 to have our classrooms full, hardly any of the
22 principal paid off on the past bond issue, a need for
23 another bond issue in a community that's just been
24 impacted with a new city tax and a new water district
25 tax where previously they had none of those things,

1 they didn't have any taxes from those areas.
2 Q. Okay.
3 A. We passed our last bond issue 5-to-1. I never heard
4 of passing a bond issue that well, but it passed
5 because they had that kind of confidence in that
6 board of trustees. But I don't know what we're going
7 to do two years from now. I don't know if we'll ever
8 pass another one under those conditions or not.
9 Q. What does all this mean about the future financial
10 condition of your district?
11 A. It is a very bleak future financial condition unless
12 this large influx of kids slows down and stops
13 coming. I don't see that. I don't see that
14 happening. The economy and the lawlessness in Mexico
15 seem to be getting worse instead of better. I think
16 the influx is coming. We don't have the resources to
17 respond to that influx of people.
18 Q. Now, I think it was Mr. Turner was talking to you
19 about that your district was growing and other
20 districts were growing as well.
21 A. That's right.
22 Q. What about the new kids that are coming into your
23 district, though? I mean, how do they compare to the
24 kids moving into Eanes or Highland Park or whatever?
25 A. I have spent my life in working in property poor

1 districts and I wish I knew something about Eanes and
2 Highland Park. I don't. I can tell you about our
3 kids.
4 Q. Okay.
5 A. I can tell you that they have some very special
6 needs. I can tell you if you drive out among those
7 old beat up trailer houses and those cinder block
8 shacks, that in those places there are some future
9 Abraham Lincolns, some future Benito Juarezes,
10 there's some future citizens of Texas that are going
11 to contribute a great deal to this state if our
12 school district is able to respond to those children.
13 And I can tell you that there is a prison in
14 Huntsville that's going to be full, that there's
15 going to be -- that our welfare resources are going
16 to be exhausted, and that the total social break down
17 in our whole society is at stake if we don't find the
18 resources to respond to those needs.
19 These are precious children, they're Texas
20 children. I try to teach Texas studies in the
21 mornings. And if I may, Mr. Kauffman, let me say
22 this, I say to those youngsters, "You are a part of
23 Texas. You've got something to give to Texas, and
24 Texas has got something to give to you." I guess if
25 I've got any purpose here today at all is to bring

1 that particular message about those children. For
2 gosh sake, let them be part of Texas and reap what
3 they've got to give Texas, and just give them a
4 chance through education.
5 Q. Mr. Sybert, the Defendants' Exhibit 3 is something
6 about part of your, I guess, your accreditation
7 visit. If I can review some of those things with
8 you.
9 One of the things they've listed as corrective
10 action required is class sizes?
11 A. Yes.
12 Q. Okay. So that was one of the accreditation standards
13 of TEA that you did not meet?
14 A. Yes, that's correct.
15 Q. Okay. Another was counseling services?
16 A. That's correct.
17 Q. And that's another one you did not meet?
18 A. Correct.
19 Q. Another was library and learning resources program?
20 A. That's right.
21 Q. And that's another one you did not meet?
22 A. That's right.
23 Q. Compliance with other curriculum rules?
24 A. Right.
25 Q. Is that another one you didn't meet?

1 A. Yes.
2 Q. Okay. Personnel preparation for assignment?
3 A. They've got a check by it, I don't remember what that
4 is. It may be there was a number of temporary permit
5 teachers we've got. That probably is what that is.
6 Q. That's another one they found that you did not meet?
7 A. That's right.
8 Q. Okay. Planning preparation period for your teachers?
9 A. I think that was an error on their part. I think we
10 finally resolved that as an error.
11 Q. Okay. They found it as a problem?
12 A. They found it as a problem with one or two teachers,
13 but after explanation, I think we worked it out.
14 Q. Okay. Safety practices?
15 A. We had the exit light out in one gymnasium in one
16 building. We very quickly met that requirement.
17 Q. Okay. Now, those are things the Texas Education
18 Agency found that you did not even meet the state
19 accreditation standards, is that right?
20 A. That's right.
21 Q. Now, Mr. Sybert, on not meeting those, and I would
22 like to direct your attention to the class size
23 requirements, the counseling services, I guess the
24 Science labs, why couldn't you meet those standards?
25 A. We didn't have the money to pay for those things, Mr.

1 Kauffman.
2 Q. Now, I think Mr. Turner talked to you some about the
3 increase in your teachers' salaries after House Bill
4 72. Just so it's clear for the Court, along with
5 House Bill 72, did the state change the minimum
6 salaries that you had to pay teachers?
7 A. There was a change, but we paid more than the state
8 minimum.
9 Q. Okay. You now pay more than the state minimum?
10 A. Yes.
11 Q. Did they move up what the state minimum was?
12 A. Oh, yes. We certainly met the state minimum, you
13 bet.
14 Q. Okay. I'm sorry. I meant to ask --
15 A. And the minimum, itself, moved up, yes. Yes, it did.
16 Q. Okay. Now, did that apply to every district in the
17 state?
18 A. Yes, it did.
19 Q. Okay. Did salaries generally go up in the state?
20 A. To the best of my knowledge.
21 Q. Okay. So when you go out and compete, you're
22 competing with other districts that also had
23 increased minimums?
24 A. That's right. It's a marketplace for a service and
25 the highest bidder frequently wins.

1 Q. Okay. Now, when teachers come to your district and
2 work in your district, what effect does the
3 environment of your district have on keeping them?
4 A. Well, we think that improving our physical plant has
5 been one of the things that has helped us to begin to
6 attract teachers. As Mrs. Padilla testified the
7 other day, it's still tough to get teachers in
8 Socorro, but it's not as tough as it used to be.
9 We used to have our offices located in
10 elementary school, deep down the valley on a very
11 remote road. And if teachers came to look for us to
12 apply for a job, they couldn't find us to apply to
13 start with. So we now have a really nice office
14 located up on the freeway in a highly visible place.
15 People know where we are, and this helps to attract
16 them.
17 And in fact, when they get out of the car out
18 there at that office, we cut a razor-sharp edge on
19 edging that grass and it looks good, and that place
20 gleams, and we've got the world's biggest sign saying
21 "Socorro ISD." And the little gal sitting at the
22 front desk now smiles a big warm smile and tells them
23 how proud we are of the whole district. That helps
24 recruit teachers, Mr. Kauffman.
25 The fact that they can move now into good

1 facilities helps to create -- helps to encourage our
2 teachers, because we've got good buildings.
3 Those 40 or so in the portables this year, they
4 may be applying to this letter for all I know, but
5 those in the regular buildings, they like it there.
6 Those facilities help.
7 The fact that we have a really good in-service
8 training program and we stay with them, we encourage
9 them. And we recognize teachers constantly for the
10 achievements they make. And we try to give them as
11 many pats on the back as we know how to give. Those
12 kinds of conditions help us to keep our teachers.
13 Now the fact that they have to commute a long
14 distance out of the Ysleta or El Paso district,
15 because that's where most of them live, is a
16 difficulty, but I find the teachers love our children
17 and they like where they teach once they get there.
18 Mr. Kauffman, I intend to teach in Socorro High
19 School as an occupation very shortly. They now let
20 you retire and teach half-time. And I'm going to --
21 and as soon as I've taken my retirement, right after
22 August 1, 1989, I intend to teach half-time at
23 Socorro High School. I'm going to teach in that
24 history department over there until somebody says,
25 "That old coot is getting so senile, we've got to get

1 rid of him," because the families support Socorro
2 schools. The children are the best disciplined, most
3 mannerly group of children you can find anywhere. We
4 don't have very many brats. Those teaching
5 conditions are ideal.
6 So in answer to your question, we've got some
7 really good things going, and we've got some real
8 problems going. Most of our problems have to do with
9 just having enough money.
10 Q. Mr. Sybert, we talked a little bit about the bond
11 program and there was a discussion of what your bond
12 rating used to be and what it is.
13 Back when your bond rating was BBB, I assume
14 your interest rates were a lot higher on bonds?
15 A. Oh, yes.
16 Q. About how long is your bond rating in Socorro lower
17 than the normal limit?
18 A. It was that way when I came to the district. Of
19 course, what we did was we went to insurance
20 companies and bought insurance against default, and
21 then we had to pay a substantial amount of money for
22 that insurance.
23 Q. And did that increase your bond ratings on it?
24 A. It increased the bond -- effectively, they looked at
25 the bad bond rating with insurance better than they

1 would look at a bad bond rating without insurance,
2 and it may have helped the interest rate a little
3 bit, but it's still pretty bad.
4 Q. But generally, though, when you had the bad bond
5 rating, what effect did that have on your ability to
6 build buildings in the district?
7 A. It limited my ability to go and spend more money on
8 interest.
9 Q. Now, the TEA now, through the state permanent school
10 fund, guarantees the bonds and you get better bond
11 ratings, but does TEA pay any of the principal on
12 those bonds?
13 A. No, they give us a -- they guarantee it in order to
14 make us get a better interest rate.
15 Q. Okay. So all that does is reduce the interest rate?
16 A. That's right. No, they don't pay principal right
17 now, we're not either.
18 Q. Oh, all right. There was also talk about your M&O
19 rate being somewhat lower than the state and your I&S
20 rate being higher. Now, when you send out a tax bill
21 to the taxpayers, they pay a tax based on the total,
22 don't they?
23 A. They usually see the way it's broken down, then they
24 total it and the tax is based on the total.
25 Q. All right. When you're working with your board, does

1 the fact that your I&S rate is 50 cents have any
2 effect on what you can set for your M&O rate?
3 A. It sure does. I mean, if people are paying -- people
4 are already paying so high in I&S, there's just a
5 limit of how much M&O you can ask for. Yes, the
6 total is what really makes the difference and how
7 much can you ask people for.
8 Q. When there was discussion of federal funds in your
9 district, that money, what part of the federal funds
10 that you receive is this lunch money?
11 A. I don't have a figure with me, Mr. Kauffman. It's
12 very substantial, because 70 percent of our student
13 population is eligible for a free lunch/free
14 breakfast program and maybe another 1 or 2 percent
15 for the reduced price program.
16 I walked through the high school cafeteria the
17 other day, filled my tray, and I started to pay the
18 lady, and she said, "I don't have any change." I
19 said, "There must be 50 kids sitting out there,
20 haven't you collected?" She said, "I haven't
21 collected a cent today." Free lunch is the common
22 thing in our school district.
23 Q. Now, we're talking about -- at least the defense
24 attorney has talked some about fund balances, the
25 money you carry over from one year to another.

1 A. Yes.
2 Q. Why do you need to carry a fund balance over?
3 A. We use our fund balance for two purposes. After it
4 builds up to a certain point, we transfer it to our
5 building fund and apply it to the construction of the
6 building, but I need some fund balance. I need to
7 carry over some money in addition to that, though.
8 We've got to be sure that we're going to meet
9 current bills and current salaries. During this past
10 summer, the state treasurer was saying we might be in
11 trouble come winter. And normally, I think we get
12 ten payments a year from the state. Those payments
13 are not necessarily equal installments. The state
14 can only distribute the money it has. The state
15 can't go borrow any money. And those installments at
16 certain times of the year -- in fact, it's about this
17 time of the year they frequently start getting
18 smaller. If you don't have some fund balance, you're
19 going to be having trouble meeting your payroll. And
20 last summer, our state treasurer was warning us that
21 this would happen. It hasn't happened yet, but I
22 really got into it back in about 1983.
23 Back in 1983, I remember the business manager
24 came to my office and he said, "I can't meet this
25 coming Christmas payroll." I said, "What do you mean

1 you can't meet the Christmas payroll? We've got
2 hundreds of people out there depending on us. We're
3 not going to have any school if you don't meet the
4 Christmas payroll." I said, "How much money have you
5 got?" He said, "I've got about $35,000.00." I said,
6 "Well, when does it come from the state?" Well, it
7 will be coming from the state after Christmas and
8 payroll date is set for the day we get out for the
9 holidays." I said, "Why are we in this shape?" And he
10 produces the little brown cards that show we've been
11 getting short payments, short payments, short
12 payments. I said, "Are we going to lose this money?"
13 I called Raymon Bynum of the Commission and said,
14 "Hey, where is my money?" He said, "You're going to
15 get it." I said, "When am I going to get it?" He
16 said, "Well, maybe next fall, we're going to catch
17 up." I said, "In the meantime, what do I do about the
18 Christmas payroll?" He said, "Well, I don't know what
19 you do about the Christmas payroll." So I asked -- I
20 went to see my banker, and I said, "I've got current
21 bills and I've got the payroll. I need to borrow
22 some money." He said, "How much?" I said, "About a
23 million dollars." The poor man he turned white as a
24 sheet. He said, "What have you got for security?" I
25 said, "Well, I can't put up the school house, they

1 won't let me do that. What about faith in the good
2 State of Texas?" It was obvious he didn't have much.
3 I will be grateful to Bill Kirby, who at that
4 time was Deputy Commissioner of Finance. I called
5 Bill on the phone and he cried. Bill at least came
6 out with me and walked with me into the banker's
7 office and said, "Look, if Sybert don't pay you, I'll
8 take it out of his check before I ever send it to him
9 and I'll pay you." And so the man came up with enough
10 money and we met the Christmas payroll.
11 Mr. Kauffman, I've got to have a little fund
12 balance. We've got people depending on us to get
13 paid. And we can't take all of that out and put it
14 in the building fund, and we can't spend it all on
15 operations. We've got to have a little fund balance.
16 And I need a minimum amount to be one month's
17 salaries and current bills.
18 Q. Mr. Sybert, I think there was some questions by one
19 of the defense counsel about your interest in local
20 control of what goes on in your district?
21 A. Yes.
22 Q. Do you remember that?
23 A. (Witness nodded head to the affirmative.)
24 Q. And you said there are certain things you would like
25 to do in your district?

1 A. There's some things I really like about local
2 control, yes.
3 Q. Okay. In terms of the future local control that you
4 have, in terms of your flexibility to do what you
5 think is best for your kids, under your present
6 finance system and under the money you have, do you
7 have much control to do what you think is the best
8 for your kids?
9 A. Your control sure gets limited when you're broke.
10 The money we've got, we have to earmark so much of it
11 for construction that it limits our control of it.
12 It just must go for construction. Yeah, it's limited
13 because of our poverty.
14 Q. You also mentioned you don't have junior high
15 schools.
16 A. No, we don't.
17 Q. Why not?
18 A. Junior high school, as we priced out the buildings,
19 they cost a lot more to build. You put in special
20 rooms, the Science labs are a little fancier, for
21 example, the library is bigger and has more material,
22 you build a gym that you can compete with other
23 junior highs in. The whole thing is just a bigger
24 scale, more expensive kind of operation. It's not up
25 to the high school operation, but the building is a

1 more expensive kind of building. You hire a lots --
2 more specialists in various areas in the junior high.
3 We're not necessarily unhappy about that. I'm
4 not sure that I would choose junior highs if we had
5 the money, but if -- that was the pattern when I went
6 to Socorro and I tried to convince the board and they
7 were convinced that we could operate more
8 economically with the K-8 concept. And I'm pleased
9 with what K-8 is doing for us in a number of ways,
10 although going to K-eight and away from junior high
11 was a decision made initially because of economics.
12 Q. We talked a lot about portable buildings and I think
13 Mr. Luna said you could just build a lot of portables
14 to replace all of these new buildings you're thinking
15 of building.
16 A. We've got a situation like that in El Paso, we call
17 it Fort Bliss.
18 Q. Call it what?
19 A. Fort Bliss.
20 Q. Port Bliss?
21 A. No, Fort Bliss.
22 Q. Fort Bliss, oh, I'm sorry, okay.
23 All right. What is the point of that term Fort
24 Bliss?
25 A. Well, I'm sure that some of our youngsters will be

1 drafted in the army and spend their time in portable
2 buildings later. Right now, we're trying to create
3 an environment. I know it's an expensive thing to
4 do, sure it is. But you heard Mrs. Padilla the other
5 day who was talking about her child and the constant
6 exposure of her child seeing not much than junk
7 yards.
8 In our community, aestetics in buildings are
9 important. I don't know where else in their world
10 some of those children are going to find anything
11 aesthetic. Our buildings gleam, they're so bright.
12 They're so well painted, anything on that playground
13 gets painted. In fact, there's a warehouse that has
14 a great big can of paint that's labeled Sybert brown,
15 everything gets Sybert brown.
16 MR. KAUFFMAN: We pass the witness, Your
17 Honor.
18 RECROSS EXAMINATION
19 BY MR. O'HANLON:
20 Q. I've got a few more questions.
21 Mr. Kauffman talked about the accreditation
22 violations. You're moving to correct all of those?
23 A. We've been working on those as priorities and we're
24 getting real close on most of them.
25 Q. Okay. Do you think as speaking as a school

1 superintendent, that the accreditation standards are
2 an appropriate way of judging programs?
3 A. I think some of them are. There may be individual
4 standards that I would differ with, but most of them,
5 I'm pretty well in agreement with.
6 Q. Okay. So by and large, do you think that's a pretty
7 good method of determining whether a program is --
8 A. Let me say, they're a pretty good way of determining
9 minimal programming. I don't think they go far
10 enough in terms of determining what quality
11 programming is, but they're a good measure of minimal
12 kind of program.
13 Q. Then, it's up to the district to go on beyond that?
14 A. If they can.
15 Q. If they can.
16 Now, Mr. Kauffman asked you, I believe, about
17 your teacher ratios and they're a little bit below.
18 A. They're higher than the state.
19 Q. Okay. Now, you could have met those if you had spent
20 the money you transferred, couldn't you?
21 A. No, sir, because I wouldn't have had a classroom to
22 put them in.
23 Q. Okay. But I mean, you've got the money to build --
24 to pay the salaries if you've got -- once you get the
25 classrooms?

1 A. If I get the classrooms, and I'm not -- unless I'm
2 spending money on paying off the classrooms, then I
3 can pay the salaries.
4 Q. Okay.
5 A. It can go in one pocket or the other, or we can kind
6 of balance out and put a little bit in both pockets.
7 Q. Okay. Have you gone back to your bond council to
8 talk about long-range plans for issuing new bonds?
9 A. We've had some preliminary talks. They're not in
10 detail yet.
11 Q. Okay. Is it fair to say that you -- nobody has
12 turned you down on floating a new bond issue?
13 A. Well, we haven't proposed it yet.
14 Q. Okay. But I mean, is there any reason to believe
15 that you're not going to be able to issue new bonds?
16 A. Yes, the community has been impacted with so many new
17 taxes with a new city organization and a new water
18 district organization, I'm sure there's a reluctance
19 building up to vote for bonds.
20 Q. Okay. That's something called municipal over-burden.
21 A. I've heard the term, yes, sir.
22 Q. Okay. Now, that's a function of being, in essence,
23 part of a city, of a larger city, isn't it?
24 A. I've heard the term applied or I -- when I hear the
25 term used, it's usually Robby Collins talking about

1 Dallas.
2 Q. Okay. And Dallas has got a junior college tax. You
3 don't have a junior college tax, do you?
4 A. Yes, we do.
5 Q. You've got a junior college tax out there?
6 A. Yes, we do. Hospital district tax, on and on, lots
7 of taxes.
8 Q. So that's one of the things that comes simply with
9 urbanization?
10 A. Yes.
11 Q. If you're sitting out there in country, you don't
12 have that kind of problem?
13 A. I own a small house at Cloudcroft, New Mexico. The
14 total real estate tax annually is about $54.00. The
15 house is worth about 45,000.
16 Q. Okay. And if you put that same house in a city
17 somewhere, you're going to be --
18 A. I couldn't afford it.
19 Q. That's right. And that has to do in every urban
20 area. That's just one of the things that happens,
21 isn't it?
22 A. That's right.
23 Q. Do you think that's something that needs to be taken
24 into consideration when you're talking about what
25 kinds of tax rates people can afford?

1 A. When I come out with another bond issue, I've sure
2 got to take it into consideration.
3 Q. Okay. And similarly the people in Dallas and Houston
4 would have to take that into consideration when they
5 were talking about a new bond issue, wouldn't they?
6 A. I don't know that situation.
7 Q. But, I mean, they've got other taxes, as well, down
8 there, don't they?
9 A. I presume they do.
10 Q. If we're talking about consolidation, consolidation,
11 within your region, isn't going to do anybody any
12 good at all.
13 A. It's very improbable.
14 Q. Okay. So it's going to have to be substantially
15 larger than that?
16 A. Yes, it is.
17 Q. Your region consists of thousands of square miles as
18 it is.
19 A. Yes, it really is.
20 Q. There's no real way to run a district that big, is
21 there?
22 MR. KAUFFMAN: Your Honor, I would just
23 pursue the objection that we made about if this is a
24 hypothetical. If it's based on any testimony in the
25 record, again, Dr. Hooker specifically said he was

1 not talking about consolidation, just for tax
2 districts.
3 MR. O'HANLON: Well, I just don't think he
4 can do it, Judge. I think the Constitution, Article
5 VII, Section 3, talks about the power to tax has been
6 vested in the school districts. And to say that we
7 can create some new revenue not comtemplated by the
8 statute, and then to say we cannot talk about the
9 school districts, we thought that the Constitution
10 Article -- I mean, to just create something out of
11 the air and then say we can't talk about it in the
12 practical application, is rather limiting. I don't
13 think it's a fair objection.
14 THE COURT: Okay. I'll overrule. What is
15 the constitutional provision again?
16 MR. O'HANLON: Article VII, Section 3.
17 THE COURT: Go ahead, please.
18 THE WITNESS: I've forgotten the question.
19 BY MR. O'HANLON:
20 Q. Do you think you could have a district as big as
21 Region 19?
22 A. It would be awkward, I'm sure you could. I
23 understand Hawaii, for example, operates one state
24 district. It would be awkward to have a district as
25 big as Region 19, but you could.

1 Q. Could you do as good a job if you had to run from
2 somewhere the whole district in meeting the specific
3 needs of the community in Socorro?
4 A. No, I don't think we would be receptive to the
5 community very well at all if we were trying to
6 operate out of Region 19.
7 Q. Okay. So if you're talking about efficiency.
8 There's two kinds of efficiencies, aren't there.
9 There's pure just dollar, lowest common denominator,
10 highest kind of yield and things of that nature. And
11 then there's efficiency in terms of actually teaching
12 people something and maybe tailoring an educational
13 program to the needs of the community.
14 A. I'll grant that.
15 Q. They're not necessarily the same.
16 A. That's correct.
17 Q. In fact, there's certain circumstances where
18 economies of scale may not be efficient because they
19 deprive a community of tailoring its education to the
20 needs of its own individual community.
21 A. Correct.
22 Q. And you're able to do that in Socorro, are you not?
23 A. We try to be very responsive, yes, sir.
24 Q. And that's what's juggling all of the plates is all
25 about?

1 A. That's right.
2 Q. And what you're doing there is trying to respond to
3 the best of your ability to the needs of the
4 community?
5 A. That's right.
6 Q. So I take it that you don't -- that if we're talking
7 about some kind of super district out there, that you
8 don't want to be any part of it?
9 A. It would not be my choice as the way to organize
10 El Paso County.
11 Q. All right. Were you aware of the debate in the SCOPE
12 Committee and then the debate before the Legislature
13 that led to the passage of House Bill 72?
14 A. Just what I read in the papers.
15 Q. Okay. Are you in favor of House Bill 72?
16 A. I worked actively to get House Bill 72 passed. It
17 wasn't the solution to many of our problems, but it
18 looked like the best thing we had going politically
19 at that moment in time.
20 Q. Do you think it's close to the best thing that could
21 have been passed by the Texas Legislature at the
22 time?
23 A. I don't know what could have been passed. I felt
24 that it was going to help Socorro and it has.
25 Q. When you said you worked for it, what did you do?

1 A. I contacted legislators from El Paso County.
2 Q. Did you tell them to vote for it?
3 A. I certainly did.
4 MR. O'HANLON: I don't have any further
5 questions.
6 THE COURT: Excuse me just a minute.
7 I'm going to have to stop because I have a
8 meeting with the judges at noon and it's a little
9 after noon now. I was thinking maybe we could get
10 him off, but it looks like maybe not.
11 We'll stop and we'll start up again at 2:00
12 (Lunch recess.)
13 THE COURT: Here we go.
14 RECROSS EXAMINATION
15 BY MR. TURNER:
16 Q. Mr. Sybert, I just wanted to ask you a question about
17 this Plaintiffs' Exhibit 190 that you had identified
18 earlier in response to an inquiry from Mr. Kauffman,
19 which shows the teacher/pupil ratios.
20 A. Yes.
21 Q. That's the exhibit that shows your ratios to be
22 higher than state average?
23 A. I've not personally checked these numbers, but that's
24 the way I read this document, yes.
25 Q. All right, sir. You're bringing your teacher/pupil

1 ratios down, as I understand it, as a result of your
2 building program, is that correct?
3 A. Yes, we are, with the priority on the primary grades
4 coming down first.
5 Q. And you have an addition plan to the high school --
6 A. Yes.
7 Q. -- which also will remedy that problem?
8 A. Well, that's going to help. I don't know how much
9 lower we're going to get them at the high school, but
10 we'll at least have rooms for everybody.
11 Q. All right. I believe you talked about the fact that
12 to meet the state requirements for teacher/pupil
13 ratios in lower grades, you ended up with higher
14 teacher/pupil ratios in higher grades?
15 A. They're higher than we would like to have them, yes.
16 Q. This expansion to your high school, how much larger
17 is your high school going to be as a result of that
18 expansion?
19 A. We're trying to take that high school up to a total
20 enrollment size of about 3,500. In fact, we're even
21 considering 4,000. It's not going to be the kind of
22 high school we want to build, but to construct a new
23 high school -- and we're really at the place where we
24 ought to split -- to construct a new high school will
25 run you around $17 million. So we're, again, trying

1 to get economy of scale and build this high school on
2 up where it will run 3,500 to 4,000.
3 Q. And that's a building that's in progress currently,
4 is that --
5 A. Phase I is in progress now.
6 Q. Okay. I have some pictures, I think, of that here
7 I'll let you identify.
8 MR. TURNER: I would like to ask the
9 reporter to mark these two as Defendant-Intervenors'
10 Exhibit Nos. 5 and 6.
11 (Defendant-Intervenors' Exhibit (Nos. 5 and 6 marked.
12
13 Q. Mr. Sybert, I'm handing you what's been marked as
14 Defendant-Intervenors' Exhibit 5 and Exhibit 6. I
15 would like for you to take a look at those. Are
16 those the pictures of the new high school that's
17 currently under construction or an addition to the
18 high school?
19 A. Yes, I'm sure they are. They probably have been
20 taken within the last week or ten days.
21 Q. All right, sir. And how many new classrooms will
22 that give you at the high school?
23 A. Phase I will give me about 24 classrooms, I believe.
24 In Phase I, there are a couple of other phases to
25 come next year and the following.

1 Q. All right. Thank you.
2 MR. TURNER: I'm going to ask the reporter
3 again to mark these next two exhibits as Exhibits 7
4 and 8.
(Defendant-Intervenors' Exhibit
5 (Nos. 7 and 8 marked.
6
7 THE COURT: Any objection to 5 and 6?
8 MR. GRAY: Your Honor, we have not seen
9 them. I doubt there will be any, but I would like a
10 chance to look at them before --
11 THE COURT: I guess you ought to look at
12 them before I do.
13 MR. GRAY: Plaintiff-Intervenors have no
14 objections, Your Honor, to 5 and 6.
15 MR. TURNER: Your Honor, I'll offer 5 and
16 6.
17 THE COURT: All right. They'll be
18 admitted.
(Defendant-Intervenors' Exhibit
19 (Nos. 5 and 6 admitted.
20 BY MR. TURNER:
21 Q. Mr. Sybert, I'll hand you what's marked
22 Defendant-Intervenors' Exhibit 7. And if you will,
23 tell us what those four pictures are of.
24 A. These four pictures are of our new O'Shea Keleher
25 school in the east El Paso area.

1 Q. Is that an elementary school?
2 A. It's a kindergarten through eighth grade.
3 Q. Is that the school Mrs. Padilla's child will go to?
4 A. No, no, it's not. This is an entirely different
5 neighborhood.
6 Q. All right. And how long has that building been
7 completed?
8 A. All of the fights we had with that contractors, what
9 a question. Some people argue it's not completed
10 now, but basically we've had kids in there since
11 about the first of October.
12 Q. All right, sir.
13 MR. TURNER: Your Honor, I would like to
14 offer the Exhibit No. 7 into evidence.
15 MR. GRAY: Plaintiff-Intervenors have no
16 objection.
17 THE COURT: All right. It will be
18 admitted.
19 (Defendant-Intervenors' Exhibit No. 7 admitted.)
20 BY MR. TURNER:
21 Q. Mr. Sybert, I'm handing you now what's marked
22 Defendant-Intervenors' No. 8, and ask, if you would,
23 to identify those three pictures.
24 A. This is -- these three are pictures of our new
25 Escontrias school. This is the school where Mrs.

1 Padilla's children are in.
2 Q. All right. Is that school in service?
3 A. That school is in service and we occupied it about
4 the 1st of September.
5 Q. All right, sir.
6 MR. TURNER: Your Honor, I would like to
7 offer this exhibit into evidence, No. 8.
8 MR. GRAY: Plaintiff-Intervenors have no
9 objection, Your Honor.
10 THE COURT: All right. It will be
11 admitted, also.
12 (Defendant-Intervenors' Exhibit No. 8 admitted.)
13 BY MR. TURNER:
14 Q. Mr. Sybert, there are other new buildings that I do
15 not have pictures of, example being the
16 administration building for one, that you've already
17 testified in regard to.
18 A. That's right.
19 Q. Are there other new buildings or buildings been built
20 in the last year or two?
21 A. Oh, yes. Five years ago, we built the Campestre
22 school. The following year we built three schools,
23 Hueco, Horizon Heights, and Vista del Sol.
24 Then we spent a year concentrating our efforts
25 on a lot of additions particularly at Hilley, and

1 then at Campestre.
2 Then this past year, we built O'Shea Keleher
3 and the new Escontrias school.
4 And this year, we have put under construction
5 the new Bauman school, and let's see, the new
6 Pelicano school, with intensive additions at the high
7 school. Those -- that's pretty well a picture of new
8 facilities.
9 Q. And I believe you testified earlier, there's really
10 one school left that you consider to be kind of an
11 old out-of-date school.
12 A. That's the old Escontrias school. It is an adobe
13 building. It has a lot of historical value to the
14 community. I don't know whether it's going to cost
15 too much to preserve it. Maybe we ought to take it
16 down and build something else instead, but it's near
17 and dear to the community at heart, so we'll probably
18 just keep remodeling on it for a while.
19 Q. So other than new schools that you might determine
20 you need for growth purposes, basically you've
21 replaced your entire physical plant by the schools
22 that you've mentioned there?
23 A. No, not replaced our plant, no, sir. We've been
24 trying to replace that old metal building next to
25 that new Escontrias building, but every time we think

1 we've got it made, we run into a situation where some
2 more youngsters have to go into that thing. So we
3 haven't. And now, we're talking about having --
4 using it for some maintenance work, and then we've
5 got people unhappy with us about that. We really
6 haven't -- I don't think we've replaced anything yet.
7 Q. In other words, most of this has occurred because of
8 your growth?
9 A. That's right, it's growth, that's right.
10 Q. So with the exception of the school you mentioned
11 that has some historic value to the community and the
12 old warehouse building that you intend to use for
13 maintenance --
14 A. Yeah.
15 Q. -- all of your buildings have actually been
16 constructed just in the last -- well, since you've
17 been superintendent, I suppose?
18 A. Well, with the exception of one new building, that's
19 true.
20 Q. That would be within the last five years?
21 A. The last five years, yeah.
22 Q. And are the buildings that you've identified here in
23 these pictures, are they representative of the type
24 of construction --
25 A. They're very representative. We use a plan that

1 really is just -- we give it site modifications, but
2 we use a standard plan. The architectural fees are
3 much lower. We know what to put in the maintenance
4 shop in order to replace door knobs or electric
5 switches, what have you. Our plans are pretty well
6 the same for all of our old activities buildings.
7 What you see there is typical.
8 MR. TURNER: I'll pass the witness, Your
9 Honor.
10 RECROSS EXAMINATION
11 BY MR. R. LUNA:
12 Q. I have just a couple of last questions and I'm now
13 not going to question you any more about your
14 portable buildings, but I want to ask you a little
15 bit about the comment that you made to the Judge
16 earlier in your original direct testimony about the 8
17 percent increase in your M&O rates each year, except
18 for the one year when you only increased it 3
19 percent.
20 As I recall, and I think I wrote it down
21 correctly, you stated that you didn't like to raise
22 it more than 8 percent because that then flirted with
23 danger.
24 A. It does.
25 Q. What did you mean by flirting with danger?

1 A. The roll-back provisions of law, if you raise more
2 than 8 percent, the community may petition for a
3 roll-back election. And if they meet all of the
4 petition requirements, an election is held, and then
5 theoretically they can roll you back to your previous
6 year's rate.
7 Q. And obviously, you consider that a pretty big hammer
8 in the hands of the taxpayers if they were to choose
9 to come at it with a roll-back petition?
10 A. I think it's a big hammer. I think every
11 superintendent of the state is very conscious of
12 that, and we read in our bulletins about districts
13 that do get rolled back. It's flirting with danger.
14 Q. What triggers a roll-back request?
15 A. A petition.
16 Q. How many signatures have to be on that petition?
17 A. I don't recall. I need to check with one of the
18 attorneys on that.
19 Q. If I told you it was 10 percent of your registered
20 voters, would that sound about right?
21 A. I don't recall at all.
22 Q. Let's assume for the moment, the law says it's 10
23 percent of your voters. Now, knowing that the local
24 taxpayers have that hammer in their hand, and I guess
25 they come see you about it if they get unhappy about

1 the tax rate, don't they?
2 A. Occasionally, I talk to a parent or a taxpayer that's
3 unhappy about taxes, yes.
4 Q. Let's assume for a moment that we consolidated not
5 into a school district, but into a taxing authority.
6 And out in your area, I presume that that would be a
7 pretty large area of West Texas, wouldn't it?
8 A. You know, I don't know anything at all about taxing
9 authorities. I understood Dr. Hooker talked about
10 them yesterday, but I wasn't here for that. And I
11 don't know what a taxing authority is, no, sir.
12 Q. You're in Region 18, aren't you?
13 A. 19.
14 Q. 19?
15 A. Uh-huh.
16 Q. How many square miles does that encompass?
17 A. I'm not sure, I can't answer you. It's big. It
18 involves two or three biggest counties out in the
19 west side. It's a very -- it will take you two or
20 three hours to go from one end of it to another.
21 Q. And in looking at the map which is in evidence,
22 Region 18 which would be beside you, goes even
23 further, goes well into the hill country, an even
24 larger district than Region 19. And Region 15 would
25 be just as large.

1 Now, first of all, in regard to a roll-back
2 petition, let's assume that we had a large taxing
3 authority. If you had to take 10 percent of the
4 registered voters, I assume that the local taxpayers'
5 hammer would be lightened a great deal because they
6 would have to circulate a petition over literally
7 hundreds of miles and many cities, wouldn't they?
8 A. The situation is hypothetical, but I would tend to
9 agree.
10 Q. And in addition, in order for someone to go to their
11 local taxing authority to complain about taxes, they
12 would have to be traveling for hours and maybe
13 hundred of miles to go to a centralized location to
14 talk about their taxes being too high, wouldn't they?
15 A. Sounds logical.
16 Q. Does that sound like a better or worse way than you
17 currently do it now?
18 A. I don't feel qualified to make a judgment on it. I
19 might have an observation or two, but without
20 judgment, I think you've got to come straight -- come
21 clean straight up front with your taxpayers and not
22 worry about avoiding what they think. I think you've
23 got to communicate with them and keep -- lay it all
24 out there straight. I wouldn't want to be running
25 from their voice and from their will. I sure would

1 hate to get rolled back, but I want to deal straight
2 with them and we do.
3 Q. Thank you.
4 MR. R. LUNA: No further questions.
5 MR. DIPPEL: We have no questions, Your
6 Honor.
7 THE COURT: All right, sir.
8 MR. KAUFFMAN: We have nothing further,
9 Your Honor.
10 THE COURT: All right, sir. Dr. Sybert,
11 you may step down, sir.
12 MR. KAUFFMAN: May the witness be excused?
13 I don't think anybody else has anything further for
14 him.
15 THE COURT: You may be excused. That means
16 you may return to your duties and leave this
17 courthouse. Thank you, sir.
18 (Witness excused.)
19 MR. KAUFFMAN: Your Honor, if I may, I have
20 a co-counsel here today I haven't introduced to the
21 Court yet, Mr. Peter Roos, who is a graduate of
22 Hastings Law School in San Francisco and has been
23 practicing law about 18 years, and is an expert in
24 education and a good friend. He's practiced all
25 around Texas in federal courts. And I would like to

1 have the Court's permission to let him practice in
2 this Court for purposes of this case.
3 MR. O'HANLON: We have no objection.
4 THE COURT: All right, sir. Well
5 apparently you're welcome here, so you may
6 participate in this trial.
7 MR. ROOS: Thank you, Your Honor.
8 MR. GRAY: Your Honor, at this time we
9 would call Mrs. Nelda Jones as our next witness.
10 THE COURT: All right.
11 MRS. NELDA JONES
12 was called as a witness, and after having been first duly
13 sworn, testified as follows, to-wit:
14 DIRECT EXAMINATION
15 BY MR. GRAY:
16 Q. Would you state your name, please, ma'am.
17 A. Nelda Jones.
18 Q. Mrs. Jones, what profession do you pursue?
19 A. Teaching.
20 Q. And for how long have you been a teacher?
21 A. I've been a teacher for 26 years.
22 Q. And give us briefly a background of where you have
23 taught and what you have taught during your 26 years
24 of teaching.
25 A. I began my career at Rineyville, Kentucky.

1 MR. DIPPEL: Excuse me, ma'am, could you
2 please speak up?
3 MR. GRAY: We might move that mike in.
4 A. I began my career teaching at Rineyville, Kentucky.
5 My husband was in the army. I was very fortunate to
6 secure position there for one year.
7 From Rineyville, Kentucky, I went to Alamo
8 Heights in San Antonio, Texas. I taught there for
9 six years.
10 I stayed out for a while when our children were
11 small, and then I taught in the Waxahachie
12 Independent School District for five years.
13 And then I taught in the Rosebud-Lott School
14 District for 14 years. That is where I am today.
15 Q. And what position do you currently hold in the
16 Rosebud-Lott School District?
17 A. I am a third grade teacher, and I'm also the
18 principal of the primary school in Rosebud.
19 Q. Do you fulfill both teaching duties and principal
20 duties at the same time at the same school?
21 A. Yes, I do.
22 Q. During your years at the Alamo Heights School
23 District in San Antonio, what course or grade did you
24 teach there?
25 A. I taught second grade.

1 Q. And you were at Alamo Heights for six years, is that
2 correct?
3 A. Right.
4 Q. Were you in the same school for the entire six-year
5 period?
6 A. Yes, I was.
7 Q. Tell me briefly the type of school that you taught in
8 when you were in the Alamo Heights District in San
9 Antonio. Describe the facility for us.
10 A. It was a very, very fine facility, Mr. Gray. It was
11 new. It was designed for the little folks that were
12 housed there. It was a beautiful structure and it
13 had everything a teacher could ever dream of wanting.
14 My six years at Alamo Heights in San Antonio, I
15 would classify those as being in teacher heaven.
16 Q. You say it was designed for the little folks, are you
17 referring to things like the location of the water
18 fountain? Is it where they can reach it?
19 A. Right.
20 Q. What do you mean by design for the little folks?
21 A. Yes, right, all of the equipment, the furniture,
22 everything, was scaled down for the little folks.
23 Q. In Alamo Heights, did you have a music room, for
24 example?
25 A. Yes, we had a music room, Mr. Gray. We also had a

1 certified music teacher.
2 Q. Did they have an art room and an art teacher?
3 A. Yes, we did.
4 Q. Did they have counselors, elementary counselors to
5 counsel the children if they had any difficulties or
6 problems in school?
7 A. Yes.
8 Q. Did the counselors have offices or facilities in
9 which to do the counseling?
10 A. Very nice offices.
11 Q. Did the principal, when you were in Alamo Heights,
12 did the principal also teach classes?
13 A. No, he did not.
14 Q. Did you have a full-time third grade teacher and a
15 full-time principal, for example, in Alamo Heights?
16 A. Yes.
17 Q. Did they have a library when you were in Alamo
18 Heights?
19 A. A very fine library. Also we had a certified
20 librarian.
21 Q. Tell me briefly the kind of homes that surrounded the
22 school in which you were teaching in Alamo Heights.
23 A. They were very, very fine homes, Mr. Gray. Three,
24 four-bedroom, all brick homes with two or three baths
25 and two or three car garages. Some of them had maid

1 quarters.
2 Q. What kind of children -- and by that, I mean describe
3 the ethnic make up of the kids, how they appeared
4 when they came to school, just in general, put into
5 some kind of perspective what type of children were
6 you teaching when you were in Alamo Heights.
7 A. By and large, the children were all white. They were
8 a very, very few Hispanic children. They came to
9 school very well dressed. Some of them were even
10 chauffeured to school, well groomed, well cared for
11 children.
12 Q. During your years at Alamo Heights, were you ever
13 associated with or come to understand the role of the
14 parents, what role they were playing in the education
15 of the children that went to Alamo Heights?
16 A. Oh, yes.
17 Q. What kind of role did those parents play?
18 A. A very active role.
19 Q. And describe that, what do you mean?
20 A. Well, they were of the background that would supply
21 their children with many experiences that would then
22 help with a classroom situation, travels, many books
23 at home. They also were very supportive of the
24 school. We had a very active PTA. They would be
25 sure that Johnny was prepared. They saw to it that

1 homework was done, very supportive group.
2 Q. Did you, by and large, find that the parents of the
3 children that you were educating in Alamo Heights not
4 only would or could, but also had the educational
5 capability of helping their children through the
6 learning process?
7 A. Indeed.
8 Q. And did that prove or do you have an opinion as to
9 whether or not that was helpful to your children?
10 A. I do have an opinion. It was extremely helpful to
11 the boys and girls.
12 Q. Now, contrast with me, if you will, your physical
13 facility that you have in Rosebud-Lott with the
14 facility that you had in Alamo Heights. In general
15 terms -- and I have some pictures that I'm going to
16 get you to identify and offer -- but give us a
17 general description of what we're talking about?
18 A. The facility that we use for primary school was
19 originally the school for the black children before
20 integration. The facility housed grades 1 through 12
21 for the black community.
22 Q. Approximately how old of a facility does it appear to
23 be or do you know?
24 A. I really don't know, over 20 years.
25 Q. Would you describe it -- how would you compare it to

1 the facility you taught in in Alamo Heights?
2 A. Oh, they cannot be compared.
3 Q. And what do you mean they cannot be compared?
4 A. Well, one building was -- was built for little
5 people. The building I'm in was built for all aged
6 children. The buildings in Alamo Heights in San
7 Antonio was a very beautiful structure. The building
8 that we have now is adequate, but it's just very
9 vanilla.
10 MR. GRAY: Your Honor, may I approach the
11 witness?
12 THE COURT: Yes, sir.
13 Q. To facilitate matters, Mrs. Jones, I'll hand you some
14 pictures and we'll question and talk about them here
15 at the stand so that I don't have to bounce up and
16 down.
17 Let me hand you a group of pictures that are
18 Plaintiffs' Exhibit 231, 223, 228, 229, 227, 226,
19 224, 220, 222, 230, 232, 219 and 225, and I'll ask
20 you one general question about all of these pictures.
21 Are these pictures taken of various aspects of the
22 school in which you currently teach?
23 A. Yes, they are.
24 Q. And they were taken by me when you gave me a tour of
25 the school a week and a half or so, were they not?

1 A. Right.

2 MR. GRAY: Your Honor, I've already shown

3 copies of these to all of the Defendants and

4 Defendant-Intervenors' counsel. I'll offer them at

5 this time and I intend to question the witness as

6 about each individual picture as we go through.

7 MR. O'HANLON: No objection.

8 THE COURT: All right. They'll all be

9 admitted.

10 (Plaintiffs-Intervenors' Exhibit Nos.
(219, 220, 222, 223, 224, 225, 226, 227,
(228, 229, 230, 231 and 232 admitted.

11

12 BY MR. GRAY:

13 Q. Now, Mrs. Jones, tell us what Exhibit 231, what

14 that's a picture of?

15 A. This is a picture of the carpet in our hall. It is

16 well worn. In fact, there is a place there that is a

17 place there that is so threadbare, we had to patch

18 it. We used duct tape to do that.

19 Q. And is that this gray tape that you see running

20 across the middle of it, is that air-conditioning

21 tape that's taped down to hold the carpet down?

22 A. Right, yes.

23 Q. And is this example of duct tape, tapping down or

24 covering up holes in the carpet, is it an isolated

25 example of what you find in your school?

1 A. Oh no, we have that throughout our building.
2 Q. Exhibit 223, describe for me what that is, please,
3 ma'am.
4 A. This is where we keep our first-aid materials. We
5 also have in one corner resource materials that are
6 available to teachers. Over here in this corner, Mr.
7 Gray, that is a small cot for a child, should one
8 become sick at school.
9 Q. Where does the -- I assume, then, that you have a
10 nurse at your school?
11 A. No, we do not have a nurse at our school.
12 Q. Did you have a nurse when you were in Alamo Heights?
13 A. Yes, I did have a nurse when I taught in Alamo
14 Heights.
15 Q. When your children get sick and are in need of some
16 care, who takes care of them?
17 A. My secretary takes care of the first-aid needs or I
18 have to leave my classroom and take care of the
19 first-aid needs.
20 Q. Okay. The next picture, 228, can you tell me what
21 that is, ma'am?
22 A. This is a picture of our cafeteria.
23 Q. And on the wall, I notice ice boxes and stuff like
24 that out in the open. Why is that?
25 A. Because that's the only place that we have available

1 for them to be placed.
2 Q. And I also notice what appears to be some sort of
3 air-conditioning unit with the pipes coming out of
4 the ceiling and just stuck up on the wall, what is --
5 is that an air-conditioning unit?
6 A. Yes, that is our heating/cooling unit that has taken
7 up more of our floor space and really is an eye-sore,
8 isn't it?
9 Q. And it is actually inside the building as opposed to
10 being outside the building?
11 A. Correct.
12 Q. Now, let me hand you 229, and tell me what that is,
13 please, ma'am.
14 A. This is the other end of our cafeteria; you see
15 another heating/cooling unit there. Tiles are up
16 from the floor.
17 Q. Is that you in the picture pointing to where the
18 tiles are coming off?
19 A. Yes, yes, I'm in the picture. And then we use this
20 end of the room (indicating) also as our music room.
21 Q. Now, why are the tiles coming up?
22 A. They're just -- it's just worn out.
23 Q. And this is the same room as the cafeteria, but it's
24 also serving as the music room?
25 A. Correct.

1 Q. And do you have a music teacher?
2 A. No, we do not have a music teacher. The classroom
3 teachers do the best they can.
4 Q. I note that you also have got an air-conditioning
5 heating unit down here next to the piano, does it
6 help or hurt the music process?
7 A. It hurts. The air-conditioning unit and the
8 deep-freezes and the refrigerators you saw, they just
9 all join in and sing along with the boys and girls.
10 Q. Why don't you move the music area or the music room
11 to some other spot?
12 A. We do not have another spot.
13 Q. Let me show you what is marked as Exhibit 227, and
14 will you describe what that is for me, please, ma'am?
15 A. This is a classroom.
16 Q. And again, I see the duct tape, is that --
17 A. Right, it points out more carpet in need of repair --
18 well really, it should be replaced.
19 Q. But the carpet, is this typical in all of the
20 classrooms with the carpet having to be taped
21 together?
22 A. Yes, it is.
23 Q. I also notice that there are a hodgepodge of -- those
24 are my words, but different kinds of chairs,
25 different colors of chairs throughout.

1 A. That is correct.
2 Q. Why is that?
3 A. Because of our limited funds, when we need new
4 equipment, we cannot go out and replace all of the
5 equipment for one classroom at the same time, so we
6 discard the old and bring in the new that we can
7 afford. Therefore, we have some old and some new in
8 one room.
9 Q. So you're never able to have a full set of anything,
10 whether it be desks or chairs or whatever?
11 A. At this point, we have not been.
12 Q. Okay. Now, on Exhibit 226 I'll hand you, I assume
13 that's another classroom?
14 A. Yes, sir. This is a third grade classroom.
15 Q. What are these things all covering up the windows?
16 A. Those are long pieces of tri-wall, Mr. Gray.
17 Q. What is tri-wall?
18 A. Well, it's a lot like a pasteboard box except that
19 it's much thicker.
20 Q. And why is tri-wall up there over the windows?
21 A. This room is located on the north corner. The north
22 wind came into the classroom and it was so cold and
23 uncomfortable for the boys and girls, the teacher
24 decided to do something about it, so she got these
25 very large pieces of tri-wall, she put wallpaper on

1 them, and then she put them over the windows.
2 Q. Has the district been able to come out and replace
3 the windows or replace the wall or do anything other
4 than leave the tri-wall up there for the climate
5 control of that classroom?
6 A. We have not been able to do anything at this point.
7 Hopefully, we do have a master plan and we'll get to
8 it as funds are available.
9 Q. And by you saying as funds are available, I take it
10 that this is an example of what you're living with
11 and your students are living with now because of lack
12 of funds?
13 A. Right, that is correct.
14 Q. Let me hand you Plaintiffs' Exhibit 224, and get you
15 to tell me what that is.
16 A. This is the area that was the auditorium and the
17 stage when the building was housed, the black school.
18 We have converted this area. The stage has been
19 turned into a work area for teachers.
20 The first part of the auditorium houses our
21 library for the boys and girls. The next part of the
22 auditorium houses resource materials for the teachers
23 to use with the children.
24 The cart that you see there is the trash cart
25 for the maid. She does not have a closet or a place

1 to put it, so she hides it as best she can.
2 Q. And I take it that she -- whether we're dealing with
3 her trash cart or her mops or brooms, that they will
4 be stashed in the corridor --
5 A. Out and around.
6 Q. -- in various places of the school?
7 A. That is correct.
8 Q. Does the school not have any kind of storage closet
9 for the maid?
10 A. That is correct.
11 Q. Now, this room used to be the auditorium, is that
12 right?
13 A. Right, for the black school.
14 Q. And now it's converted to three separate functions?
15 A. Right.
16 Q. The stage is the printing area where the teachers do
17 their --
18 A. Laminating and dittoing and make things for the
19 classrooms, that is correct.
20 Q. And this middle area is the library?
21 A. Right.
22 Q. And you've already said you don't have a librarian,
23 right?
24 A. Right.
25 Q. Again, is that the classroom teacher's responsibility

1 to work as a librarian, too?
2 A. The classroom teacher fills in. Just a very few
3 weeks ago, we were able to secure an aid who comes
4 and helps shelf books and she helps in her limited
5 way.
6 Q. And then the other, the last part of this auditorium
7 that's now three rooms is the teacher resource area?
8 A. Right, right.
9 Q. And by that, is that where the teachers keep their --
10 what is it, what is teacher resource area?
11 A. Well, that is where we keep additional materials to
12 use in the classroom.
13 Q. Plaintiffs' Exhibit 220, tell us what this is and
14 what this shows, ma'am.
15 A. This is a classroom that is used for two classes. We
16 have a remedial math class on one side and a remedial
17 reading class on the other side.
18 Q. And the classroom is actually now having to hold two
19 separate classes?
20 A. Right, at the same time.
21 Q. And these classes go on simultaneously?
22 A. Right, that is correct.
23 Q. And the partition or the -- I'm not sure what that
24 is?
25 A. More tri-wall.

1 Q. Is that more tri-wall?
2 A. Yes, yes.
3 Q. Who put that up?
4 A. The teachers did. They were trying to build a wall
5 as best they could, so the little folks wouldn't be
6 distracted.
7 Q. Okay. The exhibit that is 222, I take it that's your
8 water fountain?
9 A. Yes, that is a water fountain. That is the same
10 water fountain that was there when the black students
11 went to school. It is a water fountain for adults,
12 therefore, we had to build this little platform here
13 for our little folks to step up on so they could get
14 a drink of water.
15 Q. Okay. Exhibit 230, tell me what that's a picture of.
16 A. That's our playground.
17 Q. It looks rather sparse to me, is your playground
18 rather sparse?
19 A. It is at this time.
20 Q. How does it compare to the playground that the
21 children in Alamo Heights had when you were there?
22 A. One cannot compare the two. We have had other things
23 out on the playground. We had a real nice
24 platform-type structure that the children climbed
25 upon and played upon. We kept it repaired for years,

1 but it finally got to the point where it was just
2 really unsafe for the children to be on. So instead
3 of making major repairs to it, it was torn down.
4 We also had an A-frame playhouse on our school
5 ground. It, too, became hazardous. Instead of
6 making the repairs, it, too, had to come down.
7 Q. Okay.
8 A. We also had a sandbox that was covered with a roof,
9 wire around the sandbox. It, too, was in need of
10 many repairs. We were not able to repair it because
11 of the lack of funds, so it had to be removed because
12 of safety.
13 Q. So, I take it that the lack of equipment, lack of
14 sandbox, lack of playhouses is because you don't have
15 the money to go out and get it?
16 A. That is correct.
17 Q. Let me show you Exhibit 232 and tell me what that is,
18 please, ma'am.
19 A. That is a picture of the ceilings in one of our
20 rooms.
21 Q. And it's obvious that it shows water leaking, water
22 damage.
23 A. Right, right.
24 Q. Is that an isolated type of event that we searched
25 out to find or how do you describe -- how frequently

1 does that occur?
2 A. No, we have several places like this within the
3 building. I do want to say that our district has
4 just completed repairing the roof, but we cannot do
5 the cosmetic repairs at this time because the
6 maintenance men are working on another project, so
7 we'll wait our turn.
8 Q. Exhibit 219, tell me what that is.
9 A. This is the girls' restroom in the building.
10 Q. And there's a sign on one of the stalls that says
11 "Teachers Only." How long is that -- first, to
12 establish that I didn't have you put that up there,
13 how long has that sign been up there?
14 A. Ever since I've been there. We do not have a
15 teachers' lounge. This serves as our teachers'
16 lounge, Mr. Gray.
17 Q. In Alamo Heights, I take it that you did have a
18 teachers' lounge?
19 A. A very nice lounge, couch, coffee pot, telephone, the
20 works.
21 Q. And this last picture I'm going to ask you some
22 questions about as we move more through your
23 testimony.
24 Your classroom --
25 A. Uh-huh.

1 Q. -- it has a telephone in it, does it not?
2 A. Yes, my classroom has a telephone.
3 Q. Do all of the classrooms in your school, or for that
4 matter, in the Rosebud-Lott School District have
5 telephones in them?
6 A. Oh, no. Mine is the only classroom with a telephone.
7 Q. Why does yours have a telephone in it?
8 A. There are times when the secretary is not in her
9 office. She performs many duties. And during these
10 times when she's out of the office, should the
11 telephone ring, I will take the call in the
12 classroom.
13 Q. And is that because you also serve as the principal
14 of the school?
15 A. That is correct.
16 Q. And when you take a telephone call or have to leave
17 your classroom duties and serve as -- assume some
18 principal duties, what happens to the children in
19 your classroom?
20 A. They're left unattended for a brief period of time
21 until I can get a teacher across the hall to possibly
22 look in or until I return.
23 Q. The facility that you operate in and that you teach
24 in, your school --
25 A. Uh-huh.

1 Q. -- are there other elementary schools in the
2 Rosebud-Lott District?
3 A. Yes, we have two others.
4 Q. And are the pictures that we've shown the Court and
5 that you've testified about, is your facility similar
6 to the other facilities or is yours much worse than
7 the others or how would you describe yours compared
8 to the others?
9 A. Until last year when we developed a plan to upgrade
10 our facilities, primary school was the best facility
11 in the district.
12 Q. And are you saying that up until last year, yours was
13 -- the pictures we've shown about, were the best that
14 the Rosebud-Lott District had to offer the children?
15 A. Yes, indeed.
16 Q. And I take it there's been some upgrading over the
17 last year?
18 A. Yes, yes.
19 Q. Has that helped or changed all of the schools or --
20 A. Oh no, we have to go slowly. The intermediate
21 school, which is also in Rosebud, received repairs
22 last year.
23 This year, the focus is on the elementary
24 campus at Lott. And if I'm lucky, we'll be the next
25 campus.

1 Q. Now, you've had the experience of teaching and
2 working both in a property wealthy district, the
3 Alamo Heights District, as well as a property poor
4 district, the Rosebud-Lott district. Describe for
5 me, if you will, the challenges or problems or how
6 was it different teaching in one versus the other or
7 is it different?
8 A. Oh, yes, it's very different.
9 In Alamo Heights, I had to think only about
10 instruction and what I needed to do for my second
11 grade boys and girls.
12 At primary school at Rosebud, I have many, many
13 things that I have to care for, the administrative
14 duties, the classroom duties, just countless number
15 of responsibilities. I am spread.
16 Q. Are the children that you're dealing with in the
17 Rosebud-Lott school, how do you compare them as far
18 as difficulty or ease to educate compared to the
19 children that you worked with in the Alamo Heights
20 district?
21 A. Well, the children in Rosebud require more intense
22 instruction. They have more needs, far more needs
23 than the boys and girls in Alamo Heights.
24 Q. Why do you say that they have far more needs?
25 A. This is because of our socioeconomic condition. It's

1 also because some of the parents, themselves, lack in
2 the area of education. They're very fine people, but
3 some of them cannot even help their children with
4 their homework. So, those children frequently come
5 to school without a background of information, which
6 is the most important thing that -- one of the more
7 important things that a child should bring to the
8 classroom with him to get him ready for the
9 academics.
10 Q. Describe for me, in the same general terms that you
11 did dealing with Alamo Heights, the kind of homes
12 that you find around your school in the Rosebud-Lott
13 area.
14 A. We have very small homes around the school. One or
15 two-bedroom frame houses. They are not
16 air-conditioned, just small stoves for the heat.
17 Most of them do not have garages.
18 Q. How do the kids generally get to school? Are they --
19 by that, I mean the kind of cars that their parents
20 drive compared to what the Alamo Heights had?
21 A. Most of the children -- many of the children who live
22 in Rosebud, itself, walk to school, Mr. Gray. Of
23 course, you know, the cars that many of our families
24 have in Rosebud are the less expensive cars; for the
25 families in Alamo Heights would have the finer

1 automobile.
2 Q. How do you compare the teaching aids, the extra
3 supplies other than the state-furnished textbook, the
4 audio/visual, any additional equipment or supplies
5 that you do or would use to enhance or further the
6 learning process, what is -- what was your -- well
7 first, I guess, did you need or use any of that type
8 of material when you were at Alamo Heights?
9 A. Yes, indeed.
10 Q. Okay.
11 A. I had anything that I requested.
12 Q. Did you ever have anything -- any needs or desires
13 for teaching materials or supplements that you could
14 not get in Alamo Heights?
15 A. No.
16 Q. How does that compare with your situation today at
17 Rosebud-Lott?
18 A. Well, we are limited. We are very proud of what we
19 have. However, our tools are just smaller in number
20 than what we had in Alamo Heights in San Antonio.
21 Q. How do you, for example, go about, if there is a
22 handout that a teacher thinks is necessary or
23 important or a teaching aid or something to
24 supplement the education, how do you go about getting
25 it today in Rosebud-Lott?

1 A. First, I go through the proper channels and I find
2 out if we have money available in the instructional
3 supply account. If we do, that's where we go first
4 of all.
5 Q. Is the instructional supply account, is it able to
6 fulfill the needs of the teachers and the students in
7 the Rosebud-Lott area?
8 A. Sir, it supplies us with many, many, many aids, but
9 we don't have everything we need.
10 Q. The things that you can't get from the supply fund,
11 how do you go about getting those? What's your next
12 step?
13 A. Well, we have a little activity fund at the primary
14 school.
15 Q. Pick up that last picture and tell me what the number
16 on it is.
17 A. 225.
18 Q. It's a picture of a freezer with "Bluebell Ice Cream"
19 on it.
20 A. Right, the very best.
21 Q. Tell us what that is and what relation that has with
22 your activity fund?
23 A. We sell ice cream to the boys and girls if they would
24 like ice cream in the afternoon. Funds generated
25 from the sale of this ice cream are then used for

1 special things that we want and that we feel like
2 would benefit the boys and girls in their education
3 process that we cannot get any other way.
4 Q. And are the funds in that ice cream fund, are they
5 unlimited or are they ample to get the stuff that you
6 need?
7 A. Oh, no, it's a very limited amount of funds.
8 Q. If there are things that a teacher thinks is
9 necessary and needed, are they always able to get
10 them, either from the teachers' supply fund at the
11 district or the ice cream fund?
12 A. No, many times they desire things that cannot be
13 purchased either of those ways.
14 Q. And where do they then turn? Where is the source of
15 the supplies that are then used for the kids?
16 A. We have a very dedicated staff. They're there
17 because they love the boys and girls and they want to
18 do the very best job possible. Most all of our
19 professionals use funds from their own purse to
20 purchase supplies for their classes.
21 Q. Do teachers dig into their own pockets to buy
22 supplies for their kids on an infrequent basis and is
23 this just a rarity?
24 A. No, no, this is very often.
25 Q. What about classroom improvements or classroom

1 changes? For example, the wallpaper on the cardboard
2 that was to keep the cold wind from blowing in and
3 the little divider that was built to separate the two
4 classes when you had to have two classes going on in
5 the same room, how does that take place?
6 A. Well, the teacher bought the wallpaper from her own
7 funds to cover the tri-wall. We did have the other
8 supplies for the divider between the two remedial
9 classes.
10 Q. What about supply, storage space and decorations on
11 the bulletin board -- or bulletin boards, for that
12 matter, where do they come from in your school?
13 A. Our school has done a fine job of supplying us with a
14 limited amount. However, when you work with little
15 people, you like to have lots of bulletin boards.
16 Therefore, we have teachers who go out and have
17 bulletin boards made and they pay for them from their
18 own pockets.
19 Q. You've drawn both on your experience in Alamo Heights
20 and your experience at Rosebud, do you have an
21 opinion as to whether or not financial resources, the
22 ability to go out and buy or secure needed supplies
23 makes a difference in the educational opportunity
24 that can be provided children?
25 A. Oh, yes, it does make a difference.

1 Q. And share with us a little bit about why you think
2 that.
3 A. Well, if you have limited supplies, then you're --
4 the activities that you pursue will be limited. The
5 more one has, the more concepts they can embrace.
6 Q. Do you have an opinion as to whether or not -- first,
7 you're the same Nelda Jones that taught in Alamo
8 Heights that's teaching in Rosebud-Lott, correct?
9 A. Correct.
10 Q. Are you any better or any worse a teacher today
11 versus when you were teaching in Alamo Heights?
12 A. I would like to think I'm much better today.
13 Q. Are you providing the kids that you are teaching in
14 Rosebud-Lott with the same quality of education that
15 you provided the kids that you taught in Alamo
16 Heights?
17 A. No, because the children do not come to me with the
18 same type of background. That basic background of
19 information is so different.
20 Q. Are you able to do the same job of educating and
21 teaching and providing learning tools to the children
22 in Rosebud-Lott that you were able to provide in
23 Alamo Heights?
24 A. No, it's a tremendous task to try to make up for five
25 years of experiences that a lot of our children have

1 not had. They are so important to the learning
2 process.
3 Q. I assume you have the opinion that education is
4 important for all children?
5 A. It is, indeed.
6 Q. Do you have an opinion as to the relative importance
7 of education or the relative importance of the school
8 to children who come from depressed areas, like
9 Rosebud-Lott, compared to children that come from
10 more effluent areas, like the Alamo Heights district
11 that you taught?
12 A. Yes, I do.
13 Q. And what is that opinion and why?
14 A. The school is much more important in a socioeconomic
15 depressed area than it is in an effluent area. In
16 the effluent area, the parents will see to it that
17 their children will have what's necessary to get
18 ahead in life. In our area, the parents are not able
19 to do that, so the school has to step in and fill in
20 those gaps.
21 Q. If the children in the Rosebud-Lott -- if the
22 children go to your school, if they don't get
23 motivated to pursue higher pursuits in life, to seek
24 higher education, to try to better themselves from
25 the school, are they going to get it at home?

1 A. Some of them will not get it at home.
2 Q. And in the Alamo Heights setting, do you view that
3 the role of the school in motivating children to
4 improve their lot in life or gain higher education,
5 things of that sort, does it have the same importance
6 in that district as it has in Rosebud-Lott?
7 A. No.
8 Q. Do you have an opinion on facilities? Does the
9 condition of the educational facility make any
10 difference?
11 A. Oh, yes, it does, indeed.
12 Q. And why does it make a difference?
13 A. When one walks into a beautiful structure, they just
14 feel important, the self esteem goes up, it makes for
15 a happier situation altogether.
16 Q. Are you, as a teacher, are you able to -- does the
17 kind of facility in which you're working and teaching
18 in, does it make any difference in your attitude or
19 your ability to communicate and teach?
20 A. Yes, it does.
21 Q. All right. And is that based on your firsthand
22 experience of having been in both?
23 A. Yes, sir, that is correct.
24 Q. And as far as the child is concerned, do you have an
25 opinion as -- for example, the room in which the wind

1 was blowing through and the teacher had to put up the
2 cardboard to stop the wind, does the comfort level of
3 a room -- that may be a poor choice of words, but
4 when a room is particularly cold or particularly hot,
5 for example, do you find that the children are able
6 to concentrate and learn as well as they are in a
7 normal setting?
8 A. They are not.
9 Q. During your years in Alamo Heights, did you ever have
10 any difficulties in having to cover windows to keep
11 the cold air from blowing in or anything like that?
12 A. Oh no.
13 Q. Do you think that -- and I know you're proud and I
14 know your district is doing the best it can.
15 A. Yes, we're very proud of what we are able to do.
16 Q. Are the children in the Rosebud-Lott district that
17 you're teaching and you're familiar with, are they
18 getting the same level of education that the children
19 got when you taught in Alamo Heights?
20 A. No, they are not.
21 Q. Are they getting anywhere close to the same
22 educational opportunities?
23 A. I do not think they are.
24 Q. You've had the -- I assume you've had ups and downs,
25 as most of the people would have in a career of 26

1 years in any one profession.
2 A. Yes.
3 Q. In your profession now, are you in an up period or a
4 down period or are you just in a normal period?
5 A. I'm currently finding myself in a very down period,
6 Mr. Gray.
7 Q. And why is that?
8 A. My responsibilities are so numerous as an
9 administrator and then as a full-time teacher, I am
10 pulled in 40 directions 24 hours a day. And I feel
11 as though the world is closing in on me.
12 Q. There are two other elementary schools, is that
13 correct --
14 A. Yes.
15 Q. -- in your district?
16 A. Yes, that is correct, uh-huh.
17 Q. Do each of those schools have full-time principals?
18 A. No.
19 Q. Are the principals in each of those schools laboring
20 under the same lot in life, so to speak, as you are
21 as far as having to do teaching duties and
22 principaling duties simultaneously?
23 A. Not exactly. They don't teach all day long as I have
24 to. They teach half a day, I believe it is.
25 Q. So the principals in those schools are doing

1 principal duties all day and only teaching half of
2 the day?
3 A. Right.
4 Q. So I guess you've got the worse lot of all?
5 A. It sounds like it.
6 Q. In your opinion --
7 A. Uh-huh.
8 Q. -- if the Rosebud-Lott district was able to have
9 additional funds that would bring it up just, for
10 example, to the state average, would those funds be
11 able to be utilized to enhance the educational
12 opportunity that are provided to the children that go
13 to school there?
14 A. Yes, they would, Mr. Gray. I would have, first of
15 all, a music teacher. I would have a school nurse, I
16 would have a counselor, I would have a librarian, and
17 I would have a full-time secretary.
18 Q. Why do you think a counselor is important? Why would
19 you have a counselor?
20 A. Well, a counselor helps the little folks with their
21 adjusting to the academic world; a counselor also
22 helps the family.
23 Q. And you mentioned you would have a librarian?
24 A. Right.
25 Q. Why -- I mean, it may be obvious, but why would you

1 have a librarian?
2 A. That is the heartbeat of the entire educational
3 process, the library.
4 Q. And I believe you also said you would have a nurse?
5 A. Yes, I would have a nurse.
6 Q. And you said you would have a music teacher?
7 A. Yes.
8 Q. And none of those are currently available?
9 A. That is correct.
10 Q. Do the other elementary schools have any of those?
11 A. No, they do not.
12 Q. Thank you, Mrs. Jones.
13 MR. GRAY: I'll pass the witness, Your
14 Honor.
15 MR. ROOS: No questions.
16 CROSS EXAMINATION
17 BY MR. O'HANLON:
18 Q. Mrs. Jones, did you hear Dr. Sybert testify?
19 A. Yes, sir.
20 Q. Would you like a school like he's got in his
21 district, one that looks like Exhibit 8, or one that
22 looks like Exhibit 7?
23 A. They are nice.
24 Q. Do you know that your district is 116 percent more
25 wealthy than Dr. Sybert's district?

1 A. Sir, I don't know anything about the numbers in my
2 school district.
3 Q. Did you --
4 A. My time is spent in the classroom.
5 Q. Did you ever go to the board of trustees in your
6 district and say, "Why is it that we've got these
7 kinds of facilities?"
8 A. I go to my superintendent, and then he goes to the
9 board of trustees.
10 Q. But do you live in the community?
11 A. Yes, I do.
12 Q. And you pay taxes?
13 A. Yes, I do.
14 Q. And I assume you vote for the board of trustees?
15 A. Yes, I do.
16 Q. Have you ever gone to them and said, "Why, as a
17 citizen and a taxpayer in this community, have you
18 let our schools get in this kind of shape?"
19 A. We work on it almost every month.
20 Q. You work on what?
21 A. Talking with our leaders, planning, what have you.
22 Q. Did you ever ask them why you let our schools get in
23 this kind of shape? As a politician, as elected
24 officials, don't you hold them responsible for
25 letting those kinds of conditions exist?

1 A. And then we'll elect another board of trustees.
2 Q. Well, have you done that?
3 A. Yes.
4 Q. Have you thrown them all out?
5 A. Yes, yes, we've had many changes.
6 MR. GRAY: Your Honor, we'll be happy to
7 stipulate that they tax above the state average and
8 are able to spend under the state average. I would
9 suspect that's where he's going. It's obvious out of
10 Bench Marks, they tax high and spend low.
11 MR. O'HANLON: We'll get into that. If Mr.
12 Gray wants to testify, we can put him on the witness
13 stand next.
14 BY MR. O'HANLON:
15 Q. Speaking of Bench Marks, did you know that your
16 district's operating fund balance in 1983, before
17 House Bill 72, was $172.23 per student for a total of
18 $148,290.00? That's what you had in the bank.
19 A. I did not know that.
20 Q. Did you know that on August 31, 1986, that your
21 operating fund balance was $679.17 for a total of
22 $572,540.31?
23 A. I did not know that.
24 Q. Now that you know that, wouldn't you be inclined to
25 go to that board of trustees and say, "Shame on you

1 people for putting in the bank $425,000.00 and
2 letting the school buildings in our district get into
3 the shape that they're in"?
4 A. No, sir. We have to have a nest egg in the bank.
5 Q. And so you would rather have the nest egg in the bank
6 than a warm classroom?
7 A. Sir, we have to have a nest egg in the bank, because
8 we have to buy school buses as they break down,
9 teacher raises are required by the state, even though
10 they don't furnish the funds. We have to have monies
11 in the bank for emergency situations, just as we had
12 an emergency situation a couple of weeks ago. Our
13 cafeteria at the Lott campus burned down. Every one
14 needs a nest egg.
15 Q. You don't have insurance for that?
16 A. I'm sure it was like most every other place that I
17 know about, never enough.
18 Q. Why was your nest egg only need to be $172.00 in
19 1983, and it needs to be $500.00 more than that in
20 1986?
21 A. Because of those items that I just mentioned.
22 Q. What items, that your cafeteria is going to burn
23 down?
24 A. No, for emergencies, sir, for the purchase of
25 additional school buses, for --

1 Q. Well, let me ask you about school buses. Now, your
2 average daily attendance in your district during that
3 time actually declined by about ten students, didn't
4 it?
5 A. I don't know.
6 Q. Well, let's look it up. Do you know what your
7 average daily attendance was in 1985 and '86?
8 A. No, I do not know.
9 Q. I'm showing you now what's been marked as Exhibit
10 205, and it says there that your average daily
11 attendance in your whole district was 843 kids in
12 '84-'85. Does that sound about right?
13 A. It must be.
14 THE COURT: Say that again, please.
15 MR. O'HANLON: 843.
16 Q. Now, before I get off of that, are these kids rather
17 evenly spaced out through the grades?
18 A. I don't know.
19 Q. Well --
20 A. I know I have 166 on my campus.
21 Q. Uh-huh. Did you hear any of the testimony -- so
22 you've got, with all the -- how many schools do you
23 have in your district?
24 A. Four.
25 Q. You've got three grade schools and one high school?

1 A. Yes.
2 Q. Do you think maybe it's a little bit inefficient
3 running three grade schools?
4 A. That is because we are a consolidated school
5 district. We are consolidated with the little town
6 of Lott. And Lott had their facility in their
7 community, we had two facilities in our community and
8 then we met half-way and built a building for the
9 high school -- well, it houses 7 through 12.
10 Q. Why didn't you shut one down?
11 A. The buildings were not large enough for the children.
12 We had to use them all. It is expensive to have to
13 operate that way. Some school districts have one
14 cafeteria for 843 people. Because of the location of
15 our facilities, we have to have four cafeterias.
16 Q. Or more buses?
17 A. More buses.
18 Q. You could run a single facility for that district,
19 couldn't you? Couldn't you?
20 Q. You heard Dr. Sybert testify that he put 1,000 people
21 in a single school because it was economically
22 efficient to do so.
23 A. But we use the existing facilities.
24 Q. And did you hear Dr. Sybert testify that on a county
25 that has 84 -- in a school district that has 84

1 percent of the wealth of your district, that he
2 essentially rebuilt his entire physical plant for his
3 school district, he built all kinds of elementary
4 schools, and it still only required a 50 cent tax
5 rate? Did you hear him talk about that?
6 MR. GRAY: He's talking about a 50 cent tax
7 rate on buildings only. They had a 95 cent tax rate.
8 BY MR. O'HANLON:
9 Q. That's right, on insurance -- I mean, interest and
10 sinking fund.
11 A. Yes.
12 Q. Are you going to take that information back to your
13 district and say, "We can do this, too"?
14 A. We have a very knowledgeable superintendent and a
15 very knowledgeable school board. They take care of
16 all of those things. I try to take care of teaching
17 my third grade class and I try to take care of the
18 primary school.
19 Q. But if you're in charge of the school, how can you
20 let them get away with leaving those kinds of
21 conditions that are out there with this kind of
22 balance in the bank and the ability your district
23 has, listening to Dr. Sybert, to do something about
24 it?
25 A. They're working on our facilities, sir.

1 Q. What are they doing?
2 A. Well, I just got a new roof the other day. The
3 building that received attention last year had to
4 have new carpet, had new walls placed in several
5 places. I'm really not too sure of what all took
6 place because I seldom enter that facility, but I do
7 know that they did work on that building extensively
8 last year.
9 Q. And you haven't gone back and said, "With the money
10 that we've got, why isn't my school getting taken
11 care of?"
12 A. My school will be taken care of. I'm on the list for
13 next year.
14 Q. And you're content to wait that long?
15 A. I will wait my turn. We're doing the best we can in
16 our given situation.
17 Q. You can't spend any of this money up here?
18 A. I don't really know anything about those types of
19 funds.
20 Q. Is it just something that the superintendent doesn't
21 talk about?
22 A. I don't talk with him about that very much.
23 Q. You don't talk to him --
24 A. I talk with him about instructional strategies in the
25 curriculum and things like that. That's his

1 category, that's not my category.
2 Q. Even though you told Mr. Gray that these facilities
3 that impair the instructional situation in your
4 school, but you don't talk to your superintendent
5 about it?
6 A. My superintendent is going to take care of me.
7 Q. Would you look at 205 with me for a second.
8 Now, you said you consolidated Rosebud and
9 Lott, when did you do that?
10 A. I was not living there at the time. I don't recall
11 the date.
12 Q. Okay. How many school kids are there in Falls
13 County? Well, let's -- if you'll -- and I'll refer
14 you to this column here in a minute. I want to draw
15 a little map of Falls County.
16 Now Falls County is rectangular in a kind of
17 rectangle on its side, isn't it?
18 A. Yes, I think so.
19 Q. Is that a fair approximation of it?
20 A. (Witness nodded head to the affirmative.)
21 Q. Okay. Now, where is Rosebud and where is Lott?
22 A. Rosebud would be the -- oh gee, the corner, the
23 bottom corner, go up somewhat, about a third. No,
24 up more, over to the right some, probably -- well,
25 to the left a little, probably about right there

(indicating).
Q. And that's Rosebud?
A. Now, I'm not a map expert.
Q. Now, where is Lott?
A. Straight up the highway, ten miles.
Q. Straight (indicating)?
A. Uh-huh.
Q. Straight (indicating).
A. That would be okay.
Q. Now, how much of this county does that district cover?
A. Several acres, but I don't know.
Q. Do you know like, for example, whether it covers all the way to the county line in this corner or something like that?
A. I'm not for sure. I think so, but I'm not sure.
Q. Okay. Do you know where the -- could you read me the list of the other districts in Falls County?
A. Okay. In Falls County, the other districts are Westphalia, Chilton, Marlin, Rosebud-Lott.
Q. Chilton and Marlin, right?
A. Right.
Q. Do you know where is Westphalia?
A. It will be out to the left of Lott, out, yes, in that direction.

1 Q. Where is Chilton?
2 A. Chilton, it will be up to the -- up above Lott
3 somewhat to the right, I guess. Yeah, oh, that's a
4 good spot.
5 Q. Okay. Where is Marlin?
6 A. It's over on the other side of the Brazos River, more
7 -- oh, that will be a good place for Marlin.
8 Q. And how many students in the Westphalia School
9 District?
10 A. 158.
11 Q. How many children --
12 A. No, no, I'm sorry, I gave you the wrong information.
13 66.
14 Q. How many children?
15 A. 295.
16 Q. And how many in Marlin?
17 A. 1,628.
18 Q. And what was it in your district?
19 A. 843.
20 Q. Would you believe me if I told you that that whole
21 county, the student population amounted to 2,832?
22 A. I suppose.
23 Q. Okay. Now, I'm going to ask you this question two
24 ways, both as a taxpayer and as a teacher.
25 As a citizen of Falls County and a taxpayer,

1 would you vote to consolidate all of these districts
2 into a single entity to get -- take advantage of the
3 economies of scale and to provide a better program
4 for your kids?
5 MR. GRAY: You're assuming that there would
6 be economies of scale. And I assume you're assuming
7 the other areas are not poorer than hers, which they
8 are.
9 MR. O'HANLON: They're all about the same
10 amount, not much variation in wealth in that county.
11 A. I don't really think I have enough information on
12 which to make such a determination.
13 Q. What information would you need?
14 A. Well, I would want to know a lot of things about what
15 would take place.
16 Q. Like what?
17 A. Such as a plan, all of the technical aspects of a
18 consolidation program such as that.
19 Q. Like what?
20 A. Where it would be located, how the boys and girls
21 would get there, the types of programs that -- the
22 types of courses the boys and girls would have, the
23 cost of new buildings that would be required for such
24 an activity. There are a lot of things that I would
25 need to know before I would say whether I would vote

1 for it or against it.
2 Q. When you were in Alamo Heights, did you ever run a
3 school that had a hundred kids in it?
4 A. No, I was only a second grade teacher in Alamo
5 Heights.
6 Q. Were there any schools in Alamo Heights that had as
7 few as a hundred students in it?
8 A. In 1955, when I taught in Alamo Heights, Howard
9 Elementary School, which is located 7800 Broadway,
10 our school was about the same size as my primary
11 school right now.
12 Q. Okay. Do you think if you had a bigger school that
13 you might be able to afford a secretary, that you
14 could spread the secretary around more people?
15 A. It's a possibility.
16 Q. And if I told you that if you had a bigger school,
17 that you might be able to afford a counselor, and you
18 might be able to afford a music teacher --
19 A. Alamo Heights had all of those things --
20 Q. Uh-huh.
21 A. -- with a small setting.
22 Q. Uh-huh. Would you start to think maybe it's a good
23 idea?
24 A. I haven't evaluated that.
25 Q. Okay. Now, I'm asking you as a taxpayer, that if you

1 you could, as a taxpayer, that you could go ahead and
2 build a new school or a new set of schools, and let's
3 assume right in the middle of the county -- that
4 wouldn't be too much of a great imposition on anybody
5 except Westphalia, and they've only got 66 students --
6 what about then? And then if you had that school,
7 you could provide a counselor, and you could provide
8 a music teacher?
9 A. It might possibly be okay, but there might also be
10 problems.
11 Q. What kind of problems?
12 A. Oh, gee, when you start moving a school away from a
13 community, sometimes the citizens don't go along with
14 that. It would depend upon how many miles the little
15 tikes would have to ride the bus. There are many
16 things to consider.
17 Q. Okay. Now, let's assume that that issue came up for
18 consideration. And let's assume that we have two
19 potential decision-makers, the citizens of Falls
20 County, speaking through an election, or the
21 Legislature meeting down here in Austin, only one of
22 which representative represents Falls County. Who
23 would you rather have make that decision, the
24 citizens of Falls County or the Legislature?
25 A. The citizens of Falls County.

1 Q. Okay. And if I had told you that the statutes in the
2 State of Texas provides for the citizens to make that
3 very determination, would you consider?
4 A. Possibly.
5 Q. And do you think that the citizens of Falls County
6 are in a better position to decide whether or not
7 they want higher efficiencies at the cost of greater
8 travel or the Legislature, you would agree with me
9 that it would be the citizens?
10 A. Right.
11 Q. Are you particularly nervous about submitting that
12 kind of decisions to the voters of Falls County?
13 A. No.
14 Q. You think they would make the right decision?
15 A. Yes.
16 Q. Do you know that your district got about a $900.00
17 increase in state aid as a result of House Bill 72
18 per student?
19 A. No.
20 Q. Did you notice any increases happening after 1984
21 in --
22 A. Well, certainly. We had -- the staff is now larger
23 at primary school because we have smaller classes.
24 Q. Okay. So you're able to hire more staff?
25 A. Right.

1 Q. And you are able to increase salaries?
2 A. Yes, there was an increase built in, I believe.
3 Q. Okay. Did you spend any -- was there any increase or
4 any effort that you noticed after 1984 to fix up some
5 of those conditions that existed there?
6 A. Yes, sir. It was not until last year that plans were
7 made to improve our facilities. Up until that point,
8 we would put a band-aid or a safety pin on something
9 and go on.
10 Q. So you've got plans to fix those conditions that
11 you've pointed out in your school that don't concern
12 you because plans are already made to take care of
13 all of that?
14 A. They will be cared for in time.
15 Q. Okay. So if we were to sit down and have this
16 conversation, say, six months from now or a year --
17 six months from now, that they would be fixed?
18 A. No, they will not be fixed six months from now.
19 Q. How about a year from now?
20 A. I doubt it.
21 Q. How about two years from now?
22 A. Possibly, yes.
23 Q. Why that long?
24 A. Because we have a set of priorities and there are
25 other facilities that have greater needs than what

1 our facility does.
2 Q. Do you know that your district can issue general
3 obligation bonds to pay for these kinds of facilities
4 improvements?
5 A. Our superintendent takes care of all of those things.
6 I'm a third grade teacher.
7 Q. Did you know that your I&S tax rate is 12 cents per
8 hundred dollar evaluation?
9 A. No.
10 Q. Would you, as a citizen of Falls County, be willing
11 to raise your taxes to improve those facilities?
12 A. We live in a very poor area. Falls County is the
13 poverty part of Texas. Our people cannot take more
14 taxes. It is a farming and ranching area, and you
15 know how that business has gone lately.
16 Q. What do you say to Dr. Sybert's people, who have even
17 less than you, that have gone ahead and made that
18 sacrifice and have done that and have built
19 facilities?
20 A. I don't think our people would want to be in debt
21 like that.
22 Q. So, your people are simply unwilling to make the
23 sacrifices that the people out in the Socorro
24 Independent School District are willing to make for
25 their kids?

1 A. We'll take turns and care for ours in that manner.
2 Q. Okay. Would you rather have a situation if it was
3 like that or would you rather have a situation in
4 which somebody was telling you what you had to do?
5 A. I would rather decide.
6 Q. You would rather have the option for the citizens in
7 Falls County to make a decision on how much money
8 they want to spend?
9 A. Right.
10 MR. O'HANLON: That's all I've got.
11 THE COURT: Well, you're right. It's break
12 time. We'll get started up again at five till.
13 (Afternoon break.)
14 THE COURT: All right, sir.
15 CROSS EXAMINATION
16 BY MR. TURNER:
17 Q. Mrs. Jones, I'm Jim Turner and I represent a group of
18 school districts who have intervened in this lawsuit
19 as Defendants. And I have a few questions that I
20 would like to ask you.
21 I was curious what brought you from Alamo
22 Heights to the school district Rosebud-Lott.
23 A. That's a good question. My family lives in Rosebud.
24 My roots are there. My husband has an office in
25 Waco, it's not that far, so he commutes. So that's

1 roots, family, love of the people, that's where I was
2 born, that's where I belong.
3 Q. Mrs. Jones, you're not related or acquainted with
4 Troy Jones over in Groesbeck, are you?
5 A. No.
6 Q. I guess you're not too far from Waco?
7 A. About 35 miles.
8 Q. I was looking at the results of the TEAMS scores --
9 A. Yes, sir.
10 Q. -- in your school district. And I must commend you.
11 I notice that the TEAMS scores in the early grades in
12 your school district are above the state average.
13 You're aware of that, I suppose?
14 A. Yes, sir, we're very proud of that.
15 Q. I was wondering if you could share with us what you
16 think accounts for your performance in that regard
17 because I don't know if you were in the courtroom,
18 but a little earlier, Dr. Sybert was talking about
19 his district and things that he's doing and they have
20 a much more difficult problem scoring up to the state
21 average.
22 A. Uh-huh.
23 Q. But you seem to be doing that and a little better.
24 A. Yes.
25 Q. What accounts for your ability to do that?

1 A. We are very proud of the results of TEAMS scores. I
2 do want you to know, please be aware that this is a
3 very limited picture of the educational process.
4 These are minimum basic skills. We are proud of what
5 we scored, but that does not paint the complete
6 picture by any means.
7 We were able to achieve those scores, however,
8 by hard work on a really super fine staff. The group
9 of teachers that work at Rosebud primary school are
10 very devoted people. They are the very best
11 professionals that could be found anywhere. They
12 give liberally of their time, their energies and
13 their resources.
14 Q. And I notice they do that in spite of the fact that
15 the average teachers' salary at Rosebud-Lott is about
16 -- at least $3,500.00 or maybe $3,700.00 less than
17 the statewide average of teachers salaries.
18 A. Yes, yes. They, too, are there, by and large,
19 because their roots are there. Most all of them have
20 husbands who are in business and that's home for
21 them.
22 Q. I've noted over the years in my experience in
23 visiting smaller schools that often times you find
24 that characteristic in a more rural, small-school
25 environment --

1 A. Uh-huh.
2 Q. -- where you have teachers that have been there a
3 while and have a great deal of concern about the
4 welfare of the children.
5 A. Right.
6 Q. And I take it that's the kind of atmosphere you have
7 there?
8 A. That is. Our staff knows the grandparents, the
9 mothers, the aunts, the cousins. We know a lot about
10 the family. We work with the family. We care.
11 There is a great loving care on our part.
12 Q. Mrs. Jones, you mentioned that your school district
13 has a master plan, and I assume by that, we're
14 talking about a master plan for construction or a
15 master plan for educational goals or what type were
16 you referring to?
17 A. Both.
18 Q. Could you describe for us the master plan for
19 construction?
20 A. The superintendent is in charge of that. I'm not
21 aware of all of the things involved there. It is all
22 I can do to teach third grade full-time every day and
23 be the principal of primary school.
24 Q. There are, I take it, some plans for building some
25 other buildings that's a part of this master plan

1 that you referred to?
2 A. I'm not for sure what all is involved. I think at
3 this point, however, the main focus is on maintenance
4 and uplifting and restoring our present facilities.
5 Q. You may have mentioned this, but the building that
6 you are in that you're principal of and third grade
7 teacher in obviously must be an older building.
8 A. Yes.
9 Q. You may have said how old it was, I didn't --
10 A. I don't really know how old it is. It's older than
11 20 years.
12 Q. And I'm sure you've told us and I've missed it, how
13 many grades are in this building?
14 A. We house kindergarten through third grade.
15 Q. And I believe you said there are two other elementary
16 schools within the district?
17 A. Right, that is correct.
18 Q. And where are they both located?
19 A. Okay. The other school located in Rosebud is called
20 the intermediate school. It houses grades four, five
21 and six.
22 And then there is an elementary school located
23 in Lott. It houses pre-school through sixth grade.
24 And then at Travis, which is half-way between
25 Rosebud and Lott, we have our junior high/high school

1 facility.
2 Q. The school that you mentioned that's at Lott --
3 A. Yes, sir.
4 Q. -- what kind of facility is that?
5 A. I would hate to say. I've not been in that facility.
6 I'm sure it's been three or four years since I've
7 been in their facility. I would hate to comment.
8 Q. Do you recall if it's a new building or an old
9 building?
10 A. Oh, no. Part of it is relatively new and then they
11 use part of the -- what was the old Lott High School,
12 the building that was there before consolidation.
13 They're using the whole high school as a part of
14 their facility.
15 Q. All right. And the school that you mentioned, this
16 intermediate school --
17 A. Yes.
18 Q. -- what kind of building is it?
19 A. It's one about like my building, probably just about
20 the same age.
21 Q. And the Travis school, the school at Travis, the
22 junior high/high school that came about as a result
23 of the consolidation --
24 A. Yes.
25 Q. -- how old is that building?

1 A. Probably about -- between -- probably about 15 years
2 old.
3 Q. I notice that your district does have a certain
4 amount of debt, so they must be paying off some bonds
5 for the construction of something. Do you recall
6 which buildings were financed that you're still
7 paying the bonds on?
8 A. Probably the one at Travis.
9 Q. After the consolidation, built after the
10 consolidation?
11 A. Probably. I really don't know. This is not in my
12 area.
13 Q. Do you know, Mrs. Jones, approximately how many
14 students are at each of these campuses?
15 A. I have 166 as of last Friday at the primary school.
16 The intermediate school has approximately 109. The
17 elementary school at Lott has probably a hundred --
18 between a 145 and 150. And then the rest would be at
19 the Travis facility.
20 Q. All right. So that would leave about maybe 400 or a
21 little more that are in the junior high/high school?
22 A. Probably.
23 Q. I was looking at some data that is compiled by the
24 Texas Education Agency that shows your pupil/teacher
25 ratio.

1 A. Uh-huh.
2 Q. And I noticed that in the all-grades calculation of
3 that, that your pupils-to-teacher ratio is 13.6-to-1,
4 which is well below the state average in terms of the
5 ratios of pupils-to-teacher. Does that ratio sound
6 familiar to you?
7 A. No, it does not. I do not have that ratio at primary
8 school.
9 Q. You do not recall what it is at your school?
10 A. No -- oh, it's about 22-to-1.
11 Q. Do you know perhaps which school in your system has
12 the much lower ratios that would cause that average
13 to be as low as it is?
14 A. No, I don't have those facts.
15 Q. Mrs. Jones, I believe you said that as a result of
16 House Bill 72, that you were able to add more staff
17 at your school?
18 A. Yes.
19 Q. Could you tell us how many teachers you added or how
20 many aids or staff members you were able to add?
21 A. Two.
22 Q. Teachers?
23 A. Uh-huh.
24 Q. And after those funds began to flow to your district,
25 are there any other things that you can recall that

1 your particular school received as a benefit from
2 those additional funds?
3 A. At this time, I cannot recall.
4 Q. Mrs. Jones, tell me a little bit about the school
5 board at Rosebud. If you can, who the members of the
6 board are and maybe something about their time of
7 service on the board and what their occupations are,
8 just some information about the make up of your
9 school board.
10 A. The president of the school board is a businessman in
11 our community. He has served on the school board --
12 I don't remember -- two or three terms. He was a
13 teacher, himself, before he woke up and realized that
14 he could make more money in the business world. So
15 he left the profession, but he understands a lot of
16 what goes on because he has been a member of the
17 teaching profession.
18 Q. And what kind of business is he in?
19 A. He has a drive-in grocery store, a laundry mat,
20 service station facility, car wash.
21 Q. Are these businesses that you mentioned located
22 within the district?
23 A. Yes, they are.
24 Q. Do you know if he is a landowner in the district?
25 A. I don't know.

1 Q. All right. And you say he's been president of the
2 board for --
3 A. This is his first time, I think, to be president of
4 the board.
5 Q. And he's been on the board for --
6 A. Two or three terms, but I'm not sure about that.
7 Q. Does your school board there in your district turn
8 over very often? Do you have many contested
9 elections or do most of the same people end up
10 serving for two terms?
11 A. Most of the people serve several terms.
12 Q. Do you have -- I take it, then, you don't have very
13 many hot elections or contested elections. I know in
14 some small districts, you never know if you have a
15 contested election until election day, and they have
16 a write-in campaign and replace the whole board, or
17 at least all of those that are up.
18 You don't have that kind of an atmosphere in
19 your district?
20 A. No.
21 Q. If you will, go ahead and tell me about the six other
22 members of the board.
23 A. One of them is a farmer, another one is a rancher,
24 one of them owns -- is a part-owner of the Western
25 Fair (Phon.) in Lott.

1 Q. What was that?
2 A. The Western Fair in Lott. This is cowboy boots, blue
3 jean type store.
4 Q. That's located in Rosebud?
5 A. No, that's in Lott.
6 Q. In Lott.
7 A. One of the school board members was -- he used to be
8 the maintenance manager at our school, but he left
9 and he has changed jobs two times since then, and
10 now, I'm not sure what he does at this point in time.
11 One is a lady who works at a bank. Is that about it?
12 Q. You must be missing one.
13 A. One.
14 Q. Maybe we'll think of it in a minute.
15 A. I don't recall right offhand.
16 Q. Let me ask you a little something about each of
17 these. You mentioned a board member that's a farmer
18 and one that's a rancher. These two gentlemen own
19 farms and ranches within the district?
20 A. Yes, they do.
21 Q. And the gentleman that owns the Western Fair, western
22 store, do you know if he owns any other property
23 within the district, any land or --
24 A. I don't know.
25 Q. And the gentleman whose the maintenance manager at

1 the school, do you know anything about whether he
2 owns property within the district?
3 A. I don't know.
4 Q. And the lady at the bank, do you know if she or her
5 husband are property owners within the district?
6 A. I do not know.
7 Q. Do you know which ones of these members have children
8 in school?
9 A. Yes. The president of the school board has two
10 children in school.
11 Q. And do you know what grades they are in?
12 A. I think fifth and then perhaps a junior in high
13 school.
14 The rancher has four children in school. He
15 has two in primary school, one at the intermediate
16 school, and then one in junior high school.
17 The farmer has two children in school.
18 The one who works or owns or something the
19 Western Fair at Lott has children in school. I'm not
20 for sure how many. Some of his have just graduated,
21 possibly just one left in the school district right
22 now.
23 The gentleman who was the maintenance man for
24 our school district does not have children in our
25 school.

1 Q. And the lady that works at the bank?
2 A. Yes, she has children in our school.
3 Q. And on this board, do you have members who come out
4 of that old Lott district and the old Rosebud
5 district as well?
6 A. Yes.
7 Q. Some from both?
8 A. Both places are represented, right.
9 Q. And I believe you said most of these people have
10 served on the board for several terms?
11 A. Yes, that is true.
12 Q. And I take it that the people in the community, by
13 and large, are satisfied with the way their school is
14 being managed and operated?
15 A. Evidently or they would do something else.
16 The other school board member is a pharmacist
17 and he, too, has a child in school.
18 Q. I believe you made reference to your superintendent
19 earlier.
20 A. Uh-huh.
21 Q. I believe you said you felt like you had a good
22 superintendent.
23 A. A very fine young man.
24 Q. What is your superintendent's name?
25 A. His name is Wayne Pierce.

1 Q. Pierce?
2 A. Yes.
3 Q. And how long has he been your superintendent?
4 A. This is his second year.
5 Q. And was he from around there?
6 A. He came to our school from San Saba.
7 Q. And who was your superintendent before Mr. Pierce
8 came?
9 A. John Billings.
10 Q. And how long did he serve as superintendent?
11 A. I don't really remember, three -- oh, about four
12 years, possibly.
13 Q. Has your present superintendent instituted any
14 changes in the operation of the district since he
15 took over from Mr. Billings?
16 A. Sir, this is a fine, hard-working young man. And I
17 can say without reservation that he has taken the
18 bull by the horns and has got the ball rolling. And
19 our school district is on its way because of his
20 efforts.
21 Q. And most people in the community seem to --
22 A. They agree.
23 Q. -- have a like view about your superintendent?
24 A. Yes, we're very fortunate.
25 Q. Mrs. Jones, do you recall if there have been any

1 discussions in the community -- and I know how rural
2 communities are and people usually know what
3 everybody is thinking about and talking about -- has
4 there been many discussions in the community about
5 upgrading your school and building a new elementary
6 school, making any major steps toward improving those
7 facilities?
8 A. I think the main focus has been on renovation and
9 repairs versus new buildings.
10 Q. Does that mean that your board and the community, in
11 general, seems pretty satisfied with those facilities
12 that you have?
13 A. Evidently.
14 Q. Mrs. Jones, do you know if up into the high school
15 level, you still have that same type of teacher that
16 you're fortunate to have down there in your
17 elementary level, the people that are close to the
18 community and close to the parents and the children
19 and really concerned about their education and their
20 future?
21 A. There are, indeed, some up there. We do have a lot
22 of new staff members, however.
23 Q. I don't know if you were in the courtroom when Mr.
24 Sybert was testifying, but he acknowledged that, I
25 believe, fewer than 10 percent of his high school

1 graduates go on to higher education.
2 And I noticed in this data from the Texas
3 Education Agency, that in your school district, I
4 believe you have about 50 -- the figure says 53
5 percent of your high school graduates plan to attend
6 college. Does that figure sound about right to you?
7 A. I really don't know. I hope it's correct. It sounds
8 good.
9 Q. I was looking at the data, Mrs. Jones, on the racial
10 makeup of your district and this information from
11 Texas Education Agency shows that there are 58.9
12 percent White, 20 percent Hispanic and 21 percent
13 Black in the district as a whole. Is that about the
14 same ratio that you have in your elementary school?
15 A. Probably, close.
16 Q. You mentioned, Mrs. Jones, that several of these
17 teachers that you work with, that I'm sure are, as
18 you say, a very fine and dedicated people, have done
19 a lot on their own just to help improve their
20 classroom environment and things like that. Do they
21 express a frustration with the superintendent or the
22 school board of the community for not changing these
23 facilities and making them better and building them a
24 nicer school?
25 A. No, I don't think I've heard one negative remark.

1 We're resourceful people. If there's a problem, we
2 do something about it, ourselves, and try to handle
3 the situation.
4 Q. All right. I know that you can visit many rural
5 areas like yours --
6 A. Uh-huh.
7 Q. -- and see schools very similar --
8 A. Uh-huh.
9 Q. -- to yours. And I've noted over the years, there is
10 that sense of satisfaction with the school to have.
11 And I've often wondered why the people, when they
12 drive through the big cities and see a nice school,
13 don't get dissatisfied with the one they have back
14 home. I wonder if you could shed any light on what
15 it is that causes people to have that kind of pride
16 in what some people might think was a little less
17 than standard facility?
18 A. I'm sorry, I have no insight into that.
19 Q. Mrs. Jones, we've mentioned earlier that the portion
20 of your current tax rate that goes toward interest
21 and sinking fund to pay off those outstanding bonds
22 that are there in your district is 12.9, almost 13
23 cents. And that figure -- let me be sure I'm right
24 here before I say this -- actually the figure I'm
25 looking at -- excuse me, I'm looking at the wrong

1 one. The figure I'm looking at in this book from the
2 Texas Education Agency says 12.2, so there must be
3 some discrepancy between the two data we have.
4 And it was mentioned earlier that Dr. Sybert
5 out in Socorro, that his people have financed all of
6 these buildings and are paying a much higher tax rate
7 or interest and sinking fund to have those buildings.
8 I take it from what -- your earlier remarks that the
9 reason you don't have a higher tax rate in that
10 interest and sinking fund categories is that because
11 basically the people, as you said, in your district,
12 are satisfied basically with the kind of facilities
13 they have and are intent on trying to just maintain
14 them and repair them rather than just starting over
15 with a new building. Is that a fair assessment of
16 the attitudes that are out there?
17 A. It possibly could be.
18 Q. You testified earlier, Mrs. Jones, about your feeling
19 that it would be nice to have some better facilities.
20 And you felt like the educational environment would
21 be enhanced. You know, is that feeling just one that
22 you hold that's not held commonly in the community
23 and that's the reason they haven't made and taken
24 some steps to try and improve the quality of their
25 facilities?

1 A. I haven't visited with anyone else about that.
2 Q. Thank you, Mrs. Jones.
3 MR. TURNER: I'll pass the witness, Your
4 Honor.
5 CROSS EXAMINATION
6 BY MR. R. LUNA:
7 Q. Mrs. Jones, my name is Robert E. Luna.
8 I would like to ask you, first of all, did I
9 understand you to say that even though you felt like
10 you had some serious problems in your classrooms, you
11 never talked to your superintendent about your
12 facilities problem?
13 A. No, sir. We talk about our facilities every time he
14 walks into the building, practically.
15 Q. All right. Then maybe I misunderstood you. I
16 thought I understood you to say that you talked to
17 your superintendent about instruction only.
18 A. Oh, I'm sorry. We talk about everything.
19 Q. So you do describe to him the problems that you say
20 you've got with various items in the building?
21 A. He comes down and he visits our buildings and he
22 knows firsthand.
23 Q. That's not my question, whether or not he knows.
24 My question is have you visited with him? Have
25 you told him about your personal complaints that

1 you're now telling the Judge about?
2 A. Yes, he's aware of all of them.
3 Q. No, that wasn't my question, not whether or not he
4 was aware of them.
5 My question was, have you personally visited
6 with your superintendent --
7 A. Yes, I have.
8 Q. -- about all of the things that you are discussing
9 here today?
10 A. Yes. And my building is on schedule to be repaired
11 next year.
12 Q. All right. Did I also understand your testimony to
13 be that you have never talked to your board of
14 trustees about these problems?
15 A. That is correct. That's the job of the
16 superintendent.
17 Q. Even though you know members of the board, and the
18 president of the board is a former teacher, you've
19 never addressed the board with any of these concerns?
20 A. Sir, I hold very strongly to the chain of command.
21 I'll go to my superintendent, and then he will go to
22 the school board members. If they come to me or if
23 they come to the facility, if they ask questions, I
24 will visit with them at that time.
25 Q. Well, I guess there's a little confusion on my part

1 about why, if you would not go to your board of
2 trustees, you would travel all the way to Austin to
3 get on the witness stand to testify under oath to
4 this Judge, when you wouldn't even go to your own
5 local board of trustees?
6 A. I have --
7 Q. How did you happen to be a witness in this case?
8 MR. GRAY: Your Honor, I believe it's
9 argumentative. If you want -- I contacted Mrs. Jones
10 and asked her to be a witness in this case. But I
11 would object on the grounds that he's arguing with
12 the witness.
13 THE COURT: Well, it's cross examination,
14 I'll allow the question. She may answer.
15 BY MR. R. LUNA:
16 Q. Your attorney has just answered for you, I believe,
17 that the reason that you're here is that he asked you
18 to come, is that right?
19 A. That is correct.
20 Q. How did you come to know Rick Gray, the Plaintiffs'
21 attorney?
22 A. Steve Martin called me.
23 Q. Who is Steve Martin?
24 A. Rick Gray's --
25 MR. GRAY: He's one of my associates, Your

1 Honor.
2 BY MR. R. LUNA:
3 Q. And how did you come to know him? In other words,
4 how did you make contact?
5 A. He called me.
6 Q. Do you know how he got your name?
7 A. No.
8 Q. Well, he didn't just pick you out of the phone book,
9 did he?
10 A. I wouldn't know.
11 Q. Have you ever, in any way, given your name or
12 anything else to the Plaintiffs?
13 A. I did not give my name to them.
14 Q. Well, when they called you the first time, what did
15 they tell you?
16 A. Well, they wanted to know about my career, my
17 background, where I had taught school and about the
18 facilities at Rosebud.
19 Q. Were you a little surprised to be getting a phone
20 call from someone --
21 A. I was.
22 Q. -- you didn't know?
23 A. I was, indeed, yes, very surprised.
24 Q. And after talking with them, did they ask you to come
25 and be a witness in this trial?

Yes, they did.

2 Q. To describe your building?

3 A. Yes.

4 Q. Did you tell them at that time that the building that
5 you were going to describe to the Court and bring
6 pictures of that were made a week and a half or two
7 weeks ago would all be corrected next year from funds
8 of 1972? Did you tell them that?

9 MR. GRAY: Your Honor, she's already
10 testified they won't be all corrected next year in
11 response to Mr. O'Hanlon's questions. I object on
12 the grounds that he's mischaracterizing the
13 testimony.

14 BY MR. R. LUNA:

15 Q. I believe you said you were on the priority list for
16 next year and it might be completed next year or the
17 year after.

18 A. My name is on the list; my number will come up.

19 Q. Did you tell the Plaintiffs' attorneys that, "Yes, I
20 have some problems, but I'm on the list, so it will
21 begin to be corrected next year"?

22 A. I don't recall.

23 Q. At any time up until your testimony today, have you
24 told them that all of the problems that you've
25 described to the Judge will be nonexistent after a

1 couple of years?
2 A. I don't know that that is a correct statement. There
3 could be some things that might possibly not be able
4 to be corrected.
5 Q. Well, my question is, did you tell the attorneys
6 that?
7 A. I don't recall.
8 Q. Well, the impression you have probably left with the
9 Court, except for the cross examination, would be
10 that you have certain problems in this district and,
11 in particular, in your classroom that would never be
12 corrected, but that's simply not the case, is it?
13 A. That could possibly be true.
14 Q. At the very least, it's something that you've never
15 discussed with your board of trustees?
16 A. No, sir, I have not gone to my board and discussed
17 the problems. I am a third grade teacher. The
18 superintendent takes care of those kinds of things.
19 Q. Now, you've mentioned several times that you've had a
20 very knowledgeable superintendent and you have a very
21 knowledgeable board of trustees. Did the Plaintiff
22 ask your superintendent to be here today?
23 A. I don't know.
24 Q. Is he here today?
25 MR. GRAY: Yes, Your Honor, he is. And

1 we've asked him to be here and he's under subpoena by
2 the Plaintiffs.
3 BY MR. R. LUNA:
4 Q. All right. Is your board of trustees here?
5 A. No.
6 MR. O'HANLON: By the Defendants.
7 MR. GRAY: Excuse me, by the Defendants.
8 BY MR. R. LUNA:
9 Q. Did I hear you incorrectly when you said that Alamo
10 Heights that you were comparing Rosebud to today was
11 the Alamo Heights of 1955?
12 A. Yes.
13 Q. So each time you described Alamo Heights, you were
14 talking of Alamo Heights as it was over 30 years ago?
15 A. That is correct. I had things there over 30 years
16 ago that I do not have in Rosebud-Lott in 1987.
17 Q. When you were there over 30 years ago, was there ever
18 any time when the superintendent or the district
19 needed additional money for any project?
20 A. I wasn't aware of any of that.
21 Q. Mrs. Jones, you have mentioned the same thing that we
22 have heard several times before and we're going to
23 hear many times after this from some of the finest
24 education experts in the world. And that is, that
25 the socioeconomic conditions around those students

1 and parents have an important bearing on whether or
2 not that student is going to do well in school, isn't
3 that correct?
4 A. It makes a difference, they do.
5 Q. The type of family support that a child has is a very
6 important factor in their motivation and in many of
7 the other factors that go into securing a good
8 education, would you agree with that?
9 A. Yes.
10 Q. And that's something the school simply has no control
11 over.
12 A. We can encourage parents.
13 Q. I understand you can encourage the parents, but you
14 don't have any control --
15 A. You're right.
16 Q. -- over the socioeconomic status of the parents?
17 A. You're right.
18 Q. You have also stated that the district has a set of
19 priorities --
20 A. Yes.
21 Q. -- and your repairs are prioritized for next year.
22 That's another phrase we've heard before. And don't
23 you think it's true that in each district across the
24 this state, everyone has a set of priorities in that
25 no district can have everything it wants immediately?

1 A. Yes.
2 Q. Were you here when one of the witnesses testified
3 that one idea might be to consolidate the taxing
4 jurisdictions around the state into perhaps 20 major
5 jurisdictions?
6 A. I was not here at that time.
7 Q. Well, in your region of the state, which is Region
8 12, let me ask you whether or not you would think it
9 would be a positive step forward to consolidate into
10 one taxing jurisdiction all of the taxing
11 jurisdictions, including your local school district,
12 in your county, into one district in Region 12, and
13 that
14 would include the consolidation of the following
15 counties: Bell, Bosque, Coryell, Falls, Freestone,
16 Hamilton, Hill, Lampasas, Limestone, McLennan, Mills
17 and Navarro.
18 Do you feel like that, as a taxpayer, that you
19 would have a more equitable tax if your tax were
20 being administered from a central location or rather
21 than central, a location somewhere in those 12
22 counties rather than in your local district?
23 A. I don't know, sir.
24 Q. At the very least, it would be less convenient for
25 you as a taxpayer to go before someone and complain

1 about your taxes, wouldn't it?
2 A. It could be.
3 Q. If state law required that on a tax roll-back
4 petition, you had to get 10 percent of the registered
5 voters to sign that petition, it would be much more
6 difficult for a taxpayer to protect himself, to get
7 10 percent of the votes of those 12 counties that I
8 just mentioned rather than of just your school
9 district. That would be much harder to do, wouldn't
10 it?
11 A. Yes, sir.
12 Q. Do you think a proposal like that, from your
13 perspective, would be good or bad?
14 A. I have no opinion.
15 Q. As a taxpayer, you have no opinion?
16 A. I have no opinion. I have not studied that.
17 Q. You have roughly a 59 percent Anglo population in
18 your district, and you heard Superintendent Sybert
19 talk about his 90 percent Hispanic population in his
20 district, didn't you?
21 A. Yes, sir.
22 Q. Your overall test scores on the TEAMS scores through
23 the 11th grade were about the same. Is there some
24 reason why your district isn't doing more with the
25 resources that you have?

1 A. I cannot speak for what's taking place at the higher
2 level. I teach third grade. I'm responsible for the
3 primary building. I don't know everything that's
4 happening at the higher level.
5 Q. You don't know what's going on in your high school?
6 A. I don't know about the program that you asked about.
7 Q. Thank you.
8 MR. R. LUNA: No further questions.
9 MR. GRAY: Nothing further, Your Honor.
10 MR. KAUFFMAN: Nothing.
11 MR. ROOS: Nothing, Your Honor.
12 THE COURT: You may step down now, ma'am.
13 MR. GRAY: I assume she can be excused?
14 THE COURT: All right. You may be excused.
15 Thank you, ma'am.
16 (Witness excused.)
17 MR. GRAY: Your Honor, we are ready to
18 proceed with our next witness. It will be Mr. Craig
19 Foster, who will be, if the Defendants and
20 Defendant-Intervenors follow true to form, he will be
21 at least as long as Dr. Hooker. He is a central
22 expert. We're prepared to start him now or whatever.
23 I have tried to get Dr. Hooker back today, but
24 could not reach him once when I talked to the defense
25 counsel. I'm going to try to get him back here one

1 afternoon about 4:00 o'clock. They've indicated to
2 me that they'll take no more than an hour, so we'll
3 try to get him in at the tail end of the day so we
4 don't have to break up the testimony any more than
5 necessary.
6 THE COURT: Okay.
7 MR. GRAY: But we're prepared to proceed
8 now or if you want to start him fresh tomorrow,
9 whatever is your pleasure.
10 THE COURT: Let's get the preliminaries
11 over with.
12 MR. GRAY: Your Honor, the Plaintiffs would
13 call Mr. Craig Foster.
14 MR. CRAIG FOSTER
15 was called as a witness, and after having been first duly
16 sworn, testified as follows, to-wit:
17 DIRECT EXAMINATION
18 BY MR. KAUFFMAN:
19 Q. Good afternoon, Mr. Foster, how are you?
20 A. Good afternoon.
21 Q. State your full name for the Court.
22 A. Craig Warren Foster.
23 Q. And what's your present professional position?
24 A. I'm an executive director of the Equity Center.
25 Q. Mr. Foster, please tell the Court something about

1 your academic background?
2 A. I attended and graduated from Hamilton College in
3 Trinton, New York, in 1960 with a major in
4 experimental psychology and a minor in English.
5 Q. Did you do any statistical work during that time?
6 A. Yes, experimental psychology is very heavily
7 dependent on statistial analysis.
8 Q. When did you graduate? You said --
9 A. 1960.
10 Q. Tell us about your professional background, your
11 major professional positions?
12 A. My first major professional position was with the
13 Galveston County Research Council in Galveston
14 County, Texas. And I was first the research
15 associate, and beginning in July of 1967, was
16 executive director for five years prior to coming to
17 Austin to go to work for the Legislature.
18 Q. Then how long did you work for the Legislature and
19 what did you do here?
20 A. I was a general consultant and a project director for
21 the Legislative Property Tax Committee, and that
22 activity went on roughly from late '72 to mid '75.
23 Q. And then after you worked for the Legislative
24 Committee, what was your next professional work?
25 A. I then went to work for the Intercultural Development

1 Research Association in San Antonio and was employed
2 for six and a half years as director of their
3 property tax project.
4 Q. And after that, what was your next position?
5 A. I then became executive director of the Equity
6 Center.
7 Q. Mr. Foster, when you worked for the Galveston County
8 Research Council, tell the Court some of the work you
9 did and what sort of information you worked with?
10 A. Well, in general, we conducted research on public
11 finance issues. We dealt with all types of local
12 governments, counties, cities, schools, water
13 districts, muds, so forth.
14 My area of specialty initially was budget
15 analysis, and I was responsible for the development
16 in 1962 and three of something for the Galveston and
17 Harris County areas that looks very much like Bench
18 Marks.
19 Q. When you say something looks like Bench Marks, what
20 sort of information did that have in it?
21 A. Well, we took school district budgets as opposed to
22 the case of Bench Marks using data files maintained
23 by the Texas Education Agency. We actually looked at
24 local school budgets and computed such things as
25 their expenditures, legislative personnel salaries,

1 and so forth, their debt service, debt balances,
2 basically the same kind of information. There were
3 no TEAMS scores at the time, of course.
4 Q. What sort of general work did you do with other local
5 governments during that time?
6 A. I dealt a lot with property tax administration,
7 especially at the county level, helped the Galveston
8 County Assessor Collector develop a mass appraisal
9 program for his office.
10 Q. Did you do any work with the effects of tax levels
11 related to industrial or commercial development?
12 A. Yes, we did. That grew out of the work that -- the
13 general work we were doing in property taxation. The
14 members of the Galveston County Research Council were
15 primarily big industrial and commercial outfits, who
16 were very concerned about local property taxes and
17 their variations within that general area, mostly
18 with respect to industrial expansions, commercial
19 property developments and residential developments.
20 The question being, where were those things going to
21 occur and what would be the implications of changes
22 in property taxation on those potential developments.
23 Q. Okay. And that was all during the period of '62
24 through '72?
25 A. That is correct.

1 Q. So during that ten years, you studied local
2 governments, their tax policies and budgets, is that
3 right --
4 A. That is correct.
5 Q. -- during that ten year period and that all has had
6 to do with Texas local governments?
7 A. Yes, mostly in Galveston County, but a lot of what we
8 did required some comparison of other counties. We
9 did frequently work in and above Harris County and
10 surrounding counties.
11 Q. Mr. Foster, then you moved to Austin. Would you tell
12 us some of the work you did with the legislative
13 committees here in Austin?
14 A. The Legislative Property Tax Committee was set up to
15 deal with some serious problems that then existed in
16 the administration of property tax and the collection
17 of delinquent property taxes.
18 There was at the time, according to the study,
19 where more than a billion dollars in taxes and
20 delinquent property taxes that had not been
21 collected. That was one of the applications of that
22 committee. The other was to determine better methods
23 of estimating local property tax values for the
24 purpose of making more equitable the distribution of
25 state aid for school finance purposes.

1 Q. And that was during the period of '72-'73?
2 A. Yes, through '75.
3 Q. Okay.
4 A. I was actually there on two occasions, from September
5 of '72 to May of '73, when the Property Tax Committee
6 came under investigation by some people that didn't
7 like the idea of property tax reform. And so it was
8 virtually inoperative for a while.
9 And then I was requested by a member of the
10 Legislature to come back and work again for the
11 Property Tax Committee with some assurances that I
12 did not have the first time around. And I came back
13 and worked then from January of '74 through June of
14 '75, when the Committee was eventually dismantled.
15 Q. And during the time that you worked with that
16 Committee, what was your relationship to school
17 finance issues?
18 A. The major study that I undertook on behalf of
19 Legislative Property Tax Committee was a study of
20 market value estimating procedures in the school
21 districts of Texas.
22 I was the managing director of a project that
23 involved several hundred thousand dollars of work
24 mostly by out-of-state consultants, picked because
25 they had no vested interest at the time, at least, in

1 the outcome of the study. And my job was to provide
2 an objective view of assessment practices in Texas,
3 particularly with respect to how properties were
4 valued for tax purposes.
5 Q. Okay. For tax purposes in --
6 A. Generally, specifically with reference to schools.
7 The study that we did was a study of school district
8 assessment practices.
9 Q. Did the study that you did become the basis of any
10 further studies or reports by any governmental groups
11 or committees?
12 A. Yes, it did. It was one of the things that got Wayne
13 Peveto excited about property tax reform. It also
14 led to the creation of the Governor's Office of
15 Educational Resources, which is the first state
16 agency which conducted a comprehensive, although very
17 limited study of property tax values for use, for
18 actual use in the distribution of state aid in school
19 districts.
20 Q. After you left that legislative committee, I think
21 you said you went to work for IDRA. Would you tell
22 us what you did there?
23 A. As director of the property tax project, my job was
24 to -- and my office was here in Austin, not in San
25 Antonio, because my job was to watch the Legislature,

1 the State Board of Education, the state agencies that
2 dealt with -- that were the successors of the
3 Governor's Office of Educational Resources to
4 literally watch every move they made and to report on
5 whether their actions and proposals contributed to or
6 detracted from progress toward an equitable
7 distribution of state aid based on local values.
8 Q. Did you look at the uses of tax revenues in school
9 districts around the state?
10 A. No. At that time, my job was to be concerned about
11 whether the distribution was based on equitably
12 determined local values.
13 Q. Okay. During the time you worked for IDRA -- well,
14 first let's back up a second. IDRA, Intercultural
15 Development Research Association, what sort of group
16 is that? What do they do?
17 A. It is an organization that is funded from a variety
18 of sources, including some federal grants and some
19 foundation grants, that studies a wide variety of
20 educational issues. They have a lot of -- their
21 primary emphasis is on early child education,
22 bilingual and just general school finance and the
23 equity of school finance.
24 The project that I directed was funded by a
25 combination of four economy foundation grants.

1 Q. Who was the director of IDRA at that time?
2 A. Jose Cardenas.
3 Q. Did he have any interest in the area of school
4 finance?
5 A. He seemed to. He came to me highly recommended.
6 When I was -- felt that I needed to continue the work
7 that I had started at the Legislative Property Tax
8 Committee, and when some political maneuvering in the
9 mid '70s prevented my being the first director of the
10 Legislative Tax Board, instead of having that, we had
11 the Governor's Office of Education Resources and John
12 Peoner was the director of that. I felt I needed to
13 continue that work and asked around about people who
14 were interested in school finance equity and Jose
15 Cardenas' name was one that kept coming up and so I
16 went to San Antonio and visited with him.
17 Q. During that time, was IDRA involved in any other
18 research or efforts in the area of school finance in
19 Texas?
20 A. They had had an ongoing research effort in school
21 finance generally. They were in the process, during
22 part of my stay there, of conducting an equity
23 analysis I think specifically with regard to the
24 impact of the school finance reform measure that was
25 passed in 1975.

1 Q. During the time that you worked for IDRA, did you
2 testify before or prepare testimony for any
3 legislative bodies or committees?
4 A. Yes, I testified frequently before various
5 committees, always at the request of committee
6 chairman, and testified as an expert witness on those
7 occasions.
8 Q. When you testify, what sort of things did you testify
9 about?
10 A. The implications of the various proposals that were
11 made regarding property tax reform and school finance
12 reform.
13 Q. What was the interest of IDRA in property tax reform
14 and school finance reform?
15 A. Well, the fundamental interest of IDRA is to provide
16 equitable educational opportunities for children.
17 And the finance aspect of it is just one that they
18 were deeply involved in, but there were many others.
19 Q. During the time that you worked for IDRA, did you
20 prepare any materials that were distributed to school
21 districts around the state?
22 A. A number of newsletter articles, primarily.
23 Q. Those newsletter articles, what happens to those
24 newsletters? Where are they sent?
25 A. They were, at the time, mailed to every school

1 district in the state.
2 Q. And when you wrote, what did you write about?
3 A. Property tax, reform issues, school finance issues.
4 Q. Okay. During that time, did you speak to any
5 education groups in Texas or at universities or
6 anything like that?
7 A. Yes, to a variety of associations. I had a couple of
8 universities, Trinity University in San Antonio,
9 University of Texas at Austin, seems like there were
10 a couple of others. That was a fairly regular
11 activity at that time.
12 Q. When you went out and spoke to those groups, what did
13 you speak about?
14 A. Property tax and school finance issues and their
15 relationship and progress that was being made or not
16 being made toward resolution of those issues at the
17 state level.
18 Q. Okay. During the time that you worked for IDRA, was
19 there any other staff there working on school finance
20 issues?
21 A. There were anywhere from one to three other people in
22 the San Antonio office that were working on those
23 issues, yes.
24 Q. Did you, from time to time, consult and collaborate
25 with them?

1 A. Yes, hours every week.
2 Q. After you left IDRA, your next job was with the
3 Equity Center. We've heard a little bit about the
4 Equity Center earlier in the trial. Can you tell us
5 a little bit about it?
6 A. Well, the Equity Center is an organization of
7 property poor school districts. You cannot join the
8 organization unless you're in the bottom third, and
9 that's expressed in terms of property wealth per
10 student. If you get rich for one reason or another
11 or just slightly richer, we have to kick you out. We
12 have told at least a half a dozen members that they
13 are no longer welcome in our organization. We don't
14 want to delete the interest in school finance equity
15 that is primary to that bottom third of school
16 districts.
17 Q. About how many members do you have?
18 A. About 160 at this time.
19 Q. 160 what?
20 A. School districts.
21 Q. Okay. And about how many kids go to school in those
22 districts?
23 A. Eight or 900,000.
24 Q. Eight or 900,000 out of how many in the state?
25 A. Three million.

1 Q. And what is your position with Equity Center?
2 A. I'm executive director.
3 Q. And were you the first one?
4 A. I was the first one, yes.
5 Q. And only?
6 A. And only.
7 Q. Tell us a little bit about what you do at the Equity
8 Center, starting around 1982 when it started and on.
9 What sort of activities have you personally been
10 involved in?
11 A. Well, it's once again primarily a research activity
12 that involves, first of all, very close observance of
13 everything that's going on that could possibly impact
14 school finance equity, which means attending or
15 having others attend, on my behalf, a variety of
16 meetings of legislative committees and State Board of
17 Education and so forth.
18 Whenever we detect a proposal that has any
19 serious chance of being considered by the leadership
20 or other influential people, we immediately examine
21 that in terms of precisely how it will affect poor
22 districts generally and specific poor districts as
23 well.
24 Q. Okay. You say you monitor committees, do you attend
25 committees of -- meetings of the State Board and the

1 committees of the State Board and that kind of thing?
2 A. From time to time, I do that as little as I can get
3 away with. I tend to rely on other people that
4 attend those meetings who report back to me.
5 Q. Okay. During that time, have you prepared any
6 reports or information and sent it off to your
7 members?
8 A. Yes, indeed. We have two rather standard kinds of
9 publications. One is a news and notes thing, the
10 other is called a research brief. And whenever we
11 have more than three or four numeric entries, we call
12 it a research brief, and we do this with respect to
13 issues as they arise.
14 Q. Okay. And what sort of issues do you talk about in
15 your research briefs?
16 A. If there is a proposal that comes forth or is even
17 being considered by the State Board of Education or a
18 committee of the Legislature or in some cases other
19 associations, if we feel that -- especially when we
20 feel that it is potentially damaging or potentially
21 very helpful to our districts, we develop a research
22 brief that communicates the essential data to our
23 membership.
24 Q. When you say "our districts," now again, you're
25 talking about the hundred and some odd districts and

1 about 800,000 kids?
2 A. Yes, although we send a lot of information to poor
3 districts that are not members, because we feel it's
4 very important for them to be advised of the
5 information even if they're not supporting the
6 organization.
7 Q. During your time with the Equity Center, have you
8 been called upon by either legislators or their
9 staffs to offer information or analysis about school
10 finance?
11 A. Yes, we have.
12 Q. Who are a few of the legislators or few of the
13 committees that have called you for your advice and
14 counseling?
15 A. They would include either the principal office holder
16 or staff persons from the Governor's Office, Senate
17 Governor Hobby, Senator Jones, Senator Farabee,
18 Senator Caperton, Senator Edwards, Senator Parker,
19 although we have a mixed relationship with Senator
20 Parker.
21 On the House side, the Speaker's Office,
22 Chairman Schlueter, Representative Colbert, Mr.
23 Evans, Gregg Luna from San Antonio.
24 Q. Are these legislators or committees that called you
25 for your advice and --

1 A. These are members or committee chairmans that have
2 asked us to provide them with the research
3 information.
4 Q. Have you provided it?
5 A. Yes, to the best of our ability.
6 Q. Have you consulted with any members of State Board of
7 Education committees?
8 A. Not on any regular basis. We have had conversations
9 with the chairman of the Finance Committee. We've
10 had some conversations with Senator Strong on one
11 occasion, but we do not regularly converse with them.
12 We, from time to time, will send to them information
13 that we feel they might find valuable.
14 Q. During your time with the Equity Center, have you
15 testified before or prepared testimony for any
16 legislative committees or other state committees?
17 A. I have prepared testimony since coming to work for
18 the Equity Center. I don't think that I have ever
19 actually testified myself, but I have prepared
20 testimony for members of our organization at their
21 request.
22 Q. Okay. Does your organization have some sort of a
23 president or board or how does that work?
24 A. Yes, we have a president and an Executive Committee
25 of five members, and then ten directors who have

1 areas of the state for which they're responsible.
2 Q. Okay. These officers, are they school
3 superintendents or something?
4 A. They're all school superintendents or deputy
5 superintendents, yes.
6 Q. Do you consult with them from time to time about
7 issues of school finance in Texas?
8 A. Yes, indeed, on a regular basis.
9 Q. What sort of things do you all discuss with them?
10 A. Either I call them or they call me to exchange
11 information about things that are happening in Austin
12 or back in their districts that they think would be
13 useful in terms of the way we analyze data here in
14 Austin.
15 Q. Have you consulted from time to time with Comptroller
16 Bullock about issues of school finance?
17 A. Yes, at the request of the Comptroller, I was
18 involved in the development of the funding principles
19 that were eventually adopted by SCOPE. And then
20 after the SCOPE Committee was submitted and those
21 funding principles were adopted as we recommended
22 them, I was again asked to work with a group of other
23 education association people in the process of, as he
24 called it, fleshing out the funding principles and
25 turning them into statutory language.

1 Q. Who asked you to work with that group? You said "I
2 was asked."
3 A. Mr. Bullock.
4 Q. Okay. Have you worked from time to time with Dr.
5 Hooker, who testified here before?
6 A. Yes.
7 Q. Okay. Have you had anything to do with the group
8 called the School Finance Symposium?
9 A. Yes. I, along with John Cole, who is president of
10 the Texas Federation of Teachers hosted the
11 organizational meeting of the School Finance
12 Symposium.
13 Q. What is the School Finance Symposium? Who goes?
14 What are you talking about?
15 A. It's now become a -- I was going to say a loose knit,
16 it gets tighter and tighter -- a group of 30 some
17 education and education-related associations,
18 including virtually all of the major associations
19 that are active in Texas in the field of education.
20 We have even added over the past few months the Music
21 Educators of Texas. And the total group of
22 associations that participates now numbers very close
23 to 40.
24 Q. Okay. Can you give us an idea of some of the other
25 members maybe with even larger memberships than the

1 Music Educators?
2 A. Well, the most -- the best known of the associations
3 that are involved would be the Texas Association of
4 School Boards, Texas Association of School
5 Administrators, both of the principal organizations,
6 the elementary and secondary principals, the Urban
7 Council, budget balanced schools have participated in
8 that. And we sit around the conference table in
9 alphabetical order and it happens that the Equity
10 Center and the budget balanced schools sit next to
11 each other, so that helped to form a very warm
12 relationship with those districts. All of the
13 special programs organizations, there are half a
14 dozen vocational, voc. ed. and two or three special
15 ed., and so on and so forth, plus all of the four
16 major teacher organizations, including TSTA,
17 Professional Educators, Federation of Teachers, and
18 the Classroom Teachers Association.
19 Q. And do you serve on any committee of the Symposium,
20 the Steering Committee --
21 A. Yes, I'm a member of the Steering Committee.
22 THE COURT: Let's stop right there. It's a
23 little after five. See you all tomorrow.
24 (Proceedings were recessed
25 until January 29, 1987.)