

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF SAN FRANCISCO

3 UNLIMITED JURISDICTION

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5 ELIEZER WILLIAMS, a minor, by )

6 SWEETIE WILLIAMS, his guardian )

7 ad litem, et al., each )

8 individually and on behalf of )

9 all others similarly situated, )

10 L.P., et al., )

11 Plaintiffs, ) No. 312236

12 vs. ) VOLUME II

13 STATE OF CALIFORNIA, DELAINE )

14 EASTIN, State Superintendent of )

15 Public Instruction, STATE )

16 DEPARTMENT OF EDUCATION, )

17 STATE BOARD OF EDUCATION, )

18 Defendants. )

19 -----

20 Deposition of LUIS HUERTA, at  
21 400 South Hope Street, Los Angeles,  
22 California, commencing at 9:52 A.M.,  
23 Tuesday, March 18, 2003, before  
24 Nancy J. Martin, CSR No. 9504.

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1 LUIS HUERTA,

2 the witness, having been administered an oath in

3 accordance with CCP Section 2094, testified as

4 follows:

5

6 EXAMINATION

7 BY MR. SIMMONS:

8 Q. Good morning, Dr. Huerta. 09:52:16

9 A. Good morning.

10 Q. Did you have any discussions about your 09:52:23

11 deposition yesterday?

12 A. Yes. I just discussed with Catherine -- I

13 had asked her how I was doing with the questions and

14 how I was responding. We spoke a little bit about the

15 detail of some of the responses I was giving and so

16 forth.

17 Q. Did you discuss anything else in connection 09:52:55

18 with the deposition?

19 A. The -- we discussed the collection of some of

20 the additional documents that we forwarded to you

21 yesterday.

22 Q. Did you discuss any other topics in 09:53:09

23 connection with your deposition?

24 A. We discussed the process of my going back to

25 the record from yesterday and making changes or

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1 corrections. That's it.

2 Q. What was discussed concerning responses to 09:53:27

3 questions yesterday?

4 A. Simply the extent of detail that I'm

5 responsible for providing.

6 Q. What was discussed in that regard? 09:53:43

7 A. I wanted to know whether my answers will

8 remain consistent with the expert report.

9 Q. Anything else discussed in that regard? 09:54:00

10 A. Not that I recall.

11 Q. What was discussed concerning the collection 09:54:02

12 of additional documents?

13 A. Specifically, what we had talked about at the

14 end of the session yesterday and which additional

15 documents I needed to provide you. I also need a

16 clarification to the extent of how much of the

17 material that I have read over the last three months I

18 should provide to you.

19 Q. What additional -- did you identify any 09:54:36

20 additional documents that you relied on in the course

21 of preparing your opinions for this case?

22 MS. LHAMON: Vague as to "additional." Do you

23 mean separate from what we discussed yesterday, or

24 additional in addition to what had already been

25 produced?

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1 MR. SIMMONS: I just think in terms of what was

2 discussed yesterday after the deposition.

3 THE WITNESS: I only provided the additional

4 material that I used to formulate any opinion.

5 BY MR. SIMMONS:

6 Q. What was that additional material? 09:55:03

7 A. The Excel file from the California Department

8 of Ed that was forwarded to you last night. And the

9 other document was a document from the Legislative

10 Analyst's Office, which was an analysis of the

11 upcoming budget, which were two documents I had read

12 recently in preparation for the deposition.

13 Q. And you mentioned that there was some 09:55:45

14 discussion of clarification as to what information you

15 had read in the past few months ought to be supplied

16 to counsel for the defendants. What was discussed in

17 that regard?

18 A. The clarification was simply if it's a

19 document that I have relied on to formulate an

20 opinion, then I should provide it to you, and I

21 provided several over last month, including those that

22 I provided yesterday. It's a document that I read

23 simply for my own interest, for my own background, and

24 it's a document -- and that I did not use to formulate

25 an opinion for the case. That's my own leisure

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1 reading.

2 Q. What was discussed about the process of going 09:56:32

3 back to make changes to the record created in this

4 deposition?

5 A. I simply asked Catherine when it's

6 appropriate to actually go back and make a correction

7 to something that I felt I needed to correct from

8 yesterday, and I would do that once we venture this

9 part of it.

10 Q. What response did Ms. Lhamon provide you 09:57:05

11 with, if any?

12 A. She said I can do that whenever I want.

13 Q. So are there any answers from yesterday that 09:57:12

14 you would like to change or supplement?

15 A. Yes.

16 Q. What answers? 09:57:23

17 A. It was the question that you had asked -- can

18 I have the exhibits from yesterday so I can point to

19 the right page. It was the question you had asked in

20 clarifying the difference between a policy initiative

21 versus a reform initiative. You'll have to remind me,

22 Shaun, what page that was on.

23 Q. I think that is somewhere around 10 or 11? 09:57:58

24 MS. LHAMON: It's on Page 10. It's Page 10 of

25 Exhibit 1 just to be clear.

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1 THE WITNESS: Should I go ahead and make the

2 amendment now?

3 BY MR. SIMMONS:

4 Q. Yes. 09:58:16

5 A. Your question was what's the difference

6 between -- or how do I -- actually, maybe you can

7 restate the question.

8 Q. I think what I was trying to figure out was 09:58:23

9 what the difference between a policy initiative and a

10 reform initiative was.

11 A. And my response is -- actually, there was no

12 response because I struck my response yesterday --

13 correct -- is that the word policy and reform

14 initiative is being used synonymously to refer to the

15 same thing in that those two words are often used to

16 refer to any legislative attempt or regulatory attempt

17 to create a new program or resource category or, et

18 cetera, for schools.

19 And, in addition, in the context of the

20 question that you had asked of why these policy reform

21 initiatives have shifted to the state level after Prop

22 13, which was the context of your question, is that

23 when school finance shifted to the state after Prop

24 13, that stripped local schools from attempting to

25 actually fund their own policy and reform initiatives.

1 Since then, most initiatives have come directly from  
2 the state.

3 Q. I just want to clarify one more thing, and I 10:00:03  
4 think maybe it's just a language difference, but when  
5 policy and reform initiatives are defined in terms of  
6 legislative or regulatory attempts, it seems to me  
7 that a local body by definition does not legislate or  
8 regulate, and therefore, can't engage in policy or  
9 reform initiatives anyway.

10 MS. LHAMON: Is that a question?

11 BY MR. SIMMONS:

12 Q. So I just want to find out -- 10:00:35

13 A. You're asking me if I disagree?

14 Q. Yes. 10:00:40

15 A. I disagree.

16 Q. Why do you disagree? 10:00:42

17 A. Because a local body can create -- a local  
18 body can create their own local policy and regulate it  
19 at their level. They can create their own bottom-up,  
20 home-grown reforms and oversee them and keep their  
21 local constituents accountable.

22 Q. Were there any other answers from yesterday 10:01:15  
23 that you wanted to change or supplement?

24 A. No.

25 MS. LHAMON: Could I just interrupt. Sorry for

1 documents that I had reviewed in preparation for this  
2 deposition, and that we were going through -- you were  
3 asking about references to specific figures, numbers.  
4 I was continually telling you that those were  
5 documents or data that was readily available either  
6 from CDE or NCS at the Federal Department of  
7 Education.

8 But my response was in reference to citing  
9 the data or the information that was in the report,  
10 not reports or documents that I read in preparation  
11 for this deposition.

12 MS. LHAMON: Thank you.

13 BY MR. SIMMONS:

14 Q. So am I correct that the -- any data from the 10:03:34  
15 CDE's website, aside from what was provided to us last  
16 night, was data that was cited in the expert report  
17 that has been marked as Exhibit 1 as opposed to  
18 something that you reviewed independently in forming  
19 the basis of your opinions in this case?

20 A. Repeat the question.

21 MR. SIMMONS: Could you read that back, please.

22 (Record read.)

23 THE WITNESS: Yes.

24 BY MR. SIMMONS:

25 Q. Given that we've clarified the definition of 10:04:29

1 one moment. There was one other thing we discussed,  
2 which was, I think -- Dr. Huerta, you'll correct me if  
3 I'm wrong -- which was the line of questions that  
4 Mr. Simmons asked you about documents from the CDE  
5 website that you looked at for this case, and I  
6 believe you sent me two documents last night; is that  
7 correct?

8 THE WITNESS: Uh-huh. Right.

9 MS. LHAMON: Shaun, I'll represent to you that we  
10 forwarded them to you and other counsel yesterday.

11 MR. SIMMONS: Thank you.

12 MS. LHAMON: Mr. Huerta, were there any other  
13 documents from the CDE website that you reviewed for  
14 formulating your opinions for this case?

15 THE WITNESS: No.

16 MS. LHAMON: And, yesterday, when you were  
17 listing some other data sources from the CDE website  
18 in response to the question from Mr. Simmons, did you  
19 have a different understanding of what those sources  
20 were for?

21 THE WITNESS: Yes. During one line of  
22 questioning in consideration to what other documents I  
23 had reviewed, my interpretation of your question was  
24 that documents that I had reviewed for the purpose of  
25 the data that was talked about in this report, not

1 reform and policy initiatives today, I just want to  
2 ask you again whether you were aware of any policy  
3 initiatives or reform initiatives that have shifted to  
4 the state level?

5 A. Specifically, by name and without a list in  
6 front of me, I couldn't tell you. However, I do know  
7 that with the shift in funding that has occurred to  
8 the state level, so has shift in discretion in  
9 creating any local reforms or policy initiatives  
10 simply because local districts may not have the  
11 physical capacity to create their own reform  
12 initiatives.

13 Q. Are there reform initiatives that you believe 10:05:27  
14 are better handled at the local level as opposed to at  
15 the state level?

16 MS. LHAMON: Overbroad.

17 THE WITNESS: I think I answered that yesterday  
18 more than once.

19 BY MR. SIMMONS:

20 Q. I think that just given the clarification 10:05:46  
21 that we've received about the definition of policy and  
22 reform initiatives, I would like to ask that question  
23 to you again, just whether you think there are types  
24 of policy and reform initiatives that are better  
25 handled at the local level as opposed to state level?

1 MS. LHAMON: So you're just asking in addition to  
2 what he's already testified yesterday?

3 MR. SIMMONS: I'm not sure I necessarily recall  
4 much of an answer to the question yesterday, and  
5 that's why I'm asking the question again today, as  
6 well.

7 MS. LHAMON: So in addition to what was testified  
8 to yesterday?

9 MR. SIMMONS: If anything.

10 THE WITNESS: I'll refer you back to yesterday's  
11 record, and my reply concerned that, for example,  
12 local districts may be -- may have a better opinion,  
13 and it may have a better assessment of local needs,  
14 and thus, can choose things such as the amount of  
15 teachers, the type of teachers they have for specific  
16 programs, as well as certain materials, curriculum and  
17 the like. Those are the two examples that I provided  
18 yesterday.

19 BY MR. SIMMONS:

20 Q. How are those reform initiatives? 10:07:07

21 A. Well, if a local district wants to create a  
22 new program to address a specific local need, having  
23 the resources and the discretion to do so at the local  
24 level is something that may benefit students at that  
25 level.

1 Q. So, for example, would a reform initiative 10:07:32  
2 dealing with the recruitment of teachers be something  
3 that you think could be better handled at the local  
4 level as opposed to the state level?

5 MS. LHAMON: Vague and ambiguous and incomplete  
6 hypothetical. It's not clear what kind of reform  
7 initiative, regarding what you mean.

8 THE WITNESS: I think we would first have to  
9 engage in an assessment. The state, together with  
10 local officials, would have to engage in an assessment  
11 of what local needs are. This is one of those areas  
12 that, together with local professional opinion and  
13 together with some level of state -- or some state set  
14 level of basic minimums, that this is an issue that  
15 could be -- that an answer can be derived from both  
16 local and state level cooperation.

17 BY MR. SIMMONS:

18 Q. If you'll turn to Page 11 of the expert 10:08:59  
19 report. Do you see where the report indicates that  
20 categorical -- this is down toward the bottom of  
21 Exhibit 1 on Page 11, where it indicates that  
22 categoricals now account for about 48 percent of all  
23 state aid, up from 11 percent in 1979. Do you see  
24 that?

25 A. Yes.

1 Q. And there's a cite to Ed Source, 2000 there; 10:09:40  
2 is that correct?

3 A. Yes.

4 Q. And is that the source for the statement that 10:09:46  
5 categorical funds now provide -- or now account for  
6 about 48 percent of all state aid, up from 11 percent  
7 in 1979?

8 A. Yes.

9 Q. Are you aware of any other sources for that 10:10:01  
10 information?

11 A. Yes.

12 Q. What sources would those be? 10:10:04

13 A. The California Department of Ed would have  
14 that information. The Legislative Analyst's Office  
15 would have that information. It's very likely that Ed  
16 Source relied on those two sources to come up with  
17 their information.

18 Q. Did you do anything to verify the accuracy of 10:10:17  
19 the figures for which Ed Source is listed as the cite?

20 A. These are figures that are very readily  
21 available both in the Department of Ed, the California  
22 Department of Ed and the Legislative Analyst's Office,  
23 and Ed Source is a very reliable source.

24 Q. Did you cross check the figures from Ed 10:10:43  
25 Source with the figures from the California Department

1 of Ed or the Legislative Analyst's Office?

2 A. I couldn't answer that specifically for this  
3 figure. The likelihood is if it was coming from Ed  
4 Source, Ed Source data comes directly from Department  
5 of Ed or the Legislative Analyst's Office.

6 Q. So is your answer, essentially, that you 10:11:09  
7 trust the reliability of Ed Source and that you felt  
8 there is no need to verify the accuracy of the figures  
9 provided by them?

10 MS. LHAMON: Mischaracterizes testimony.

11 THE WITNESS: I'm stating that the Ed Source  
12 data, if we go back to that specific document, the  
13 likelihood is that their data that came directly from  
14 Department of Ed; that Ed Source does not have its own  
15 data sources.

16 BY MR. SIMMONS:

17 Q. So did you do anything to verify the accuracy 10:11:46  
18 of the figures from Ed Source?

19 MS. LHAMON: Asked and answered.

20 THE WITNESS: On this specific figure, I don't  
21 recall.

22 BY MR. SIMMONS:

23 Q. On Page 11, it indicates that one of the 10:12:00  
24 costs of increasing categoricals is that they impose  
25 constraints on local districts about how they use

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1 state funds.  
 2 Is that your opinion? 10:12:18  
 3 MS. LHAMON: Mischaracterizes the document. It  
 4 doesn't say one of the costs. It says the cost of  
 5 categoricals.  
 6 THE WITNESS: My opinion is that categoricals are  
 7 often restrictive resource categories that -- where  
 8 schools are limited in using those funds specifically  
 9 for particular students or particular programs. These  
 10 are not discretionary dollars, and many times, the  
 11 actual reporting of how the money is used cancels any  
 12 benefit that the program may have ultimately for  
 13 students.  
 14 BY MR. SIMMONS:  
 15 Q. Well, I guess if we read the full sentence, 10:13:11  
 16 it says, "But the cost of increasing categoricals,  
 17 which now account for about 48% of all state aid (up  
 18 from 11% in 1979) is that they impose constraints on  
 19 local districts about how they use state funds and  
 20 increase reporting requirements."  
 21 Is one of the costs of increasing 10:13:31  
 22 categoricals that those funds impose constraints on  
 23 local districts about how they use state funds?  
 24 A. I don't understand your question.  
 25 Q. I guess the language of that sentence 10:13:44

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1 suggests to me that imposing constraints on local  
 2 districts about how they use state funds is a bad  
 3 thing by labeling it a cost. Is that your opinion?  
 4 A. My opinion is that increased levels of  
 5 categorical programs with extremely restrictive  
 6 spending categories in many ways ultimately constrains  
 7 local districts and ultimately costs them time, staff  
 8 time and effort in the burdensome reporting  
 9 requirements that are required from most categorical  
 10 programs. So an increase in categorical programs is  
 11 most often an increase in bureaucratic or regulatory  
 12 demands for reporting purposes.  
 13 Q. So if categorical funds impose constraints on 10:14:49  
 14 local districts about how they use state funds but did  
 15 not increase reporting requirements, would that make  
 16 them a good thing?  
 17 MS. LHAMON: Incomplete hypothetical. Vague and  
 18 ambiguous.  
 19 THE WITNESS: It would depend on the specific  
 20 categorical program amount, the students they were  
 21 serving. This is -- we would need a whole lot more  
 22 information to begin to try to answer that question.  
 23 BY MR. SIMMONS:  
 24 Q. What additional information would we need? 10:15:28  
 25 A. In addition to knowing the amount of the

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1 program or the amount of dollars for the categorical  
 2 program, the amount of staff time that may be required  
 3 at the local level to keep up with reporting  
 4 requirements. We would also need to know what the  
 5 intended objective of the program is, as far as its  
 6 effect on students. Those are just some examples of  
 7 additional information that we would need.  
 8 Q. How would the amount of dollars involved in a 10:15:58  
 9 categorical fund affect the consideration of whether  
 10 there ought to be increased reporting requirements in  
 11 connection with the categorical fund?  
 12 MS. LHAMON: Assumes facts not in evidence.  
 13 There's been no testimony that the amount of dollars  
 14 would affect that.  
 15 MR. SIMMONS: I think that's what he just  
 16 testified to.  
 17 THE WITNESS: My answer is I don't know, and  
 18 unless I knew the actual program, the amount, its  
 19 objective, I don't -- I wouldn't want to answer that  
 20 specifically without knowing any specific program.  
 21 BY MR. SIMMONS:  
 22 Q. Well, correct me if I'm wrong, but I think 10:16:42  
 23 you identified one of the -- as one of the factors  
 24 that might affect whether a categorical fund should be  
 25 accompanied by increased reporting requirements is the

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1 amount of dollars at issue; is that correct?  
 2 MS. LHAMON: Mischaracterizes the testimony.  
 3 THE WITNESS: I don't recall saying that. I  
 4 don't think I said that.  
 5 BY MR. SIMMONS:  
 6 Q. Do you disagree with that? 10:17:06  
 7 A. Repeat the question.  
 8 MR. SIMMONS: Could you read the question back,  
 9 please.  
 10 (Record read.)  
 11 THE WITNESS: Can you repeat that again.  
 12 (Record read.)  
 13 THE WITNESS: What I indicated is that amount of  
 14 dollars at issue is only one component that we would  
 15 need to know. We need to know what the objective of  
 16 the program is. We need to know what the intended  
 17 effect is on students. We need to know what the  
 18 effect on staff time and professional time, as far as  
 19 reporting requirements are. There's a variety of  
 20 other factors, not one factor that's important.  
 21 BY MR. SIMMONS:  
 22 Q. While I understand that you believe that a 10:18:19  
 23 variety of factors have to be considered in  
 24 determining whether increased reporting requirements  
 25 ought to accompany a categorical fund, I'm just trying

1 to find out how the factors that you've identified  
2 affect that analysis. So one of them that you  
3 identified was the amount of dollars, and I'm just  
4 trying to find out how does the amount of dollars  
5 involved in a categorical fund affect the decision  
6 about what reporting requirements ought to be  
7 included -- accompany -- what reporting requirements  
8 ought to accompany the amount of dollars?

9 A. I don't think the amount of dollars  
10 necessarily requires more reporting requirements. I  
11 think that a categorical program that has sufficient  
12 resources to buffer the overhead cost and reporting  
13 requirements and the like may ultimately -- would be a  
14 program that -- where we may actually see more of  
15 those dollars reaching whatever its objectives may be.

16 Q. How would the intended effect of a 10:19:41  
17 categorical on students affect the decision of whether  
18 to include reporting requirements in connection with  
19 that categorical fund?

20 A. It depends on the categorical. If it's a  
21 categorical that's intended for a learning program,  
22 which is to be carried out within classrooms, we may  
23 need to know specifically how teachers are actually  
24 implementing "X" program. If it's a categorical  
25 program that is in the form of general aid for a

1 school, there may be fewer reporting requirements.

2 Again, this all depends on the specific  
3 programs, and this is an assessment which we have not  
4 engaged in in the State of California, as far as  
5 looking specifically at how dollars are being used at  
6 the school level, whether they're being used  
7 efficiently or not, whether school districts and the  
8 professionals that work in schools, administrators and  
9 teachers are able to use these dollars to the  
10 advantage of increasing student learning.

11 Q. Are there any categorical funds in the State 10:21:17  
12 of California which you believe -- strike that.

13 Are there any categorical funds in the State  
14 of California for which the reporting requirements  
15 that accompanied the funds are too onerous, in your  
16 opinion?

17 MS. LHAMON: Overbroad. Are you asking for the  
18 specific programs that come under the list of 100, or  
19 are you asking for just whether there are --

20 MR. SIMMONS: Any categoricals that he's aware  
21 of.

22 THE WITNESS: Without a specific list in front of  
23 me and without the actual account of reporting  
24 requirements and the like for each individual program  
25 in front of me, I couldn't give you a specific

1 program. However, there is evidence of -- that exists  
2 that speaks directly to the onerous, as you indicated,  
3 reporting requirements of many of the categorical  
4 programs.

5 BY MR. SIMMONS:

6 Q. So the answer is that as you sit here today, 10:22:42  
7 you are not aware of any categorical funds for which  
8 the reporting requirements are too onerous?

9 MS. LHAMON: Badly mischaracterizes the  
10 testimony.

11 THE WITNESS: I am not prepared to give you a  
12 specific name of a categorical program, but as I  
13 indicated, there's ample evidence to indicate that  
14 many categorical programs in California have led to  
15 very onerous reporting requirements which ultimately  
16 affect the intended effect of these -- of the  
17 categorical programs.

18 BY MR. SIMMONS:

19 Q. But as you sit here today, you cannot 10:23:23  
20 identify any specific categorical fund that suffers  
21 from that problem?

22 A. Without a list in front of me and without the  
23 specific details of the categorical program, no.

24 MR. POULOS: How about all of them?

25 ///

1 BY MR. SIMMONS:

2 Q. Are you of the opinion that categorical 10:23:56  
3 grants have less equalizing provisions than revenue  
4 limit funds?

5 MS. LHAMON: Overbroad and vague.

6 MR. SIMMONS: Well, we can try it this way. If  
7 you'll look at Page 11, it says, "In addition, because  
8 most categorical funds are distributed without regard  
9 to equalization, they undermine the equalizing effects  
10 of revenue limit funds."

11 Q. Is that your opinion? 10:24:17

12 A. Where are you, Shaun?

13 Q. I'm sorry. We're at the bottom of Page 11, 10:24:20  
14 carrying over to Page 12.

15 (Pause in proceedings.)

16 THE WITNESS: Please repeat your question.

17 BY MR. SIMMONS:

18 Q. First, I'd just like to find out if the 10:24:45  
19 sentence that says -- do you see the sentence that  
20 says, "In addition, because most categorical funds are  
21 distributed without regard to equalization, they  
22 undermine the equalizing effects of revenue limit  
23 funds." Do you see that?

24 A. Yes.

25 Q. Is that your opinion? 10:25:02

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1 A. It is my opinion that the broad use of  
 2 categoricals has led to disequalizing effects in  
 3 relation only to per-pupil expenditures or the amount  
 4 of dollars that are distributed per pupil.  
 5 Q. But you'll agree that California's per-pupil 10:25:23  
 6 expenditure amount is substantially more equalized  
 7 than in most states, will you not?  
 8 A. We're speaking of two different total  
 9 per-pupil amounts. California is very equalized in  
 10 reference to revenue limits based on EDA, where  
 11 over 95 percent of our schools are within a \$350 to  
 12 \$300 difference. When we account for additional  
 13 revenue which accounts -- which includes categoricals,  
 14 state and federal miscellaneous local funds and the  
 15 others, then we're speaking of a -- wide disparities  
 16 that don't exist when we're only looking at the  
 17 revenue limit amount.  
 18 Q. In what way, if at all, do categorical funds 10:26:41  
 19 have less equalizing provisions than revenue limit  
 20 funds?  
 21 A. Can you repeat the question, please.  
 22 Q. In what way, if at all, do categorical funds 10:26:52  
 23 have less equalizing provisions than revenue limit  
 24 funds?  
 25 A. Not all categoricals are specifically created

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1 to respond to differential needs of students. Some  
 2 categoricals are spread across nearly all districts  
 3 where there may not be a specific local need, and that  
 4 has led to the disequalizing effects by providing  
 5 monies to some districts which may not exhibit the  
 6 actual need.  
 7 Q. Can you give me some examples of categoricals 10:27:41  
 8 that are created to respond to differential needs of  
 9 students?  
 10 A. I can give you a better example if I had the  
 11 list in front of me. I can think of, for example --  
 12 actually, I need the list in front of me to give you  
 13 an exact example. I mean, we're talking a list of  
 14 well over 100 categoricals.  
 15 Q. Can you give me an example of a categorical 10:28:17  
 16 that is not created to respond to differential needs?  
 17 MS. LHAMON: Asked and answered. I'm sorry. It  
 18 wasn't.  
 19 THE WITNESS: Again, if I had the list in front  
 20 of me, I could give you some examples. And we've  
 21 also -- I've also written about this in one of the  
 22 reports you have, as well, where a list exists.  
 23 BY MR. SIMMONS:  
 24 Q. You would characterize class size reduction 10:28:46  
 25 as a categorical; is that correct?

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1 A. Class size reduction is a categorical, yes,  
 2 in California.  
 3 Q. Is that categorical created to respond to 10:28:55  
 4 differential needs of students in California?  
 5 A. It depends how we define "differential  
 6 needs." Class size reduction is a program which has  
 7 been -- which research has shown to have ultimately  
 8 better effects on students of low income and higher  
 9 educational needs, and in some research, very little  
 10 effect on students who already come to school  
 11 prepared.  
 12 So we know that there are -- there is a  
 13 differential impact of a class size reduction form in  
 14 certain populations.  
 15 Looking at class size as a whole, it has been  
 16 spread quite evenly across the state, and we might  
 17 even surmise it has been spread to districts that may  
 18 not be benefiting by it.  
 19 Q. Would you characterize the beginning teacher 10:30:12  
 20 support and assessment program as a categorical fund?  
 21 A. I don't know enough about the program. It  
 22 sounds to me like a categorical. I'm not familiar  
 23 with the program.  
 24 Q. How about II/USP. Would you characterize 10:30:30  
 25 that as a categorical fund?

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1 A. II/USP is part of the public school  
 2 accountability act, which, if I recall correctly, is  
 3 being -- monies are being distributed to schools in  
 4 the categorical format, as class size and others.  
 5 Q. Is II/USP an example of a categorical created 10:30:58  
 6 to respond to differential needs of students?  
 7 A. II/USP is a program that has responded to  
 8 schools that have been listed as failing, according to  
 9 the Academic Performance Index and Public School  
 10 Accountability Act. If you believe -- or I should say  
 11 I believe that the II/USP -- I'm sorry. I believe the  
 12 API, the Academic Performance Index, because it only  
 13 accounts -- because it only includes one indicator,  
 14 test scores, is not a complete indicator of whether a  
 15 school is failing or not. So, ultimately, the dollars  
 16 that are being distributed through the II/USP programs  
 17 may not necessarily be reaching -- are reaching  
 18 schools that are identified as failing according to  
 19 one indicator only.  
 20 Q. I appreciate that answer, but I think my 10:32:24  
 21 question may have been just a little bit more simpler,  
 22 which was -- more simple, which is, is the II/USP an  
 23 example of a categorical that is -- that was created  
 24 to respond to differential needs of students?  
 25 MS. LHAMON: Well, it's vague as to "create."



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1 Are you asking for the intent of the people who  
 2 generated the II/USP program, or are you asking for  
 3 Dr. Huerta's understanding of the value of the  
 4 program?  
 5 BY MR. SIMMONS:  
 6 Q. Let's start with the intent behind the 10:32:52  
 7 program, if you know.  
 8 MS. LHAMON: Calls for speculation.  
 9 THE WITNESS: The intent of the program was for  
 10 the dollars in the program to reach schools that were  
 11 deemed as failing according to API. My opinion is  
 12 that the API is not a full account of where the  
 13 students in these schools have differential needs.  
 14 These -- the schools that have been identified are  
 15 schools that have scored very low on the SAT 9.  
 16 However, we don't have a full account of what the  
 17 other needs are in the school -- of these schools.  
 18 BY MR. SIMMONS:  
 19 Q. On Page 11, the first paragraph, there's some 10:33:54  
 20 discussion of Proposition 98. Do you see that?  
 21 A. Yes.  
 22 Q. Can you give me a brief description of 10:34:02  
 23 Proposition 98.  
 24 MS. LHAMON: Are you asking for something  
 25 separate than what's in the expert report?

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1 MR. SIMMONS: I'm asking for his testimony as he  
 2 sits here today.  
 3 THE WITNESS: I think that paragraph summarizes  
 4 Prop 98 succinctly. I can read you the paragraph.  
 5 BY MR. SIMMONS:  
 6 Q. Without reading the paragraph, can you give 10:34:28  
 7 me a brief description of Proposition 98?  
 8 MS. LHAMON: Is this a memory test, Shaun?  
 9 MR. SIMMONS: Well, to the extent that he didn't  
 10 draft this report, I think it's fair to know whether  
 11 he knows what's in the report from his own background  
 12 or just from reading the report that's put in front of  
 13 him at a deposition.  
 14 MS. LHAMON: That's a very separate question.  
 15 THE WITNESS: Prop 98 was created in 1988 as a  
 16 way of protecting schools -- or the revenues that were  
 17 going to schools from being disproportionately  
 18 affected during times of economic downturn. The  
 19 three-part formula that was created as part of Prop 98  
 20 is a way of making sure that when we go into economic  
 21 downturn, that schools have -- don't receive as big a  
 22 fiscal hit as all other public sectors in California.  
 23 Prop 98 also created a recommended floor for  
 24 funding schools. Over the last 12 years or 14 years  
 25 now, that floor, however, has been interpreted as a

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1 ceiling in that political legislators have not wanted  
 2 to fund schools beyond that floor, which has averaged  
 3 about anywhere from 39 to 42 percent of the general  
 4 state revenue.  
 5 BY MR. SIMMONS:  
 6 Q. You referred to a three-part formula for 10:36:34  
 7 calculating the overall amount of tax revenues that  
 8 will go to education. Can you describe that  
 9 three-part formula for me.  
 10 A. I don't have the three-part formula  
 11 memorized.  
 12 Q. Do you have a general understanding of how 10:36:54  
 13 that three-part formula works?  
 14 A. I could give you an accurate assessment of  
 15 the formula if I had it in front of me. However, the  
 16 formula provides a checks and balances system that  
 17 accounts for growth in state revenues and then limits  
 18 or -- growth or -- what's the opposite of growth.  
 19 Either growth or a slip in state revenues, and then  
 20 accounts for the level of cuts or growth that schools  
 21 will -- if I had the formula in front of me, I could  
 22 give you an accurate assessment.  
 23 Q. Would your answer be the same if I asked you 10:37:48  
 24 to describe how the three-part formula involved in  
 25 Proposition 98 provides increases in school revenues

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1 during boom times?  
 2 A. I would have to have the formula in front of  
 3 me to give you an accurate answer. I haven't looked  
 4 at the formula in over two years.  
 5 Q. Would your answer be the same if I asked you 10:38:24  
 6 to describe how the formula protects school spending  
 7 from cuts during recessions?  
 8 A. I would have to have the formula in front of  
 9 me, Shaun. I would be happy to give you a one-hour  
 10 lecture on it, if you'd like. Strike that. I'm  
 11 sorry.  
 12 Q. On what do you base your opinion that 10:38:55  
 13 Proposition 98 was designed to provide a floor for  
 14 school spending?  
 15 A. Prop 98 specifically was designed to  
 16 guarantee that a certain level of funding would go to  
 17 schools in California.  
 18 Q. But it's your opinion that in practice, 10:39:24  
 19 Proposition 98 has functioned more as a ceiling for  
 20 school spending; is that correct?  
 21 A. Yes.  
 22 Q. On what do you base that opinion? 10:39:35  
 23 A. By the fact that over the last 14 years since  
 24 Prop 98, we've had very few instances where we've gone  
 25 over that 40 percent or so average. And allocating

<p style="text-align: right;">Page 194</p> <p>1 beyond that 40 percent of general state revenues to 2 schools, there's nothing in Prop 98 that prohibits 3 legislators from funding schools at a higher amount. 4 Q. How about over the last five years? Over the 10:40:08 5 last five years has Proposition 98 functioned as a 6 ceiling as opposed to a floor for school spending? 7 A. Over the last five years, we have seen an 8 increase in revenues that were going to schools. I 9 would need to look specifically back at an analysis 10 over the last five years. Some of the increases have 11 been provided outside of the Prop 98 formula. But I 12 do know that general revenues that have gone to 13 school -- I should say -- strike that. 14 I do know that the overall revenues that have 15 gone to school have increased over the last four 16 years. 17 Q. Could you turn to Page 12 of the expert 10:41:18 18 report. In the first full paragraph of Page 12, it 19 says, "Overall, the changes in response to the Serrano 20 case, and the subsequent developments, have resulted 21 in a state financing system that is considerably more 22 equalizing than in most states." Do you agree with 23 that statement? 24 A. Yes, to the extent that the equalizing has 25 occurred again when we look only at revenue limits</p>	<p style="text-align: right;">Page 196</p> <p>1 Q. Do you know what the source of those figures 10:43:53 2 is? 3 A. Those are data that are readily available 4 from the CDE, California Department of Education. 5 Q. Is there any other place that I could obtain 10:44:07 6 those figures? 7 A. That would be the primary source. You could 8 also obtain that information from -- the LAO may have 9 some of this information, but they would rely on the 10 CDE data. 11 Q. Do you know whether the figures that 10:44:31 12 occurred, per-pupil figures that are reported on 13 Page 12 of the report are accurate? 14 A. These are accurate numbers for '98, '99, yes. 15 Q. Did you do anything to verify the accuracy of 10:44:47 16 those figures? 17 A. We -- this is California Department of Ed 18 data. So we would rely on the accuracy of the data 19 that's coming from the Department of Education. 20 Q. I'm just curious if that's what you did. Did 10:45:04 21 you check these figures with data from the California 22 Department of Ed? 23 A. These are figures that came from the 24 Department of Ed. So yes. 25 Q. Do you know how those per-pupil expenditure 10:45:26</p>
<p style="text-align: right;">Page 195</p> <p>1 across the state, which are based on EDA, not when 2 they account for full per-pupil expenditure. 3 Q. If you'll look at the sentence that begins -- 10:42:12 4 or that says, "Furthermore, the cities in 5 California -- which arguably have the greatest needs 6 for increased school spending, as well as face higher 7 prices for teachers and other personnel -- have faired 8 relatively well, at least in the sense that they have 9 above-average levels of funding." Do you agree with 10 that statement? 11 A. It's true that some urban districts have 12 total per-pupil expenditure amounts that are higher 13 than the state average. When we look at -- when we 14 look only at the per-pupil expenditure in relation to 15 the state average, we might conclude that these 16 schools are doing well reflected against the average. 17 However, that does not account for a full 18 assessment of what the needs may be in these districts 19 and whether that amount is actually providing what's 20 necessary for these districts. 21 Q. Do you see on Page 12 there in about the 10:43:23 22 middle, there are a number of per-pupil expenditure 23 figures for Los Angeles, San Francisco, Oakland, West 24 Contra Costa and Sacramento. Do you see that? 25 A. Yes.</p>	<p style="text-align: right;">Page 197</p> <p>1 figures are calculated? 2 A. Yes. We discussed this yesterday, as far 3 as -- this is also discussed in the report on a 4 previous section, which we spoke about at length 5 yesterday. Page 9. Bottom of Page 9, second to the 6 last sentence. 7 Q. Where does it discuss how those figures are 10:45:52 8 calculated on Page 9? Could you refer me to the 9 specific language? 10 A. Second to the last sentence in the last 11 paragraph, the bottom of the page. 12 Q. So the sentence that says, "The State 10:46:06 13 provides about 60% of school revenues, with 23% from 14 property taxes, 10% from the federal government, and 15 the remaining 7% from local miscellaneous sources and 16 the lottery." Is that the language that you're 17 referring to? 18 A. Yes. Those are the sources from which 19 revenue comes -- from which revenue flows to schools 20 in California. 21 Q. And so is it your testimony that when those 10:46:31 22 sources and the amounts attributed to them are divided 23 by the average daily attendance for a particular 24 district will come up with the figures that are listed 25 on Page 10?</p>

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1 A. Please restate your question. I think you're  
 2 confusing --

3 Q. I may very well be. I understand that on 10:47:03  
 4 Page 9, you identify sources of school revenues.

5 A. Yes.

6 Q. I guess my question is just if you know 10:47:09  
 7 how -- I mean, it's one thing to say that those  
 8 sources of revenue are included in the per-pupil  
 9 expenditures that are identified on Page 10, but I  
 10 just want to try and find out if you know how those  
 11 per-pupil expenditure figures on Page 10 are actually  
 12 calculated.

13 MS. LHAMON: It's Page 12. Are we on a different  
 14 page now?

15 MR. SIMMONS: Page 12. You're right. Thank you.  
 16 Sorry.

17 THE WITNESS: Revenue that comes from the sources  
 18 that are identified in the second to the last sentence  
 19 on Page 9 are what comprise our EDA funding in  
 20 California -- I'm sorry -- our per-pupil expenditure  
 21 in California, which would include a revenue limit as  
 22 well as categoricals and the other programs.

23 The figures on Page 12 reflect the total  
 24 per-pupil expenditure, which would include  
 25 categoricals, federal and state, and miscellaneous

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1 revenues from local districts and the like.  
 2 The average amount, which is listed right in  
 3 the middle of Page 12, is based on the average  
 4 per-pupil expenditure across the state. This is data  
 5 that's also available in the spreadsheet that we  
 6 shared with you yesterday.

7 Q. Is it your opinion that the state system for 10:48:49  
 8 financing public education is becoming less equalizing  
 9 over time as a result of categorical funds?

10 A. It is my opinion that there are growing  
 11 disparities across districts because of categorical  
 12 funds and other resources.

13 Q. Have you conducted any studies in the course 10:49:18  
 14 of formulating that opinion?

15 A. Other than examining the data that's  
 16 available, which we speak about here, and other data  
 17 from other reports, I have not conducted any actual  
 18 collection of data myself in the field.

19 Q. Could you specify what "data" you're 10:49:38  
 20 referring to?

21 A. The per-pupil expenditure amount, which  
 22 begins to give us -- on Page 12, which gives us a  
 23 general picture of different levels of per-pupil  
 24 expenditure, data that's available from analysis from  
 25 the Legislative Analyst's Office, data that's

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1 available from a variety of academic research reports  
 2 all over the state.

3 Q. Are you aware of any specific studies that 10:50:13  
 4 have examined the effect of categorical funds --  
 5 strike that.

6 Are you aware of any studies that have  
 7 examined whether the use of categorical funds in  
 8 financing public school education in California has  
 9 resulted in a financing system that is less  
 10 equalizing?

11 A. Yes.

12 Q. What studies are those? 10:50:51

13 A. One of the latest studies that looks at that  
 14 issue specifically comes from the Public Policy  
 15 Institute of California. The institute put out a  
 16 series of reports on school financing in California  
 17 over the last three years, which included authors like  
 18 Julian Betts. I can't recall the other. Ken Ribbon  
 19 at the Public Policy Institute, as well. A variety of  
 20 other authors.

21 Their reports have examined specifically the  
 22 disequalization effects of categorical programs and  
 23 the uneven distribution of specific resource  
 24 categories across students in the state.

25 Q. Do you recall what the conclusions, if any, 10:51:49

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1 were of that study you just identified?

2 A. Briefly. However, I would need to review it  
 3 again. It's been a while since I have. One of the  
 4 reports conclude that some of the essential resource  
 5 categories, like teachers and facilities, are spread  
 6 very unevenly across the state.

7 Q. Are you aware of any studies that have 10:52:20  
 8 concluded that the use of categorical funds in  
 9 financing public school education in California has  
 10 not resulted in a financing system that is less  
 11 equalizing?

12 A. No.

13 Q. Is it your opinion that the allocation at 10:52:46  
 14 state and local revenues in California is not designed  
 15 to provide overall equity or adequacy, of particular  
 16 instructional inputs like qualified teachers,  
 17 textbooks or counselors?

18 A. Can you repeat the question, please.

19 Q. Sure. Is it your opinion that the allocation 10:53:06  
 20 of state and local revenues in California is not  
 21 designed to provide overall equity or adequacy of  
 22 particular instructional inputs, like qualified  
 23 teachers, textbooks or counselors?

24 MS. LHAMON: Are you just asking if he agrees  
 25 with Page 12 of his report?

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1 MR. SIMMONS: I'm just asking if he agrees with  
 2 that statement.  
 3 THE WITNESS: Can you point to the statement on  
 4 Page 12.  
 5 BY MR. SIMMONS:  
 6 Q. It's toward the bottom of the page. 10:53:36  
 7 A. I got it. Yes. I agree.  
 8 Q. On what do you base that opinion? 10:53:42  
 9 A. On the wide amount of data that exists that  
 10 has examined these issues. We know there's disparity  
 11 across districts in the amount of dollars that are  
 12 reaching schools. We know that there is disparity in  
 13 the distribution of certificated teachers across the  
 14 state. We know there are wide disparities in the  
 15 quality and level of facilities, as well as the amount  
 16 of learning materials and other resources -- the  
 17 essential resources that are necessary within schools.  
 18 Some of the expert -- other expert reports  
 19 filed for this case outline these issues in more  
 20 detail, as well as other data that exists, other  
 21 research that exists outside the expert reports.  
 22 Q. So is it just that the existence of 10:54:47  
 23 disparities in access to these educational inputs  
 24 itself demonstrates that the allocation of state and  
 25 local revenues is not designed to provide overall

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1 equity or adequacy of those instructional inputs?  
 2 A. It's my opinion that because of policy  
 3 disconnects, regulatory disconnect that we discussed  
 4 yesterday, and without ever fully accounting for what  
 5 local needs are, we have a school finance formula that  
 6 has not been able to account for what is truly  
 7 necessary at local levels.  
 8 Q. Let's turn to facilities funding. 10:55:42  
 9 MR. POULOS: Shaun, it's been about an hour and a  
 10 half.  
 11 MR. SIMMONS: Are you guys up for a break?  
 12 THE WITNESS: Sure.  
 13 MR. SIMMONS: Logical stopping point.  
 14 (Recess taken from 10:56 A.M. to 11:08 A.M.)  
 15 BY MR. SIMMONS:  
 16 Q. At the top of Page 13, Dr. Huerta, it says, 11:08:26  
 17 "Facilities funding in California, as in other states,  
 18 is quite independent of funding for current operating  
 19 expenditures." Do you see that there?  
 20 A. Yes.  
 21 Q. Are you aware of any state where facilities 11:08:41  
 22 funding is not independent of funding for current  
 23 operating expenditures?  
 24 A. Arizona is a case that recently is in the  
 25 process of settling a case, or has recently, where

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1 facilities funding is a larger portion of general  
 2 operating expenditures. Other than Arizona, I can't  
 3 think of any other example that isn't unlike  
 4 California.  
 5 Q. Are there any other state -- are there any 11:09:12  
 6 states that you believe set an exemplary model for  
 7 funding their public school facilities?  
 8 A. I think that Arizona, as I indicated, is one  
 9 state that is beginning to place facilities funding at  
 10 higher priority.  
 11 Q. Would you recommend the model being used in 11:09:40  
 12 Arizona, that it be used in California?  
 13 MS. LHAMON: Lacks foundation.  
 14 THE WITNESS: I wouldn't make such recommendation  
 15 without fully assessing what the needs are in  
 16 California, and knowing that Arizona is an extremely  
 17 different state, not only the population of students  
 18 it serves, but economicwise and geographic and the  
 19 like, it would be hard to use Arizona as simply an  
 20 overlay onto California.  
 21 BY MR. SIMMONS:  
 22 Q. On Page 13 the report also says that "The 11:10:23  
 23 state has a pool of resources, raised through state  
 24 revenue bonds, that are allocated to local districts  
 25 according to a complex application process." Do you

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1 see that on Page 13?  
 2 A. Yes.  
 3 Q. What's your understanding of the "application 11:10:38  
 4 process" referred to in that sentence?  
 5 I think I'm going to refer you to the expert  
 6 report that details this in great detail. In general,  
 7 schools -- or the state provides three levels of  
 8 matching grants for matching funds that are raised at  
 9 the local level for both capital improvement and the  
 10 construction.  
 11 There's a complex formula that's based on --  
 12 that also provides for hardship, and there's -- where  
 13 schools qualifying for hardship receive 100 percent of  
 14 construction funds from the district -- from the  
 15 state. In general, that's the format.  
 16 Q. You referred to an "expert report" in your 11:11:37  
 17 last answer. What expert report were you --  
 18 A. The expert report on facilities that was  
 19 submitted for the case, which is written by -- I don't  
 20 remember the author's name.  
 21 Q. Is it Mr. Corely? 11:11:56  
 22 A. Corely, yes. Robert Corely.  
 23 MS. LHAMON: (Nods head.)  
 24 BY MR. SIMMONS:  
 25 Q. Is it your opinion that the process for 11:12:11

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1 funding the construction of school facilities in  
2 California penalizes urban districts because they have  
3 a more difficult time assembling land and ascertaining  
4 costs?  
5 A. Yes.  
6 Q. In what way do urban districts have a more 11:12:26  
7 difficult time assembling land?  
8 A. By the mere fact that land in urban areas is  
9 not as readily available as it is in developing  
10 suburban and rural areas, and the process of placing  
11 your district's name in the queue at the state level  
12 for matching funds requires that districts first have  
13 secured land and plans in place before filing their  
14 intent to request matching funds at the state level.  
15 It's a first-come first-serve basis.  
16 Q. Do you have an opinion as to how the process 11:13:12  
17 for funding the construction of school facilities in  
18 California could be changed to address what -- the  
19 problem that you believe urban districts have, namely,  
20 a more difficult time assembling land?  
21 A. I have an opinion only to the extent that we  
22 would need to engage in a wide-scale assessment across  
23 the state of what real facilities needs are, and also  
24 reflect the results of such an assessment against any  
25 minimum standards for facilities that may be created

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1 by both local and state officials.  
2 Q. In what way do urban districts have a more 11:14:05  
3 difficult time ascertaining costs?  
4 A. Are you referring to a specific part of the  
5 report?  
6 Q. Yeah. There's -- it's still on Page 13. 11:14:17  
7 A. Same sentence; right?  
8 Q. You'll see it begins with "In the Godinez v. 11:14:29  
9 Davis case."  
10 (Pause in proceedings.)  
11 THE WITNESS: That sentence is referring  
12 specifically to what I just answered in that urban  
13 districts -- that's the answer I just gave you, Shaun.  
14 BY MR. SIMMONS:  
15 Q. I thought that your last answer dealt with 11:14:55  
16 difficulties in assembling land.  
17 A. Your question now is?  
18 Q. First of all, what costs, if you know, are 11:15:13  
19 being referred to in that sentence on Page 13 that  
20 begins "In the Godinez v. Davis case"?  
21 A. Well, the cost of actually finding land on  
22 which to build facilities in urban areas.  
23 Q. What makes ascertaining that -- what, if 11:15:41  
24 anything, makes ascertaining that cost more difficult  
25 for an urban district?

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1 A. The fact that land is not as readily  
2 available also makes it difficult to ascertain what  
3 the cost may be in any land that you may find.  
4 There's also -- we might have -- however, I don't know  
5 exactly. We might have varying degrees of -- or wider  
6 ranges of cost in urban areas as compared to some of  
7 the suburban or rural areas, as well. There's a  
8 variety of factors that will make ascertaining costs  
9 in urban areas different than in suburban and rural  
10 areas.  
11 Q. Could you provide me a few examples of those 11:16:29  
12 factors that would make it more difficult?  
13 A. The mere fact that urban land is going to be  
14 more expensive than most suburban or rural land is one  
15 example.  
16 Q. Any other examples that you can think of 11:16:44  
17 right now?  
18 A. The cost of construction in urban areas may  
19 be more than in suburban or rural areas.  
20 Q. Is that just an example of the fact that it's 11:16:59  
21 more expensive to construct in -- school facilities in  
22 an urban as opposed to suburban area?  
23 A. Yeah. It's an example of not only the cost,  
24 but it's an example of the actual cost differences,  
25 which I indicate. Those cost differences may also

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1 account for differences in ascertaining the real cost  
2 of construction in urban areas. I don't know  
3 enough -- I'm not an expert in the actual costs of  
4 building schools to the extent that I can specifically  
5 talk about what are the other challenges in estimating  
6 cost.  
7 Q. On Page 13, the expert report also indicates 11:18:05  
8 that in response to the Godinez vs. Davis case, the  
9 state set up a two-track funding mechanism, further  
10 complicating an already complex mechanism. Do you see  
11 where the report says that?  
12 A. Uh-huh.  
13 Q. What is your understanding of the two-track 11:18:24  
14 mechanism, funding mechanism that's referenced there?  
15 A. The two-track funding mechanism is what I  
16 understand to be a temporary remedy to allow some  
17 level of priority to schools in urban areas that were  
18 soliciting matching funds from the states. I would  
19 refer you to the other expert report to get the very  
20 specific details of that, of the Godinez case.  
21 Q. So other than the understanding of the 11:18:59  
22 two-track funding mechanism that you've just mentioned  
23 in your last answer, is there anything else -- any  
24 other understanding that you have of that mechanism,  
25 as you sit here today?

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1 A. No. I would refer you again to the other  
 2 expert report.

3 Q. Do you have any sense, as you sit here today, 11:19:20  
 4 how that funding mechanism further complicated the  
 5 area of facilities funding in California?

6 A. The phrase "further complicating" refers to  
 7 the fact that it's not clear whether this is a simple  
 8 stop-gap measure or whether this is something that's  
 9 going to continue in how facilities funding are  
 10 matching funds for the facilities are distributed from  
 11 the state.

12 Q. Are -- 11:19:57

13 A. It's important to note that this report was  
 14 written before passage of our last state bond measure,  
 15 as well.

16 Q. That was actually -- that moves me on to my 11:20:04  
 17 next question, which is are you aware that the state  
 18 recently passed a new bond measure to be used in part  
 19 to fund construction and modernation of California  
 20 public schools?

21 A. Yes.

22 Q. What's your understanding of that measure? 11:20:20

23 A. I've only had -- I've only reviewed it  
 24 briefly. It's not clear to me whether the spirit of  
 25 the Godinez remedy is explicit enough in the new state

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1 bond issue that was passed. I do know that many of  
 2 the funds, matching funds that are being made  
 3 available through the new bond are being taken up  
 4 quickly by schools that were already in the queue and  
 5 were not able to be funded with funds from the  
 6 previous state bond measures.

7 That's about the extent of what I know. I  
 8 haven't examined it fully enough yet.

9 Q. Do you know the amount of funds that are 11:21:15  
 10 available to public schools under the recently passed  
 11 bond measure?

12 A. I don't recall exactly the amount. I do know  
 13 that it was larger than the last prop -- than  
 14 Prop 1-A.

15 Q. Do you know how funds will be distributed 11:21:36  
 16 under the recently passed bond measure?

17 A. I haven't had an opportunity to fully examine  
 18 the way -- or the new distribution, if it was going to  
 19 be new at all under the new bond measure.

20 Q. On Page 13, the report mentions that "The 11:22:02  
 21 Legislative Analyst's Office has proposed a change in  
 22 allocating capital funds, arguing for a flat grant of  
 23 \$550 per student (compared to the approximately \$450  
 24 per student per year that is currently allocated),  
 25 allocating state aid for capital spending on an annual

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1 basis rather than for specific capital projects as is  
 2 currently the case."

3 Is that an approach to facilities funding  
 4 that you would recommend to the State of California?

5 A. That's an approach that may begin to provide  
 6 more resources, more discretionary resources to  
 7 districts for the purpose of school facilities.  
 8 However, this sort of proposal is still absent any  
 9 real needs assessment of facilities across the state.  
 10 It's not certain, as the LAO indicates in their  
 11 reports, that even this increase in this flat grant  
 12 amount would be sufficient to bring facilities up to  
 13 any sort of standard.

14 Q. Are you referring to a specific LAO report? 11:23:39

15 A. I believe this was a policy brief that the  
 16 Legislative Analyst's Office put out. This is  
 17 actually -- I apologize. This is also part of  
 18 their -- the budget analysis that I gave you  
 19 yesterday, as well. There's a section that speaks  
 20 specifically to this issue.

21 Q. Okay. In that same sentence after the 11:24:08  
 22 semicolon it also says, "but they also estimate that  
 23 it would cost about \$6 billion for the state to bring  
 24 facilities up to a standard where the flat grant could  
 25 then provide for more routine maintenance and

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1 expansion."

2 Do you know whether that \$6 billion figure  
 3 accurately reflects the amount of money that is  
 4 necessary to bring facilities up to a standard where  
 5 the flat grant proposed by the LAO could provide for  
 6 more routine maintenance and expansion?

7 A. I think the \$6 billion figure is a reliable  
 8 estimate that was made by the Legislative Analyst's  
 9 Office, but it's important to consider that that  
 10 estimate was made without any full wide scale  
 11 assessment of what the needs are across the state.

12 Q. Do you have an understanding as to how the 11:25:06  
 13 Legislative Analyst's Office went about determining  
 14 that \$6 billion figure?

15 A. No, I do not know what methodology they used  
 16 to do so.

17 Q. Now, then, towards the bottom of Page 13, 11:25:32  
 18 there's a reference to "The Finance Committee of the  
 19 Joint Commission to Develop a Master Plan for  
 20 Education Kindergarten Through University." There's a  
 21 reference to that group allocating -- proposing  
 22 allocating "funding on a formula basis, taking needs  
 23 and price differences into account." Do you see where  
 24 that's at in the report?

25 A. Yes.

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1 Q. What is your opinion, if any, on this 11:26:03  
 2 proposal?  
 3 A. I think that's a proposal that's very  
 4 consistent with the conceptual framework of the new  
 5 school finance which is proposed in this report and in  
 6 the Straw Into Gold report. That is that prior to  
 7 creating a formula or beginning to devise -- or  
 8 beginning to propose any actual dollar amounts of how  
 9 much money may be distributed to schools, we need to  
 10 engage in a full assessment of what the needs are,  
 11 which would also include geographic differences,  
 12 construction cost differences across the state.  
 13 Q. On Page 14, you'll see that it -- at the top 11:27:18  
 14 of the page it says, "Instead the current system is  
 15 haphazard, bureaucratically awkward, and unrelated to  
 16 the goals of providing adequate and equitable  
 17 education." The "current system" being referred to  
 18 there is the state's system for funding public school  
 19 facilities; correct?  
 20 A. Yes.  
 21 Q. In what way is that system haphazard? 11:27:42  
 22 A. Primarily, it's haphazard in that matching  
 23 funds from the state for school construction are  
 24 distributed on a first-come first-serve basis and may  
 25 not account for the challenges with which some

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1 districts have compared to others, the urban versus  
 2 rural or suburban difference. It's potentially  
 3 haphazard also in the form in which funds are  
 4 distributed for schools that have the highest needs or  
 5 for what's so-called hardship cases.  
 6 Hardship not only involves ability to raise  
 7 local revenues, but also involves political climate in  
 8 that schools that don't -- schools that cannot pass  
 9 bonds at the local level can ultimately qualify after  
 10 a certain amount of attempts to pass a bond measure,  
 11 may ultimately qualify for hardship funds.  
 12 Q. In what way, if any, is the current system 11:29:22  
 13 for funding school facilities unrelated to the goals  
 14 of providing adequate and equitable education?  
 15 A. The current system does not account for what  
 16 the real needs are at local levels.  
 17 Q. Is it your opinion that state spending 11:30:01  
 18 decisions for current expenditures and for capital  
 19 outlays are uncoordinated in any way?  
 20 A. Yes.  
 21 Q. So you're not aware of any ways in which 11:30:13  
 22 state spending decisions for current expenditures and  
 23 for capital outlays are coordinated?  
 24 A. My definition of "coordinated" would account  
 25 for first assessing what the needs are at the local

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1 level, and I don't see that that sort of coordination  
 2 exists in the way facilities funding is distributed to  
 3 schools.  
 4 Q. The report on Page 14 also says that "One of 11:30:50  
 5 the more common practices is for resource-starved  
 6 districts to delay maintenance of their physical  
 7 plant, where maintenance comes out of current  
 8 operating expenditures." Do you see where it says  
 9 that?  
 10 A. Yes.  
 11 Q. Do you agree with that statement? 11:31:06  
 12 A. Yes. I mean, that's been a well documented  
 13 common practice at schools that -- where they use --  
 14 where they have not been able to keep up with their  
 15 maintenance demands, and they continue to defer any  
 16 attempt to -- to actually engage capital improvements.  
 17 Q. When you say that that's well documented -- 11:31:33  
 18 or "a well documented practice," are you referring to  
 19 particular studies that have documented that practice?  
 20 A. Yes. Sorry.  
 21 Q. What studies? 11:31:44  
 22 A. You can refer to the quarterly report, which  
 23 talks in detail about that issue, as well.  
 24 Q. Other than the quarterly report, are you 11:31:50  
 25 aware of any such studies as you sit here today?

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1 A. There are other studies. I cannot give you  
 2 specific references, not at this moment.  
 3 Q. The report also says that "Another frequent 11:32:08  
 4 problem is that resource-starved districts contrive to  
 5 use their capital funds for current expenditures, as  
 6 San Francisco appears to have done under its former  
 7 superintendent."  
 8 Is that your opinion?  
 9 A. Yes. There's -- some evidence has surfaced,  
 10 specifically in San Francisco Unified, where funds  
 11 that were supposed to be outlaid for capital  
 12 expenditures were used for general expenditures in the  
 13 district. What resulted was that many districts --  
 14 many schools went into disrepair.  
 15 Q. What potential solution, if any, would new 11:33:08  
 16 school finance offer for that type of problem?  
 17 A. The new school finance approach would first  
 18 call for the wide scale assessment of what needs are,  
 19 would begin to distribute revenue based on a variety  
 20 of factors based on need, as I indicated, with the  
 21 geographical cost differences, the priority given to  
 22 districts, mainly urban versus suburban and rural.  
 23 But as I indicated, the primary component of  
 24 the approach is to first assess what the real needs  
 25 are and then fund to the needs and provide a steady

1 and reliable source of state income that would allow  
2 for the capital improvements -- capital improvements  
3 in new construction that's required over time.

4 Q. So am I correct that new school -- at least 11:34:16  
5 one solution of new school finance would be to provide  
6 additional resources to a district so that there  
7 wouldn't be an incentive to use those resources for  
8 current expenditures?

9 A. Restate your question, please.

10 MR. SIMMONS: Could you read that back, please.  
11 (Record read.)

12 THE WITNESS: One of the potential solutions of  
13 the new school finance approach is to avoid the  
14 practice that some schools engage in, using capital  
15 funds for general expenditures.

16 BY MR. SIMMONS:

17 Q. And how would new school finance go about 11:35:20  
18 accomplishing that?

19 A. I've answered that in detail already. Two  
20 questions ago, I answered that.

21 Q. So are you referring to your answer that just 11:35:42  
22 dealt with the statewide assessment of needs?

23 A. Yes.

24 Q. Are you aware of any other districts than 11:35:52  
25 San Francisco that appear to have contrived to use

1 the Straw Into Gold report, it's a process of engaging  
2 in a full assessment of what needs are, providing to  
3 schools the necessary resources and making sure that  
4 these resources are a consistent and reliable source  
5 over time for schools to depend on for improvements  
6 and for new construction.

7 An important component of that is also to  
8 engage -- part of the assessment would engage both  
9 local and state level actors to define some basic  
10 minimum level of what's required in regard to school  
11 facilities.

12 Q. Do you have any opinion as to what the 11:38:13  
13 minimum standards in terms of facilities ought to be  
14 in California?

15 A. That's an issue I haven't considered in great  
16 detail. I would refer you to the quarterly report. I  
17 would also refer you to one of the other expert  
18 reports, and the name escapes me of that author right  
19 now.

20 Q. So that area is not something that you intend 11:38:41  
21 to testify about in this case?

22 MS. LHAMON: Lacks foundation. Calls for  
23 speculation.

24 THE WITNESS: I am not prepared to testify about  
25 the specific details of level of facilities that are

1 their capital funds for current expenditures?

2 A. There's evidence of districts doing so in  
3 some of the research that exists. I can't think by  
4 name of any district.

5 Q. What research are you referring to? 11:36:10

6 A. I am not certain if the quarterly report  
7 actually names districts that have engaged in this  
8 process. However, it is well known that schools over  
9 the last 20 to 25 years in California have engaged in  
10 this process, and that's as evidenced by the  
11 deteriorating facilities that already exist.

12 Q. You've expressed some opinions about problems 11:36:41  
13 with California's current system for funding its  
14 public school facilities; is that correct?

15 A. Yes.

16 Q. How would you change the system as it exists 11:36:52  
17 right now, if at all?

18 MS. LHAMON: Overbroad.

19 THE WITNESS: Can you be specific in what system  
20 you're speaking about. The whole system or the  
21 facilities funding system or...

22 BY MR. SIMMONS:

23 Q. Just facilities funding system. 11:37:10

24 A. Again, if I follow the new school finance  
25 approach that's outlined both in this report and in

1 necessary, no.

2 BY MR. SIMMONS:

3 Q. Should the state rely on an annual per-pupil 11:39:09  
4 grant to cover facilities construction in California?

5 MS. LHAMON: Incomplete hypothetical.

6 THE WITNESS: A per-pupil grant process may be  
7 one attempt or one approach to funding facilities.  
8 However, any per-pupil grant approach would have to  
9 involve an assessment in some scale that would be  
10 created to fund needs accordingly to fund facilities  
11 according to differential needs of districts.

12 BY MR. SIMMONS:

13 Q. Do you see on Page 14 where it says, "A state 11:40:14  
14 system to provide adequate physical facilities in all  
15 districts would prevent the use of capital funds for  
16 current expenditures - easier said than done,  
17 perhaps - and would recognize the need for additional  
18 maintenance in allocating current revenues"?

19 A. Yes.

20 Q. Do you agree that establishing a state system 11:40:31  
21 that would provide adequate facilities in all  
22 districts and prevent the use of capital funds for  
23 current expenditures is something that's easier to  
24 talk about than to accomplish?

25 A. I think the spirit of that phrase refers to



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1 the challenges of actually engaging in an assessment  
 2 that's necessary. I don't think it refers to  
 3 something that's impossible to do, but I do think it  
 4 only implies that this is a challenging task.  
 5 Q. Do you know whether teacher credentials are a 11:41:25  
 6 reliable proxy for teacher quality?  
 7 MS. LHAMON: Vague and ambiguous.  
 8 BY MR. SIMMONS:  
 9 Q. Do you understand the question? 11:41:35  
 10 A. Can you rephrase it, please.  
 11 Q. I'm just trying to determine whether in your 11:41:40  
 12 opinion, the fact that a teacher has a clear  
 13 credential provides any reliable proxy as to whether  
 14 that teacher will be a quality teacher.  
 15 MS. LHAMON: Same objection.  
 16 THE WITNESS: There is existing evidence from  
 17 other research that has shown that teachers that are  
 18 fully credentialed -- or that the level of teachers --  
 19 the level of teacher credential is significantly  
 20 related to levels of achievement of students.  
 21 BY MR. SIMMONS:  
 22 Q. But the question of whether teacher 11:42:38  
 23 credentials improve the quality of instruction is an  
 24 issue that's hotly debated, is it not?  
 25 A. Yes.

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1 MS. LHAMON: Well beyond the scope of the  
 2 expertise for which we have offered this witness.  
 3 THE WITNESS: My answer is yes.  
 4 BY MR. SIMMONS:  
 5 Q. In terms of that issue being hotly debated, 11:43:11  
 6 is that issue hotly debated in academic circles?  
 7 A. I think it's an issue hotly debated in  
 8 academic circles and among practitioners, as well.  
 9 Q. Is it your opinion that there is considerable 11:43:28  
 10 variation across districts in the number of  
 11 credentialed teachers?  
 12 A. Yes. There's clear evidence that points to  
 13 the wide disparities that exist in the distribution of  
 14 certificated or credentialed teachers across the  
 15 state.  
 16 Q. Have you conducted any surveys to determine 11:43:53  
 17 the extent of the variation across districts and the  
 18 number of credentialed teachers?  
 19 A. I have not conducted any survey or field work  
 20 on this issue specifically, but I'm very familiar with  
 21 some -- I'm familiar with some of the research that  
 22 speaks to this issue in California.  
 23 Q. Is it your opinion that there is considerable 11:44:17  
 24 variation in the number of credentialed teachers  
 25 available to schools within districts?

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1 A. Yes.  
 2 MS. LHAMON: Calls for speculation. Lacks  
 3 foundation.  
 4 THE WITNESS: There is some evidence that points  
 5 to the distribution of credential certificated  
 6 teachers within districts, as well as among districts.  
 7 BY MR. SIMMONS:  
 8 Q. What evidence are you referring to? 11:44:47  
 9 A. I'm referring to some of the work, again,  
 10 that the Public Policy Institute of California has  
 11 conducted. I believe that some of the work that my  
 12 colleague Largo has conducted, which is referenced in  
 13 the bibliography of this expert report, those are two  
 14 examples.  
 15 Q. Would you turn to Page 16 of the expert 11:45:14  
 16 report.  
 17 Do you see where it says near the top of the  
 18 page, it says, "There have been few state efforts to  
 19 fix this kind of shortage - for example, by providing  
 20 urban districts extra funds to attract teachers, or  
 21 developing methods of attracting more individuals to  
 22 urban teaching, and then preparing them  
 23 appropriately."  
 24 Do you see where it says that in the report?  
 25 A. Yes.

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1 Q. Do you agree with that statement? 11:45:57  
 2 A. Yes.  
 3 Q. On what do you base your opinion that there 11:46:02  
 4 have been few state efforts to fix the shortage of  
 5 credentialed teachers in California?  
 6 A. Both on the evidence that's referenced on the  
 7 bottom of Page 15, which is the Goe 2002 report, and  
 8 on my knowledge of some of the other existing evidence  
 9 that has been reported in other academic reports for  
 10 the state.  
 11 Q. Are you aware of any specific efforts that 11:46:30  
 12 the state has taken in response to the shortage of  
 13 credentialed teachers?  
 14 A. No.  
 15 MR. SIMMONS: Could you mark this as 6.  
 16 (Deposition Exhibit 6 was marked for  
 17 identification and is bound separately.)  
 18 (Pause in proceedings.)  
 19 MR. SIMMONS: I'll represent this is a document  
 20 that I obtained from the website for The Center for  
 21 the Future of Teaching and Learning.  
 22 MS. LHAMON: I think it's only a few pages of the  
 23 document.  
 24 MR. SIMMONS: Yeah. That's correct.  
 25 Q. You're familiar with the Center for the 11:47:55

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1 Future of Teaching and Learning, are you not?  
 2 A. I'm familiar with the center, yes.  
 3 Q. And Pace has actually done some work with 11:48:03  
 4 that organization; is that correct?  
 5 A. Yes.  
 6 Q. Do you know whether Pace assisted The Center 11:48:11  
 7 for the Future of Teaching and Learning in the  
 8 preparation of the report titled "The Status of the  
 9 Teaching Profession, 2001," which has been marked as  
 10 Exhibit 6?  
 11 MS. LHAMON: Just for clarification, it's only a  
 12 portion of the report that's been marked.  
 13 MR. SIMMONS: Yes.  
 14 THE WITNESS: Your question was? I'm sorry.  
 15 BY MR. SIMMONS:  
 16 Q. Do you know if -- we have this portion of a 11:48:34  
 17 report titled "The Status of the Teaching Profession  
 18 2001," and that's been marked as Exhibit 6. Do you  
 19 know whether Pace participated in the creation of this  
 20 document?  
 21 A. I do not know specifically the extent of  
 22 their participation. I see that they are named in the  
 23 title. Whether that refers to researchers from Pace  
 24 actually engaged in this report, or whether that  
 25 refers to Pace providing research support in the form

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1 of resources or money or other resources, I'm not  
 2 sure.  
 3 Q. Would you take a look at -- or take a moment 11:49:16  
 4 to familiarize yourself with Pages 76 and 77, starting  
 5 with the section where it's -- on 76 where it says  
 6 "State Recruitment Policies."  
 7 A. Uh-huh. I'm very uncomfortable with  
 8 commenting on this piece without having the whole  
 9 report in front of me. I don't know what sort of  
 10 methodology was used in this report. I don't know  
 11 what came between Page 1 and 75, and I don't know what  
 12 comes after Page 78. So I can familiarize myself with  
 13 this, but I'm not comfortable in commenting on  
 14 anything that I read here.  
 15 Q. Okay. All I'm asking is that you review 11:50:07  
 16 Pages 76 and 77 for the moment.  
 17 (Pause in proceedings.)  
 18 THE WITNESS: Did you say up to 78 or 77?  
 19 BY MR. SIMMONS:  
 20 Q. 76 and 77 just for now. 11:53:08  
 21 A. All right.  
 22 Q. The first question is I know you said you're 11:53:11  
 23 familiar with the organization, namely Center for the  
 24 Future of Teaching and Learning.  
 25 Are you familiar with their reputation at all

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1 in the educational community?  
 2 A. Yes.  
 3 Q. What is that reputation? 11:53:26  
 4 A. They have a strong reputation.  
 5 Q. Now, on Page 76 to 77, there are a number of 11:53:37  
 6 teacher recruitment programs briefly discussed; is  
 7 that correct?  
 8 A. Yes.  
 9 Q. Are you familiar with any of those programs? 11:53:51  
 10 A. I've heard of a couple of these, yes. I'm  
 11 not familiar to the extent of -- I've heard several of  
 12 these programs, yes.  
 13 Q. Which ones have you heard of? 11:54:04  
 14 A. The teaching fellowships -- governor's  
 15 teaching fellowships. I've heard of the APLE program,  
 16 the A-P-L-E program. Those are the only two programs  
 17 that I'm vaguely familiar with.  
 18 Q. Did you notice that there were a number of 11:54:25  
 19 figures provided as amounts that were budgeted to  
 20 these programs, those figures that were provided on  
 21 Pages 76 and 77. Did you see that?  
 22 A. Yes.  
 23 Q. Do you have any reason to question the budget 11:54:40  
 24 figures that are provided on Pages 76 and 77?  
 25 A. No.

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1 Q. Is it your opinion that these programs that 11:54:57  
 2 are identified here on Pages 76 and 77 constitute few  
 3 state efforts to fix the shortage of credentialed  
 4 teachers in California?  
 5 A. Yes. These are a few state efforts.  
 6 Q. Did you say these are a few or these are few? 11:55:24  
 7 A. These are few. I don't know if the others  
 8 exist. These are a few, and yes, these are few.  
 9 Q. So this isn't much of an effort to fix the 11:55:34  
 10 shortage of credentialed teachers in California in  
 11 your opinion; is that correct?  
 12 MS. LHAMON: Lacks foundation. He's testified  
 13 only to very vague knowledge about these programs and  
 14 hasn't seen this report before now.  
 15 THE WITNESS: I think the description that's  
 16 provided is a brief description of what the programs  
 17 entail. My judgment on whether the extent of these  
 18 programs has been significant enough would require me  
 19 looking at No. 1, the number of individuals that have  
 20 benefited from each program, the success of each  
 21 program, which is not listed in this description, the  
 22 success of these programs in actually placing the  
 23 individuals in schools, the attrition rate of the  
 24 individuals that have gone through these programs.  
 25 There's a variety of variables that are

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1 necessary for me to make any type of judgment on the  
 2 quality of these programs. I have no reason to  
 3 believe that the information that the Center for  
 4 Future of Teaching and Learning provides here is  
 5 provided only for the purpose of describing these  
 6 programs.  
 7 BY MR. SIMMONS:  
 8 Q. Why don't you turn to Page 78 of Exhibit 6. 11:57:09  
 9 Do you see the first sentence at the top of Page 78,  
 10 which reads, "In combination, these initiatives have  
 11 the potential to create a comprehensive effort to  
 12 attract individuals into the teaching profession."  
 13 Do you disagree with that?  
 14 MS. LHAMON: Lacks foundation.  
 15 THE WITNESS: I wouldn't comment on that until  
 16 I -- I wouldn't make my personal -- I wouldn't provide  
 17 my personal opinion until I reviewed some of the  
 18 evidence, successes or failures of the programs.  
 19 BY MR. SIMMONS:  
 20 Q. Let's just make sure that we're on the same 11:57:48  
 21 page here, as well. Do you understand the first  
 22 sentence at the top of Page 78? When it refers to  
 23 "these initiatives," do you understand that to be  
 24 referring back to the programs that are listed on  
 25 Pages 76 and 77?

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1 A. Yes.  
 2 Q. And so as you sit here today, you're not 11:58:06  
 3 comfortable expressing an opinion that you either  
 4 disagree or agree with the first sentence on Page 78;  
 5 is that correct?  
 6 A. That's correct. Without fully knowing some  
 7 of the variables and facts that I mentioned, I would  
 8 not be able to give you an opinion on this.  
 9 MR. SIMMONS: Can we go off the record for a  
 10 moment.  
 11 (The luncheon recess was taken at 11:58 A.M.)  
 12  
 13  
 14  
 15  
 16  
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 19  
 20  
 21  
 22  
 23  
 24  
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1 APPEARANCES OF COUNSEL:  
 2 (P.M. SESSION)  
 3  
 4 SHAUN M. SIMMONS, ESQ.  
 5  
 6 CATHERINE E. LHAMON, ESQ.  
 7  
 8 SUZANNE GIORGI, DEPUTY ATTORNEY GENERAL  
 9  
 10 N. EUGENE HILL, ESQ.  
 11  
 12 JOHN S. POULOS, ESQ.  
 13  
 14 ALSO PRESENT:  
 15  
 16 JOHN NOLTE, INTERN  
 17  
 18  
 19 REPORTED BY:  
 20  
 21 NANCY J. MARTIN, CSR No. 9504  
 22  
 23  
 24  
 25

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1 (The deposition of LUIS HUERTA was reconvened  
 2 at 1:10 P.M.)  
 3  
 4 LUIS HUERTA,  
 5 the witness, having been previously administered an  
 6 oath in accordance with CCP Section 2094, testified  
 7 further as follows:  
 8  
 9 EXAMINATION (CONTINUING)  
 10 BY MR. SIMMONS:  
 11 Q. Welcome back, Dr. Huerta. 13:10:30  
 12 A. Thank you.  
 13 Q. Did you discuss your deposition over the 13:10:35  
 14 course of the last break at all?  
 15 A. Yes.  
 16 Q. What did you discuss? 13:10:41  
 17 A. Catherine simply commented to me she felt I  
 18 was answering your questions consistently with what  
 19 the expert report reflects.  
 20 Q. Any other discussions about the deposition? 13:10:58  
 21 A. I was -- I asked Catherine about Exhibit 6,  
 22 which you had handed us right before the break, and my  
 23 concern that I had not had a chance to review this  
 24 document. That's it.  
 25 Q. By review this document, you mean review it 13:11:21

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1 in its entirety?  
2 A. Yes.  
3 Q. And did Ms. Lhamon provide any response to 13:11:27  
4 you in connection with the concern you expressed?  
5 A. She said to the extent that you're asking  
6 questions only about these pages, that that's  
7 permissible, yet that my concerns about not having the  
8 whole document are legitimate, as well.  
9 Q. Anything else that you can recall discussing 13:11:47  
10 about the deposition over the last break?  
11 A. That's all.  
12 Q. Let's discuss textbook standards and 13:12:28  
13 requirements for a little bit. On Page 17, the expert  
14 report says, "But for our purposes the important issue  
15 is that, while the state restricts how textbooks are  
16 chosen, it does not monitor how textbooks are actually  
17 used." Do you see where it says that?  
18 A. Yes.  
19 Q. Is it your opinion in this case that the 13:12:54  
20 state should monitor how textbooks are actually used?  
21 (Pause in proceedings.)  
22 THE WITNESS: It's my opinion that the state,  
23 together with local actors, should engage in  
24 identifying what the textbook -- not only textbook but  
25 other learning materials and needs are, and work

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1 together to create some minimum standard or level of  
2 materials that are necessary to meet standards at the  
3 state level. It is not my opinion that -- strike that  
4 last part. That's it.  
5 BY MR. SIMMONS:  
6 Q. Do you have any opinion in this case as to 13:14:02  
7 what the minimum standard should be with regard to  
8 instructional materials?  
9 A. No. My opinion is that before setting any  
10 level, that we should engage in that wide scale  
11 assessment of what local needs are.  
12 Q. Is it your opinion that the state should 13:14:31  
13 monitor the number of textbooks that are available in  
14 public schools?  
15 A. It's my opinion that the state, together with  
16 local actors, should set a level -- a minimum level of  
17 learning materials, including textbooks, that are  
18 necessary to meet minimum education standards.  
19 Q. So you don't intend to offer -- you don't 13:14:53  
20 intend to offer an opinion in this case that the state  
21 should monitor the number of textbooks available in  
22 public schools?  
23 MS. LHAMON: Calls for speculation. Lacks  
24 foundation.  
25 THE WITNESS: I don't intend to offer an opinion

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1 to have direct monitoring of textbook use or any other  
2 written materials. I only intend to offer my opinion  
3 that assessing local needs and identifying an adequate  
4 level of learning materials and other resources that  
5 are necessary to meet minimum standards is very  
6 important.  
7 BY MR. SIMMONS:  
8 Q. Are you aware of any states that monitor the 13:15:35  
9 availability of textbooks in their public schools?  
10 A. I cannot think of any examples specifically,  
11 no.  
12 Q. Do you intend to offer an opinion in this 13:15:52  
13 case that the state should monitor the physical  
14 condition of textbooks in public schools?  
15 MS. LHAMON: Lacks foundation. Calls for  
16 speculation. I'd just like to have a running  
17 objection that any time you ask if Dr. Huerta intends  
18 to offer an opinion in this case, it just lacks  
19 foundation and calls for speculation so I don't need  
20 to do that every time.  
21 MR. SIMMONS: I'm not sure why that objection is  
22 valid, but you're welcome to it.  
23 MS. LHAMON: I just don't want to make it every  
24 time.  
25 MR. SIMMONS: Yeah.

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1 MS. LHAMON: Thanks.  
2 THE WITNESS: Can you repeat the question,  
3 please.  
4 BY MR. SIMMONS:  
5 Q. Yeah. As you sit here today, do you intend 13:16:25  
6 to offer an opinion that the state should monitor the  
7 physical condition of textbooks in public schools?  
8 A. I do not believe that the state should  
9 monitor the condition of textbooks without, again,  
10 first assessing what the real needs are and  
11 identifying, together with local actors, some set  
12 level of amount and quality of resources that are  
13 necessary.  
14 Q. So after that needs assessment occurs, is it 13:17:02  
15 your opinion that the state should then monitor the  
16 physical condition of textbooks in public schools?  
17 A. No.  
18 Q. Why is that not your opinion? 13:17:16  
19 A. Because I think the oversight should be both  
20 a local and state effort. The state will -- in spirit  
21 with the new school finance conceptual frame, the  
22 state would set a minimum level together with local  
23 actors and other professionals and would allow local  
24 actors to -- or would fund the level and then allow  
25 local actors to engage in the use of those resources

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1 accordingly.

2 Q. Would your answer be the same with respect to 13:18:01

3 monitoring the number of textbooks, that is, after a

4 needs assessment is conducted, concerning the number

5 of textbooks, a minimal standard for textbooks? Do

6 you believe the state should not be in a position to

7 monitor whether those textbooks -- that minimal

8 standard is met in the districts?

9 A. I think that the state, together with local

10 actors, after setting the minimum level of materials

11 necessary to meet basic minimums in education and

12 after funding those needs accordingly, should allow

13 local districts some discretion in choosing and using

14 textbooks and other written materials.

15 Q. Is it your opinion that the state should 13:19:08

16 monitor the age of textbooks in public schools?

17 A. It's my opinion that state officials together

18 with local professionals should create a standard for

19 both the quality and the relevance and the -- and how

20 up to date textbooks and other learning materials

21 should be.

22 Q. Is it your opinion that once that standard is 13:19:46

23 set, that the state should engage in some type of

24 monitoring to determine that the standard is met?

25 A. In reference to my previous answer to the

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1 similar question, the state, after setting the

2 standard together with local officials, would fund

3 this category accordingly and would allow local

4 discretion in assuring that textbooks and other

5 learning materials are updated.

6 Q. Are you aware of any states that implement a 13:20:40

7 program like the one you've just described for us?

8 A. No, not specifically.

9 Q. Are you aware of any states that do so 13:20:52

10 generally?

11 A. No.

12 Q. Do you know whether any districts in the 13:21:05

13 California system currently have programs in place to

14 monitor the availability of textbooks used in their

15 schools?

16 A. I will assume that there is an accounting of

17 how many textbooks exist in districts. However, the

18 data that does exist would indicate that that may not

19 reflect whether these materials were up to date or

20 whether they're a sufficient number of resources, of

21 learning materials.

22 Q. What data are you referring to there? 13:21:46

23 A. If any data exists at local districts that

24 would account for the stockpile of books that exist in

25 those districts, I don't know if that data would

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1 indicate whether the materials are outdated or up to

2 date or sufficient.

3 Q. As you sit here today, you're not even sure 13:22:09

4 that that data exists; is that correct?

5 A. Correct.

6 Q. On Page 17, the report says, "To be sure, 13:22:28

7 there are categorical grants for instructional

8 materials, including textbooks (\$173 million in

9 2001-02) but these funds are evidently insufficient to

10 guarantee the adequacy of textbooks throughout the

11 state." Is that your opinion?

12 A. Yes.

13 Q. What is the basis for that opinion? 13:22:56

14 A. Based on some of the data that exists that

15 has accounted for the fact that many schools

16 throughout the state -- many students in schools

17 throughout the state are using books that are either

18 outdated or have, in many occasion, no books at all.

19 Q. What data are you referring to in that last 13:23:20

20 answer?

21 A. There's data that is available from the

22 Legislative Analyst's Office, which has reviewed this.

23 Some of the reports that I spoke to earlier from the

24 Public Policy Institute of California have also

25 referenced some of the information.

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1 Q. Any other data that you're relying on? 13:23:53

2 A. Not that I can name at this moment.

3 Q. Why do you believe that it's an issue of 13:24:16

4 insufficient funding? Strike that. I'm sorry.

5 THE WITNESS: Off the record for a minute.

6 MR. SIMMONS: Sure.

7 (Discussion held off the record.)

8 BY MR. SIMMONS:

9 Q. So based on your last answer, is it -- do you 13:25:21

10 believe that instructional materials are -- strike

11 that.

12 MR. POULOS: That's two strikes.

13 BY MR. SIMMONS:

14 Q. How do you know that it's insufficient 13:26:09

15 funding that is responsible for the lack of textbooks

16 in certain schools within the state?

17 MS. LHAMON: Mischaracterizes the report.

18 THE WITNESS: Are you referring to a specific

19 section in the report?

20 MR. SIMMONS: No. I think we asked that -- I

21 initially asked if it was your opinion that

22 categorical grants for instructional materials,

23 including textbooks, are evidently insufficient to

24 guarantee the adequacy of textbooks throughout the

25 state.

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1 Q. Do you remember that question? 13:26:50  
 2 A. Yes.  
 3 Q. And then I think your answer to that was yes, 13:26:54  
 4 and you pointed to disparities and access to  
 5 instructional materials; is that correct?  
 6 A. I believe so, yes.  
 7 Q. So I guess what I'm trying to find out is how 13:27:09  
 8 do you know that the disparities and access to  
 9 instructional materials is caused by insufficient  
 10 funds as opposed to some other cause?  
 11 MS. LHAMON: Mischaracterizes the testimony.  
 12 THE WITNESS: I don't know exactly, and part of  
 13 the attempts to find a definitive answer would require  
 14 us to engage in a wide-scale assessment. The lack of  
 15 learning materials or any other resource category at  
 16 the school level may in fact be due to inefficient  
 17 expenditure of money at that level.  
 18 However, it may also be due to insufficient  
 19 revenue that flows through the schools. The extent to  
 20 which this exists across the states points us more  
 21 towards insufficient funding. However, it is clearly  
 22 not known whether insufficient dollars is the cause of  
 23 this.  
 24 BY MR. SIMMONS:  
 25 Q. The report also says that "In addition" -- 13:28:32

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1 this is on Page 17 where it says, "In addition,  
 2 textbook policies are not coordinated with other  
 3 policies; for example, state subject-matter standards  
 4 were developed and implemented before textbooks  
 5 incorporating the standards could have been  
 6 available." Is that your opinion?  
 7 A. Yes.  
 8 Q. What is the basis for that opinion? 13:28:55  
 9 A. The fact that textbooks and adopted  
 10 curriculums across the state are not consistent with  
 11 the state learning standards or with the assessment at  
 12 the state level that has been adopted at the state  
 13 level.  
 14 Q. Did you conduct some sort of survey of 13:29:29  
 15 comparing textbooks and adopted curriculum available  
 16 in schools in California with the state standards?  
 17 A. I personally did not engage in a survey.  
 18 However, this is data that's well known and well  
 19 referenced from many different sources throughout the  
 20 state.  
 21 Q. Can you give me specific sources? 13:29:55  
 22 A. I cannot give you specific sources. However,  
 23 if I were to engage in finding specific sources, I  
 24 would look towards places like Ed Source, the  
 25 Legislative Analyst's Office and other like

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1 institutions, and the Department of Ed.  
 2 Q. What state subject matters are you -- are 13:30:26  
 3 referred to specifically in that sentence on Page 17,  
 4 if you know?  
 5 A. The subject requirements that are part of the  
 6 frameworks, California state frameworks, and also  
 7 related to some of the standards that have been  
 8 created since the development of the state frameworks.  
 9 Q. Over what period were these subject matter 13:31:03  
 10 standards developed and implemented?  
 11 A. I don't recall the specific dates, but I know  
 12 that the California state frameworks were developed in  
 13 the early '90's with direction from Bill Honig, our  
 14 former state superintendent, and over the last decade  
 15 and a half have been developed, updated.  
 16 Q. Did at some point the state approve tests 13:31:44  
 17 reflecting the subject matter standards that were  
 18 developed and implemented?  
 19 A. I believe that the state made some effort to  
 20 adopt tests that reflect some of the standards and  
 21 subject matters reflected at the state level.  
 22 However, that doesn't directly -- that doesn't imply  
 23 that all standards and subject matter standards are  
 24 actually consistently further reflected in the text  
 25 that are available.

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1 Q. Just to clarify that last answer, when you 13:32:26  
 2 say, "text that are available," do you mean the text  
 3 that have been selected by the state, or are you  
 4 referring to text that are available in districts and  
 5 schools?  
 6 A. The former.  
 7 Q. On Page 18 of the report, the first full 13:32:56  
 8 paragraph, it says, "In practice, however, the  
 9 implementation of these standards have been uneven at  
 10 best, for a number of reasons." That's referring to  
 11 subject matter standards?  
 12 A. In reading that phrase, I would assume that  
 13 it refers to both subject and state level standards.  
 14 Q. What's the difference between subject and 13:33:30  
 15 state level standards?  
 16 A. I need to read the paragraph before that.  
 17 Hold on.  
 18 (Pause in proceedings.)  
 19 THE WITNESS: My understanding is that subject  
 20 level standards differ from -- strike that.  
 21 My understanding is that subject level  
 22 standards are part of the wider standards at the state  
 23 level that are identified as the state level  
 24 standards. Subject level standards are basically the  
 25 state standards broken up into -- broken down by, in

1 most cases, grade levels. So the grade level specific  
2 standards.

3 BY MR. SIMMONS:

4 Q. So is it your opinion that the sentence on 18 13:35:25  
5 which says, "In practice, however, the implementation  
6 of these standards has been uneven at best, for a  
7 number of reasons," refers to both subject level  
8 standards and the broader state standards?

9 A. Yes.

10 Q. In what way has the implementation of subject 13:35:49  
11 level standards been uneven at best?

12 A. If you read on in the report, that same  
13 sentence that you just referred to, in the  
14 paragraph -- several paragraphs following clearly  
15 illustrate access to professional development is one  
16 example, and the ability of -- or the access the  
17 teachers have to be entrained on how to implement  
18 these standards in the classrooms is one example.

19 Q. Are you aware of any ways in which the 13:36:32  
20 implementation of the subject level and state  
21 standards have been uneven at best that are not  
22 referenced in the report that's marked as Exhibit 1?

23 A. Do I have a personal idea? What do you mean?

24 Q. Well, I guess I'm just interested in opinions 13:36:53  
25 that you intend to offer in connection with this case.

1 that the implementation of the state's subject matter  
2 standards have been uneven at best?

3 A. There has been work conducted by Policy  
4 Analysis for California Education, which looks at the  
5 alignment of state standards and the resources that  
6 are necessary in meeting those.

7 There is also work from -- that's all I would  
8 list right now off the top of my head.

9 Q. Have the -- were the reports from Pace 13:39:07  
10 something you relied on in forming the basis of your  
11 opinions in this case?

12 A. The reports that are referred to were  
13 something that was relied on in the writing of this  
14 report.

15 Q. Do you know the title of those reports? 13:39:23

16 A. No.

17 Q. Is it your opinion that professional 13:39:48  
18 development funds have not been ample to provide  
19 teachers with opportunities to develop a deeper  
20 understanding about this subject matter standards and  
21 how to incorporate them into their lessons?

22 A. Yes.

23 Q. How do you define "professional development 13:40:06  
24 funds"?

25 A. Professional development funds or

1 I mean, if you have an expert opinion, then -- that's  
2 not included in this report, then I need to know that.

3 A. I can offer my opinion as a former  
4 schoolteacher in California for nearly six years,  
5 knowing that the materials that I was using and the  
6 standards both at the district level and the wider  
7 state standards were very disaligned. Often, I didn't  
8 have resources or materials that allowed me to teach  
9 to the standards. I've also witnessed personal  
10 accounts and observations in many schools that that is  
11 also the case.

12 I have not engaged in any formal survey or  
13 data collection of this issue, but I have read some  
14 research that speaks to this.

15 Q. What research have you read? 13:37:52

16 A. I would refer you to some of the expert  
17 reports that have been filed for the case that do  
18 speak specifically to this issue.

19 Q. Which reports? 13:38:11

20 A. I believe the work by Jeannie Oaks speaks to  
21 this issue.

22 Q. Any other reports? 13:38:23

23 A. Not that I can name right now.

24 Q. Outside of the expert reports, is there any 13:38:27  
25 other research that you rely on in forming the opinion

1 professional development in general?

2 Q. Well, let's start with professional 13:40:16  
3 development.

4 A. Professional development takes a variety of  
5 forms. It can involve the use of professionals to  
6 provide additional training to teachers either through  
7 university classes or district led workshops. As far  
8 as professional development funds that are available,  
9 I know that there are some categorical funds that do  
10 provide for professional development. I couldn't name  
11 them.

12 Q. So as you sit here today, you don't know the 13:41:21  
13 amount of professional development funds that have  
14 been provided by the state to provide teachers with  
15 opportunities to develop a deeper understanding about  
16 the state's subject matter standards?

17 A. I do not know the specific amount, no.

18 Q. How do you know that the funds that had been 13:41:42  
19 provided have not been ample enough?

20 A. From a personal perspective, I know that as a  
21 former teacher, professional development was always  
22 something that was lacking both in my district and in  
23 districts where many of my colleagues worked. I have  
24 also read work, which I cannot think of the exact  
25 title or source for right now, that has looked at

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1 issues of professional development and the lack of  
 2 additional training that teachers may need throughout  
 3 the state.  
 4 You can refer to some of the work from The  
 5 Center for the Future of Teaching and Learning. I  
 6 know they have conducted some work on this issue.  
 7 Q. Do you have any opinion as to what additional 13:42:45  
 8 professional development funds the State of California  
 9 should provide?  
 10 A. I don't have an opinion of the exact amount.  
 11 However, I would -- in order to come up with a figure  
 12 amount, it would be necessary for the state to engage  
 13 in a full assessment of what the needs are at the  
 14 local level.  
 15 Q. Have you ever conducted qualitative research 13:43:28  
 16 assessing the extent to which teachers in public  
 17 schools in California receive professional development  
 18 opportunities?  
 19 MS. LHAMON: Vague as to "qualitative research."  
 20 MR. SIMMONS: That's fair. One second.  
 21 Q. Do you understand what I mean by "qualitative 13:43:45  
 22 research"?  
 23 A. Yes. Well, define it, please.  
 24 Q. Well, what's your understanding of that term? 13:43:52  
 25 A. Qualitative research normally engages in a

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1 case study or ethnographic research and is absent any  
 2 sort of quantitative analysis.  
 3 Q. Have you ever conducted any qualitative 13:44:18  
 4 research concerning teachers access to professional  
 5 development in California's public schools?  
 6 A. No.  
 7 Q. Have you ever conducted any quantitative 13:44:41  
 8 research on that subject?  
 9 A. No.  
 10 Q. The report also says that many districts have 13:45:17  
 11 kept their district subject matter standards instead  
 12 of adopting the state standards. Is that a correct  
 13 statement?  
 14 A. Where in the report are you referring to?  
 15 Q. If you'll look at -- on Page 18, it will 13:45:32  
 16 say -- let's see. It's a few sentences there. It  
 17 says, "In addition, districts (and even some schools)  
 18 sometimes have their own standards, which may be  
 19 different from the state standards. This is because  
 20 districts were required in the early '90's to create  
 21 standards and assess students by them. But when the  
 22 state created their own set of standards, many  
 23 districts kept their district standards instead of  
 24 routinely adopting the state standards."  
 25 Is that your opinion in this case? 13:46:06

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1 A. Yes.  
 2 Q. How many districts have kept their district 13:46:08  
 3 standards instead of routinely adopting the state  
 4 standards?  
 5 MS. LHAMON: Calls for speculation. Lacks  
 6 foundation.  
 7 MR. SIMMONS: How couldn't there be a foundation  
 8 if there's an opinion on it.  
 9 MS. LHAMON: Well, the opinion is that there were  
 10 many districts, not a specific number.  
 11 THE WITNESS: I do not know the exact amount.  
 12 BY MR. SIMMONS:  
 13 Q. Do you have an estimate of the amount? 13:46:30  
 14 A. No. And this information comes from the  
 15 widely known fact that many districts have kept their  
 16 standards, which they created according to some of the  
 17 requirements from the early '90's. I don't know which  
 18 districts, and I don't know how many districts.  
 19 Q. Do you have a proposal for how the state 13:47:08  
 20 ought to implement its subject matter standards?  
 21 A. I think for most, the state needs to engage  
 22 in the assessment of what resources, which would  
 23 include the bare essentials of teachers, earning  
 24 materials and facilities, among a variety of others,  
 25 and begin to develop some sort of cost analysis that

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1 would allow the state to fund quarterly with the  
 2 objective of actually allowing local schools to reach  
 3 these standards.  
 4 Q. Do you have an opinion as to what cost 13:48:06  
 5 analysis ought to be used?  
 6 A. Yesterday, I spoke to the idea -- to one of  
 7 the ideas that has been used in other states, which is  
 8 the idea of professional judgment approach and the  
 9 creation of a basket of goods, as in the Wyoming case.  
 10 That's one example. Before proposing any other  
 11 example, I think it's first necessary to engage in the  
 12 wide scale assessment to really have a clear idea of  
 13 what the needs are. It may be that the basket of  
 14 goods may not be appropriate for California's  
 15 condition -- or California's case.  
 16 Q. What leads you to say that it may be -- that 13:48:57  
 17 the bundle of goods cost analysis might not be  
 18 appropriate in California?  
 19 A. Primarily, the fact that the California  
 20 school population is extremely different than a  
 21 population of students in Wyoming. From a  
 22 socioeconomic class, and perhaps even from the basic  
 23 needs, the characteristics that some students in  
 24 California come to school with, as well as the sheer  
 25 volume of students in California, which is a



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1 significant scale difference compared to Wyoming.  
 2 Q. Is it your opinion that the most damaging 13:49:40  
 3 state policy has been the adoption of state tests as  
 4 part of the state's accountability provisions?  
 5 A. Are you referring to a specific section of  
 6 the report?  
 7 Q. I believe this opinion is expressed in the 13:50:11  
 8 report, but is that your opinion as you sit here  
 9 today?  
 10 MS. LHAMON: Do you want to look at Page 19,  
 11 first sentence of the first full paragraph.  
 12 (Pause in proceedings.)  
 13 THE WITNESS: My opinion is that that is one of  
 14 the -- one of the most damaging state policies, but in  
 15 concert with a variety of other factors and policy  
 16 legislation which have worked in tandem with the  
 17 adoption of state tests and accountability provisions.  
 18 BY MR. SIMMONS:  
 19 Q. What other policies of the state would you 13:51:01  
 20 identify was potentially the most damaging?  
 21 A. I wouldn't want to qualify them or categorize  
 22 them in the most damaging, but only refer to the fact  
 23 that the policy disconnect that exists between state  
 24 level expectations and local needs and local demands  
 25 is extremely different and could include the entire

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1 gamut of policy and initiatives that come from the  
 2 state.  
 3 Q. So is the adoption of state tests as part of 13:51:36  
 4 the state's accountability system the only policy that  
 5 you are comfortable characterizing as the most  
 6 damaging?  
 7 A. In the context of this section that speaks  
 8 specifically to standards in testing, yes, but there  
 9 are others that were not elaborated on in this report.  
 10 MR. SIMMONS: Could you read that answer back.  
 11 (Record read.)  
 12 BY MR. SIMMONS:  
 13 Q. So if we limit the context to standards in 13:52:35  
 14 testing, then in that context, the adoption of state  
 15 tests is perhaps the most damaging state policy?  
 16 A. I would rephrase that and say that the  
 17 adoption of state tests that are not aligned with our  
 18 state standards is one of the most damaging policies.  
 19 Q. I'm just trying to understand the context 13:53:06  
 20 that you're trying to place that answer in. Is that  
 21 in the entire gamut of educational policies?  
 22 A. It's my opinion that the adoption of state  
 23 standards that are not aligned with -- I'm sorry.  
 24 State tests that are not aligned with state standards  
 25 is one of the most damaging, among others that I've

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1 listed.  
 2 Q. Correct me if I'm wrong, but I thought aside 13:53:32  
 3 from the tests, that you were unwilling to  
 4 characterize other policies as perhaps the most  
 5 damaging?  
 6 MS. LHAMON: Mischaracterizes the testimony.  
 7 THE WITNESS: My answer was that in the context  
 8 of this section, which is referring specifically to  
 9 the adoption of state tests, the adoption -- I'm  
 10 sorry. The adoption of state tests not aligned with  
 11 state standards and is most damaging in the context of  
 12 an accountability or standards system.  
 13 However, in the context of the whole gamut of  
 14 policies that come from the state, there is a variety  
 15 of others that are extremely damaging.  
 16 BY MR. SIMMONS:  
 17 Q. What are those other policies that you view 13:54:23  
 18 as extremely damaging?  
 19 A. I would provide one example and that is --  
 20 one example that includes many different factors, and  
 21 that is the extreme policy -- the extreme disconnect  
 22 between state level policy and the funding that  
 23 follows some of that policy and its disconnect to  
 24 actual local needs, which would include policy or law  
 25 that is directly related to meeting the minimum

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1 standards for facilities or meeting the minimum  
 2 standards for quality or credentialed teachers, as  
 3 well as learning materials and some of the other  
 4 categories that we spoke about.  
 5 Q. Have you done any research that focuses on 13:55:20  
 6 the state's testing program?  
 7 A. I have not, other than reviewing research  
 8 that has specifically examined that issue.  
 9 Q. What "research" are you referring to? 13:55:36  
 10 A. I'll refer you back to the Pace research,  
 11 which I referenced earlier, among a variety of other  
 12 journal articles and other citations that I can't list  
 13 right now.  
 14 Q. So you never published an article concerning 13:56:01  
 15 the state's testing program?  
 16 A. I have not.  
 17 Q. Do you have an opinion with respect to the 13:56:34  
 18 advisability of using the Stanford Achievement Test,  
 19 Version 9 as a diagnostic tool?  
 20 A. Can you define "diagnostic."  
 21 Q. Diagnostic, meaning a means of assessing 13:56:50  
 22 student performance.  
 23 MR. POULOS: I'm just going to object to the  
 24 extent that it obviously depends on what you're  
 25 assessing. So I think the question is vague and

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1 ambiguous.

2 THE WITNESS: Can you repeat the question,

3 please.

4 (Record read.)

5 THE WITNESS: The SAT 9 can be used as one tool

6 for -- as one diagnostic tool, but it is extremely

7 limited in fully assessing the extent of how well a

8 student is achieving, performing.

9 BY MR. SIMMONS:

10 Q. In what ways is the -- if I refer to it as 13:58:01

11 the SAT 9, will you understand that?

12 A. Yes.

13 Q. In what ways is the SAT 9 an extremely 13:58:07

14 limited diagnostic tool?

15 A. Primarily, because it's a test adopted by

16 California that's not aligned with the California

17 state standards.

18 Q. Are there any other ways? 13:58:25

19 A. Other than that most important issue, I don't

20 know of any others.

21 Q. Do you have a proposal for how the State of 13:58:37

22 California ought to assess student academic

23 achievement in its public schools?

24 A. Other than creation -- other than the

25 creation of an assessment tool, which would be clearly

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1 aligned with state level standards, and also

2 accounting for local level of standards and

3 priorities, I would not offer an additional opinion in

4 the creation of a specific testing tool.

5 Q. You're familiar with the policy instrument 14:00:11

6 known as a "capacity building policy instrument"; is

7 that correct?

8 A. Capacity building has a variety of

9 definitions. It depends in what context and for what

10 specific policy you're using it.

11 Q. How would you define "capacity building" in 14:00:31

12 the context of the state's testing program?

13 A. The idea or conceptual frame around capacity

14 building in reference to creation of an assessment

15 tool may involve -- or should involve, first of all, a

16 clear assessment of what needs are at local levels.

17 It should also involve the adoption of standards that

18 would involve both local and state level actors and

19 then would involve the resources, the physical

20 resources necessary to provide schools with what is

21 necessary for them to meet those standards.

22 That's the process of building capacity

23 toward meeting, in this example, the standards.

24 Q. Would providing funds to be used to actually 14:01:35

25 conduct the test be an example of capacity building?

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1 A. Do you mean funds that would actually

2 purchase an assessment tool?

3 Q. Yes. 14:01:52

4 A. Sure. That's a necessary component of

5 capacity building.

6 Q. Just before we move on, let's talk briefly 14:02:03

7 about the policy, the earlier section of the report.

8 There's four policy tools that are identified. One

9 was capacity building, which we just spoke about. The

10 other three were mandates, inducements, and system

11 changing efforts.

12 A. What page, Shaun?

13 Q. That's Page 8. 14:02:32

14 You are familiar with those policy

15 instruments; is that correct?

16 A. Yes. But give me one minute to read this to

17 just refresh my memory.

18 Q. Yes. 14:02:54

19 (Pause in proceedings.)

20 THE WITNESS: Okay.

21 BY MR. SIMMONS:

22 Q. Are you comfortable with the definitions of 14:04:05

23 "mandates, inducements and system changing efforts"

24 that are provided on Page 8?

25 A. Yes. That's a common framework advanced by

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1 McDonnell and Elmore that's been used.

2 Q. Are there any examples of inducements being 14:04:25

3 used in connection with the state's testing program?

4 A. A basic example is providing a minimal level

5 of resources necessary to actually purchase the tests.

6 Inducements are often in the form of, as the report

7 indicates, a categorical fund that specifically is

8 used to require districts to participate in a program.

9 Q. Are there examples of mandates being used in 14:05:06

10 connection with the state's testing program?

11 A. Yes. There's a state mandate that every

12 school needs to participate in the state assessment.

13 There are a variety of conditions that speak to school

14 size and so forth that I don't have the details in

15 front of me, where small schools and sometimes

16 independent schools are exempt from some of the

17 requirements. I don't know to what extent without the

18 details in front of me.

19 Q. Are there any examples of a system changing 14:05:43

20 effort being used in connection with the state's

21 testing program?

22 A. System changing in reference to the McDonnell,

23 Elmore framework?

24 Q. Yes. 14:06:00

25 MS. LHAMON: Are you asking if Dr. Huerta has any

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1 examples he can think of right now?  
2 MR. SIMMONS: Yeah. If he's aware of any.  
3 THE WITNESS: Can you repeat the question.  
4 BY MR. SIMMONS:  
5 Q. Yeah. I just wondered if you were aware of 14:06:13  
6 any examples of the policy instrument referred to as a  
7 system-changing effort being used in connection with  
8 the state's testing program.  
9 A. I believe that one of the objectives of the  
10 state testing program is geared towards system change.  
11 However, some of the evidence points us to -- that  
12 this intended change may actually not be real. It may  
13 not actually realize such a change. Specifically, the  
14 idea of using the existing assessment to hold schools  
15 accountable, yet not acknowledging the fact that the  
16 assessment is unaligned with standards and curriculum.  
17 Q. So would you agree that the state's testing 14:07:20  
18 program incorporates mandates, inducements, capacity  
19 building and system changing efforts?  
20 A. I acknowledge that the existing state testing  
21 program has intended or attempted to do so, but I  
22 don't believe that it's actually occurred.  
23 (Pause in proceedings.)  
24 THE WITNESS: Can I add something to that answer?  
25 MR. SIMMONS: Yes.

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1 THE WITNESS: I don't believe it's actually  
2 occurred. I should strike that. I'm sorry. Go  
3 ahead.  
4 BY MS. SIMMONS:  
5 Q. I'll ask one follow-up on that. Is it your 14:08:17  
6 testimony that those policy instruments that -- the  
7 four policy industries that we have identified,  
8 although they may be incorporated in the state's  
9 testing system, you don't think that the state has  
10 incorporated them properly?  
11 A. I don't believe that it's a matter of whether  
12 it's been incorporated properly or not. I think it's  
13 a matter of the disjointed and unaligned policies that  
14 are involved in the accountability and assessment  
15 program in California that we've spoken of at length  
16 already.  
17 Q. Do you have an opinion as to the state's use 14:09:12  
18 of a ranking system in connection with its testing and  
19 accountability program?  
20 A. I am familiar with the ranking system, if  
21 that's what you're asking me.  
22 Q. Do you believe the state should make use of 14:09:30  
23 such a ranking system?  
24 A. The use of a ranking system may be a reliable  
25 source of providing incentives or -- providing

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1 incentives or benchmarks for schools to shoot for.  
2 However, the current ranking system, which relies on  
3 one indicator, specifically, test scores, has -- is  
4 not sufficient in providing true assessment of how  
5 schools are performing and how students are performing  
6 in those schools.  
7 Q. Do you have an opinion as to whether schools 14:10:19  
8 should be ranked against each other under the state's  
9 testing and accountability program?  
10 A. That's an area outside my -- that's an area  
11 that's outside of my expertise, and I have not given  
12 enough consideration to how a ranking system compared  
13 to another assessment accountability system may be  
14 better or worse. I would refer you to the expert  
15 reports that have been filed in this case for more  
16 information on that.  
17 Q. Okay. If you'll turn to Page 20 of the 14:11:02  
18 expert report. About four lines from the bottom of  
19 Page 20, you'll see it says, "As schools improve, they  
20 may move up in rank, but some other schools performing  
21 less well must correspondingly be moved down in rank.  
22 In other words, there is not room for everyone to  
23 succeed."  
24 Do you agree with that statement?  
25 A. Yes. That statement was specifically

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1 referring to the notion of chasing the average, which  
2 statistically is impossible, to have everybody in the  
3 above average rank.  
4 Q. That's inherent in any ranking system; is 14:11:58  
5 that correct?  
6 A. It may be possible to create a ranking system  
7 that would account for that, but I haven't given that  
8 enough thought.  
9 Q. Is the concern expressed in those last two 14:12:15  
10 sentences that we just dealt with alleviated by the  
11 fact that the state has adopted a benchmark score for  
12 all schools to achieve?  
13 A. That's one possible approach of avoiding  
14 chasing the -- the so-called chasing the average idea.  
15 Whether that completely alleviates the issue, I'm not  
16 certain. I haven't done a statistical analysis of  
17 what's resulted over the last four years of public  
18 school accountability and how schools have improved.  
19 It's outside of my area of expertise.  
20 MR. SIMMONS: Can we go off the record.  
21 (Recess taken from 2:13 P.M. to 2:24 P.M.)  
22 BY MR. SIMMONS:  
23 Q. Dr. Huerta, are you of the opinion that the 14:24:50  
24 federal No Child Left Behind Act will add to the  
25 amount of complexity of testing in California?

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1 MS. LHAMON: Lacks foundation. Calls for  
2 speculation.  
3 THE WITNESS: I have not had an opportunity to  
4 fully assess some of the testing requirements in Child  
5 Left Behind and how that would affect state level  
6 testing, not only in California but in other states.  
7 MR. SIMMONS: Would you turn to Page 21 of the  
8 expert report, please. If you could read the  
9 paragraph in the middle of the page, please.  
10 (Pause in proceedings.)  
11 THE WITNESS: Okay.  
12 BY MR. SIMMONS:  
13 Q. Is that paragraph reflecting an opinion that 14:25:58  
14 you hold?  
15 A. I would reference the exact same answer that  
16 I just gave on this. I have not had a full  
17 opportunity to look at the No Child Left Behind and to  
18 account for whether additional mandates from the  
19 federal level will add to the complexity of what is  
20 presently occurring in our testing systems in  
21 California.  
22 I do know from popular articles in newspapers  
23 and the like, as well as some early assessments from  
24 places like Educational Commission of the States and  
25 others that began to look at No Child Left Behind have

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1 begun to document the challenges that states are  
2 facing in implementing the requirements of No Child  
3 Left Behind.  
4 Q. If you'll look at the bottom of Page 21, 14:27:17  
5 carrying over to Page 22. It says, "the pressure to  
6 teach to these tests has been unrelenting in many  
7 districts."  
8 A. Uh-huh.  
9 Q. And when it says, "these tests," that's 14:27:34  
10 referring to this SAT 9; is that correct?  
11 A. Correct.  
12 Q. Do you agree with that statement? 14:27:44  
13 A. Yes.  
14 Q. On what do you base your opinion that SAT 9 14:27:55  
15 testing has resulted in unrelenting pressure on the  
16 part of many school districts in California to have  
17 teachers teach to the test?  
18 MS. LHAMON: Mischaracterizing the testimony.  
19 THE WITNESS: This is well-known information  
20 that's readily available through a variety of popular  
21 sources, as well as sources that rely on at least  
22 preliminary assessments of those issues -- of this  
23 specific issue. This has been well documented through  
24 newspaper articles, as well as in a limited form  
25 through some primary surveys, the effects of the

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1 Public School Accountability Act, and specifically,  
2 the Rewards and Sanctions Program that's part of the  
3 Public School Accountability Act.  
4 BY MR. SIMMONS:  
5 Q. What "primary surveys" are you referring to? 14:29:05  
6 If I'm not mistaken -- I cannot recall exactly, but I  
7 believe that the Center for Future of Teaching and  
8 Learning has done some work on this. There's also, I  
9 believe, some work out of Ed Source that has begun to  
10 look at this issue. I know of a -- the expert  
11 reports -- I believe it's Jeannie Oaks' expert report  
12 also speaks to this issue with direct evidence from  
13 interviews with teachers at the local level.  
14 Q. In terms of the primary surveys that you've 14:29:53  
15 just spoken about, would you characterize those as  
16 qualitative or quantitative research efforts?  
17 A. They've been -- the efforts have been -- have  
18 involved using qualitative surveys and then simple  
19 tabulation of some of the replies. I don't know the  
20 extent of the exact methodology.  
21 Q. Am I correct in my understanding of 14:30:34  
22 qualitative research, that it generally does not  
23 permit extrapolation out to a broader range of people  
24 than those studied in the qualitative research?  
25 A. If that's your opinion, I would disagree, if

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1 that's what you're asking me.  
2 Q. Yes. Why do you disagree with that 14:30:56  
3 statement?  
4 A. Because I believe that quality and  
5 qualitative research that is well carried out can  
6 provide assessments that can be generalized, or at  
7 least that could be generalized.  
8 Q. Are there particular circumstances under 14:31:25  
9 which qualitative surveys can be generalized?  
10 A. Sure. Much of it is dependent on the  
11 methodology that's used, the extent of the questions  
12 that are asked, the type of responses that are  
13 elicited, sample size.  
14 Q. Do you know whether the sample size in any of 14:32:01  
15 the primary surveys that you've just discussed was  
16 sufficient to permit generalization?  
17 A. I do not know.  
18 Q. And completing that last sentence that we 14:32:23  
19 were looking at, I think you'll see that from 21 on  
20 over to 22 it says, "the pressure to teach to these  
21 tests has been unrelenting in many districts, and has  
22 in addition marginalized subjects other than English  
23 and math that are not being tested." Do you agree  
24 with that statement?  
25 A. I do agree.

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1 Q. On what do you base that opinion? 14:32:47  
 2 A. Again, on some of the preliminary popular  
 3 reports that are out or popular accounts that are out,  
 4 and some of the preliminary evidence that I spoke of.  
 5 Q. Anything else? 14:33:03  
 6 A. At a personal level, I have colleagues that  
 7 are K-12 teachers in California which have also  
 8 indicated the same feeling in regard to the result of  
 9 the pressure to teach to the test.  
 10 Q. Have you conducted any research of your own 14:33:32  
 11 concerning whether SAT 9 testing has resulted in  
 12 marginalizing subjects other than English and math?  
 13 A. Other than reading some of the preliminary  
 14 information that I spoke of, I have not engaged in any  
 15 surveys that I have conducted.  
 16 Q. On Page 22, the report says, "The numbers of 14:34:11  
 17 students in many schools (especially elementary  
 18 schools) is often low, so that scores and change  
 19 scores have very high standard errors."  
 20 A. Yes.  
 21 Q. Is that your opinion? 14:34:26  
 22 A. Yes.  
 23 Q. And you say the fact that the number of 14:34:27  
 24 students in many schools is often low is not  
 25 adequately taken into account in API calculations. Is

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1 that also your opinion?  
 2 A. Let me review that sentence.  
 3 (Pause in proceedings.)  
 4 THE WITNESS: Yes.  
 5 BY MR. SIMMONS:  
 6 Q. What do you mean by "change scores"? 14:35:06  
 7 A. The scores that account for growth. So the  
 8 scores reflected against benchmark.  
 9 Q. Do you have an understanding as to how a 14:35:20  
 10 school's API score is calculated?  
 11 A. Yes.  
 12 Q. Do you have a proposal for how the API could 14:35:31  
 13 take into account schools with low numbers of  
 14 students?  
 15 A. One of the possible approaches may be to have  
 16 different weights given to schools that have low  
 17 number of students.  
 18 Q. How would that affect standard error rates? 14:36:03  
 19 A. It would provide a better reflection of the  
 20 scores of those schools in comparison to schools who  
 21 have a higher number of students.  
 22 Q. On Page 22, you'll also see that there's a 14:36:19  
 23 sentence that says, "There have been reports of  
 24 schools subtly encouraging some students not to attend  
 25 on the day of testing."

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1 A. Yes.  
 2 Q. What is that sentence referring to, if you 14:36:32  
 3 know?  
 4 A. It's referring to a wide variety of popular  
 5 accounts in credible newspapers across the states  
 6 where parent coalitions that have formed against  
 7 standardized testing have succeeded in spreading --  
 8 have succeeded in forming families and communities  
 9 that have the option to opt out of a standardized test  
 10 in California as a form of protest.  
 11 Q. Is it fair to characterize the evidence in 14:37:17  
 12 support of that statement as anecdotal?  
 13 A. It's anecdotal only to the extent that it has  
 14 been reported -- or that it hasn't been looked at  
 15 from -- in the context of a research study, but it is  
 16 a fact that it has been widely reported in very  
 17 credible newspaper resources across the states,  
 18 including Los Angeles Times, San Francisco Chronicle,  
 19 San Francisco Mercury, and a variety of others.  
 20 Q. Do you believe that the SAT 9 is focused on 14:38:11  
 21 relatively narrow educational skills?  
 22 A. Are you referring to a specific section of  
 23 the report?  
 24 Q. As you sit here today, is that how you would 14:38:30  
 25 characterize the SAT 9 test?

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1 MS. LHAMON: I mean, Counsel, look at the bottom  
 2 of Page 21. You can see where that view is expressed.  
 3 MR. SIMMONS: I think I'm entitled to ask that  
 4 question.  
 5 MS. LHAMON: You are. He's also entitled to  
 6 question about what is stated in the report.  
 7 THE WITNESS: Could you repeat the question,  
 8 please.  
 9 BY MR. SIMMONS:  
 10 Q. I just want to know if you would characterize 14:39:04  
 11 the SAT 9 as a relatively narrow skills test.  
 12 A. Yes.  
 13 Q. Why would you characterize it in that way? 14:39:12  
 14 A. Because it only assesses basic skills and  
 15 does not -- is not geared towards testing any higher  
 16 order thinking skills in students.  
 17 Q. What basic skills does the SAT 9 test? 14:39:29  
 18 A. Basic fact recollection, which does not  
 19 involve any higher order thinking skills. I'm not an  
 20 expert on testing to account for the specific skills  
 21 that are tested in the SAT 9.  
 22 Q. Do you see on Page 23 where it says, "And the 14:40:14  
 23 development of tests is almost sure to exacerbate the  
 24 inequalities among districts"?  
 25 A. Yes.

1 Q. What tests are being referred to there, if 14:40:28  
2 you know?

3 A. Let me read the context of that sentence.  
4 (Pause in proceedings.)

5 THE WITNESS: That specific sentence is referring  
6 both to the development of the exit exam in  
7 California, which is, I believe, now ready to exit the  
8 pilot phase. It's also referring to the creation of  
9 some of the standards-based tests that I believe are  
10 being piloted, or actually being used today in the  
11 schools in California.

12 BY MR. SIMMONS:

13 Q. Is it your opinion that the development of 14:41:52  
14 those tests is almost sure to exacerbate the  
15 inequalities among districts?

16 A. Yes. I think that, for example, the high  
17 school exit exam may and some of the early evidence on  
18 this issue has already pointed to the higher failure  
19 rate among students that are in low income schools and  
20 with students that are primarily from minority groups.

21 Q. Is it your opinion that districts where 14:42:39  
22 low-scoring students are concentrated will spend  
23 additional resources on staff development to improve  
24 test scores?

25 A. Are you referring to a section in the report?

1 A. I wouldn't give an estimate without the  
2 numbers in front of me. I do know that it's a high  
3 number.

4 Q. If a district with a concentration of 14:44:31  
5 low-scoring students spends additional resources on  
6 staff development to improve test scores, why is that  
7 almost sure to exacerbate inequalities among  
8 districts?

9 A. The assumption on that statement, in that  
10 phrase, that sentence is that low income districts may  
11 have to use resources from other categories to  
12 specifically address staff development issues and  
13 would leave other categories either unfunded or  
14 without resources.

15 Q. So there's a potential that students or that 14:45:15  
16 districts with concentration of low-scoring students,  
17 in your opinion, will need more professional  
18 development monies than districts in California that  
19 have -- that don't have concentrations of low-scoring  
20 students?

21 A. Yes.

22 Q. If a district -- you also say that -- or the 14:45:48  
23 report says that another potential effect of state  
24 tests is that professional -- strike that.

25 (Pause in proceedings.)

1 Q. Well, it's the start of the next sentence, 14:42:57  
2 although I've rephrased it slightly different.

3 A. The sentence that begins with?

4 MS. LHAMON: It's here (indicating).

5 THE WITNESS: Okay.

6 (Pause in proceedings.)

7 THE WITNESS: Yes.

8 BY MR. SIMMONS:

9 Q. On what do you base that opinion? 14:43:18

10 A. On the obvious fact that schools with low  
11 scoring students are going to require additional  
12 revenues to either provide professional development or  
13 other services or resources that are necessary to  
14 bring these students up to par.

15 Q. What would -- what do you mean by a district 14:43:45  
16 where low scoring students are concentrated?

17 A. Throughout the State of California, we have  
18 many urban districts and some rural districts that  
19 have a disproportionately high number of minority and  
20 low income students.

21 Q. How many districts, if you know, in 14:44:07  
22 California would you say have concentrations of  
23 low-scoring students?

24 A. I don't know what the exact percentage is.

25 Q. Do you have a rough estimate? 14:44:14

1 BY MR. SIMMONS:

2 Q. What is II/USP? 14:46:29

3 A. Immediate Intervene Underperforming Schools  
4 Program, which is the third prong of the Public School  
5 Accountability Act passed by Governor Davis in 1999.

6 Q. You said it's the third prong. What are the 14:46:50  
7 other two prongs?

8 A. The first prong is the API. The second prong  
9 is the rewards and sanctions program connected to the  
10 API. I get an A plus for that, Shaun.

11 Q. Is it your opinion that the II/USP is a 14:47:31  
12 well-crafted policy response to address schools that  
13 are underperforming?

14 A. I think it's a response. The implementation  
15 of II/USP has been extremely limited because of the  
16 substantially high number of schools that have been  
17 deemed as failing, but the severe amount of resources  
18 that have actually been allotted to actually help  
19 these schools.

20 Q. So is it your opinion that the II/USP program 14:48:21  
21 should be provided with additional funding so that it  
22 could reach more schools?

23 A. That would be one important approach to  
24 perhaps increasing the efficacy of the program, yes.

25 Q. If you'll turn to Page 26 of the report. 14:49:04

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1 (Pause in proceedings.)  
 2 BY MR. SIMMONS:  
 3 Q. Do you see in that first full paragraph where 14:49:23  
 4 it says, "It's still much too early to tell how II/USP  
 5 will work"?  
 6 A. Yes.  
 7 Q. Do you agree with that statement? 14:49:31  
 8 A. Yes.  
 9 Q. On what do you base that opinion? 14:49:35  
 10 A. There has not been enough -- there hasn't  
 11 been a sufficient amount of research on this program.  
 12 However, some of the earlier research has -- strike  
 13 that.  
 14 Q. Have you finished your answer? 14:50:03  
 15 A. Yes.  
 16 Q. What were you going to say with respect to 14:50:07  
 17 some of the early research?  
 18 A. Some of the early research, such as that of  
 19 McKnight, also some of the work that has only been  
 20 recently released by Largo has begun to shed some  
 21 evidence on the effect of the II/USP. Some of the  
 22 evidence is pointing to the fact that the additional  
 23 per-pupil dollars that are allotted to II/USP have not  
 24 been sufficient to actually maintain some of the  
 25 school action plans that were created by some of these

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1 schools.  
 2 Q. Is it your opinion that if provided with 14:50:59  
 3 additional funding, the II/USP is a program that could  
 4 benefit underperforming schools?  
 5 MS. LHAMON: Asked and answered.  
 6 THE WITNESS: I think I've answered that  
 7 question.  
 8 BY MR. SIMMONS:  
 9 Q. What was your answer? 14:51:21  
 10 MS. LHAMON: Well, the record will show that.  
 11 THE WITNESS: I think that was the answer to the  
 12 previous question -- or two questions ago.  
 13 BY MR. SIMMONS:  
 14 Q. Which was? 14:51:32  
 15 A. I don't know. What does the record say?  
 16 (Record read.)  
 17 BY MR. SIMMONS:  
 18 Q. Is that the answer you were referring to? 14:52:32  
 19 A. Yes.  
 20 Q. Do you still agree with that answer? 14:52:35  
 21 A. Yes.  
 22 Q. On Page 26, the report says, "that there is 14:52:45  
 23 substantial dissatisfaction with the external  
 24 evaluators." Do you see where the report says that?  
 25 A. Yes.

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1 Q. Is that your opinion? 14:52:55  
 2 A. Yes, based on some of the preliminary work  
 3 that's been done on this issue.  
 4 Q. What are "external evaluators"? 14:53:04  
 5 A. External evaluators were the groups that  
 6 were -- that schools were required -- II/USP schools  
 7 were required to hire to help them create a school  
 8 improvement or school action plan.  
 9 Q. Who, if anyone, has expressed substantial 14:53:31  
 10 dissatisfaction with external evaluators involved in  
 11 II/USP?  
 12 A. The professionals at schools -- II/USP  
 13 schools as evidenced by the work by Largo, and also, I  
 14 believe the work by McKnight, as well. And there's  
 15 also work -- as noted in Footnote 16, there's also  
 16 work -- preliminary reports from the California  
 17 Department of Education that has accounted for some of  
 18 the dissatisfaction of the evaluators, including the  
 19 state's dissatisfaction with external evaluators.  
 20 Q. Have you yourself ever conducted any research 14:54:27  
 21 concerning the satisfaction that various stakeholders  
 22 have, the external evaluators?  
 23 A. I was part of an early development of a  
 24 series of protocols which led to the report by Largo  
 25 2001 in which we designed a series of five to six

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1 different interview protocols for -- that were going  
 2 to be interviewing different stakeholders at II/USP  
 3 schools.  
 4 Q. Did you conduct any of the interviews? 14:55:15  
 5 A. No.  
 6 Q. Did you analyze any of the interviews? 14:55:19  
 7 A. No.  
 8 Q. On Page 26, the report says, "As is often the 14:55:42  
 9 case in reforms, some teachers are cynical about its  
 10 potential success, since II/USP seems to be another of  
 11 'reforms du jour' to hit public schools in  
 12 California." Do you see that sentence in the report?  
 13 A. Yes.  
 14 Q. Is that your opinion? 14:56:00  
 15 A. Yes.  
 16 Q. On what do you base that opinion? 14:56:06  
 17 A. On the evidence that Largo has presented, as  
 18 well as my own personal account of having been a  
 19 teacher in California and working with individuals who  
 20 share that sentiment about top down reforms.  
 21 Q. Were you teaching in California at the time 14:56:41  
 22 the II/USP program was initiated?  
 23 A. No.  
 24 Q. Have you ever conducted a survey of any 14:56:50  
 25 teachers concerning the extent to which teachers are

<p style="text-align: right;">Page 282</p> <p>1 cynical about the potential success of II/USP?  2 A. No.  3 Q. Have you ever done any research in that 14:57:10  4 regard?  5 A. Other than reading some of the preliminary  6 reports, no.  7 Q. Are you aware of teachers that are not 14:57:22  8 cynical about the potential success of II/USP?  9 A. No.  10 Q. On Page 26 of the report, it says -- strike 14:57:44  11 that.  12 I'm not sure what page of the report that is,  13 but is it your opinion that turnover among teachers  14 and administrators has hampered the implementation of  15 II/USP?  16 MS. LHAMON: That is Page 26.  17 THE WITNESS: That's one school characteristic or  18 factor that has perhaps led to the successful  19 implementation of II/USP.  20 BY MR. SIMMONS:  21 Q. On what do you base your opinion that 14:58:47  22 turnover among teachers and administrators has  23 hampered implementation of II/USP?  24 A. The data that's reported -- the preliminary  25 data that's reported by both Largo and McKnight.</p>	<p style="text-align: right;">Page 284</p> <p>1 Q. Any other basis for your opinion? 15:00:33  2 A. No.  3 Q. Have you conducted any research of your own 15:00:35  4 concerning the extent to which political conflicts or  5 battles between teachers and administrators have  6 impeded reform under II/USP?  7 A. No.  8 Q. Have you undertaken any effort to study how 15:00:55  9 II/USP is being implemented in California's public  10 schools?  11 A. I have not. Excuse me.  12 (Pause in proceedings.)  13 BY MR. SIMMONS:  14 Q. If you'll look up to the top of Page 26, it 15:01:33  15 says, "In theory, this appears to be a well-crafted  16 policy response to the problem of underperforming  17 schools." Do you see where it says that?  18 A. Yes.  19 Q. Do you agree with that statement? 15:01:45  20 A. Yes. With the qualifier that in theory, the  21 idea of using a bottom-up approach together with an  22 external team to assess what's going on in the school  23 and communicating with stakeholders both at the school  24 and in the community is an approach of bottom-up  25 assessment of needs of the schools.</p>
<p style="text-align: right;">Page 283</p> <p>1 Q. Is there any other basis for your opinion? 14:59:06  2 A. No.  3 Q. And you haven't conducted any of your own 14:59:09  4 research to examine the potential effect of turnover  5 among teachers and administrators upon the  6 implementation of the II/USP?  7 A. No, not my own surveys.  8 Q. I think Page 26 also says, "in some schools 14:59:31  9 political conflicts and battles between teachers and  10 administrators have impeded much reform." Do you see  11 where that is on Page 26?  12 A. Yes.  13 Q. And is that referring to II/USP reform? 14:59:52  14 A. Yes.  15 Q. Is it your opinion that in some schools 15:00:03  16 political conflict and battles between teachers and  17 administrators have impeded reform in connection with  18 II/USP?  19 A. Yes. That's correct.  20 Q. On what do you base that opinion? 15:00:15  21 A. Again, based on some of the preliminary  22 evidence that's reported, the reports I've referred  23 to.  24 Q. Those being Goe and McKnight? 15:00:23  25 A. That's correct.</p>	<p style="text-align: right;">Page 285</p> <p>1 However, the lack of resources and  2 coordination, the lack of capacity building in the  3 context of maintaining any attempts to implement  4 changes at schools has been a primary part of the  5 challenges in the II/USP program being effectively  6 implemented.  7 Q. One of the potential changes that you 15:02:48  8 testified earlier could perhaps improve II/USP was  9 additional funding. Do you have -- is that correct,  10 first of all?  11 A. Yes. The additional funding that is  12 connected to the assessment of needs at these schools  13 or the identification of needs.  14 Q. Do you have any other proposals for changing 15:03:18  15 II/USP to increase its effectiveness?  16 MS. LHAMON: Beyond the scope of the expertise  17 for which Dr. Huerta has been offered in this case.  18 THE WITNESS: Additional proposals may include  19 continued professional development for II/USP schools,  20 and other capacity-building efforts to ensure that  21 II/USP schools have access to the basic essentials  22 necessary to reach the standards which would include  23 facilities and quality teachers, learning materials.  24 BY MR. SIMMONS:  25 Q. If the state didn't have the additional funds 15:04:26</p>



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1 to adopt some of the proposals that you have mentioned  
 2 in connection with II/USP, should it simply scrap the  
 3 program?  
 4 MS. LHAMON: Incomplete hypothetical.  
 5 THE WITNESS: I don't understand the question.  
 6 BY MR. SIMMONS:  
 7 Q. Well, I guess what I'm trying to figure out 15:04:54  
 8 is that you've suggested some mechanisms for -- that  
 9 might be used in increasing the effectiveness of  
 10 II/USP, and that's -- one has been additional monies.  
 11 Another is continued professional development, which  
 12 one will assume requires more money. Another is, you  
 13 know, other capacity-building efforts, which again,  
 14 one would assume would require additional funds.  
 15 What do we do if those funds aren't  
 16 available? What do we do with II/USP?  
 17 MS. LHAMON: Same objection.  
 18 THE WITNESS: I haven't sufficiently thought of  
 19 other options. I don't know if scraping the program  
 20 altogether is the best solution, especially if --  
 21 especially if there's evidence that some schools may  
 22 have benefited from this program. It would be very  
 23 difficult for me to draw a conclusion on some of the  
 24 preliminary evidence and not knowing what the  
 25 potential effects may be of some of these schools

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1 they're funding.  
 2 BY MR. SIMMONS:  
 3 Q. Could you go ahead and turn to Page 14 of the 15:06:19  
 4 expert report. I swear I'm not really going  
 5 backwards. I skipped this.  
 6 A. 14, Shaun?  
 7 Q. Yes. Do you see at the bottom of Page 14, 15:06:34  
 8 the report says, "Finally, funding for capital  
 9 projects is unrelated to any other element of state  
 10 policy. The best recent example is the provision of  
 11 state funds for class size reduction, which amounted  
 12 to \$1.6 billion in 2001-02."  
 13 Have you had a chance to review those  
 14 sentences?  
 15 A. Yes.  
 16 Q. Do you agree with them? 15:07:12  
 17 A. Yes.  
 18 Q. Does the class size reduction program contain 15:07:22  
 19 any mandates?  
 20 A. The class size reduction in California, as I  
 21 understand it, is a voluntary program.  
 22 Q. Does it include any inducements? 15:07:36  
 23 A. It does provide resources for those schools  
 24 who choose to participate.  
 25 Q. Does it provide any capacity building? 15:07:46

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1 A. To the extent that it provides resources  
 2 which are intended both to hire the additional  
 3 teachers and also intended to build the facilities  
 4 that are necessary, it does provide those resources.  
 5 However, the evidence has clearly shown  
 6 numerous reports that those inducements have not been  
 7 sufficient to cover costs, both capital and staffwise,  
 8 of fully implementing class size reduction in all  
 9 schools.  
 10 Q. How were the \$1.6 billion for class size 15:09:03  
 11 reduction distributed by the state, if you know?  
 12 A. Can you clarify that, please.  
 13 Q. Well, first of all, it was distributed to 15:09:14  
 14 districts as opposed to individual schools; right?  
 15 A. Yes. I believe so.  
 16 Q. Were there any eligibility requirements for 15:09:26  
 17 funding?  
 18 A. I don't remember the specifics of this. It  
 19 was six years ago, seven years ago, eight years ago.  
 20 Q. Do you recall how the amount of grants to 15:09:39  
 21 particular districts were determined?  
 22 A. I don't recall the specific details. Some of  
 23 the initial grants, I believe were based on ADA.  
 24 Q. Is it your opinion that class size reduction 15:10:14  
 25 imposed increased demands on school facilities?

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1 A. Yes.  
 2 Q. What was the magnitude of that increased 15:10:20  
 3 demand, in your opinion?  
 4 A. Extremely large.  
 5 Q. Do you have anything more specific than that? 15:10:32  
 6 A. Well, in order to implement class size  
 7 reduction in any school involved, in most cases, the  
 8 creation of new facilities.  
 9 Q. Have you ever conducted any research 15:10:58  
 10 concerning the implementation of the class size  
 11 reduction program?  
 12 A. I've conducted minimal research looking at  
 13 the overall cost of class size reduction over the  
 14 first four to five years of implementation.  
 15 Q. Did you publish a paper in connection with 15:11:19  
 16 that research?  
 17 A. I published a report that -- a report that  
 18 referenced that information but whose primary theme  
 19 was not about class size reduction.  
 20 Q. Do you recall the title of that report? 15:11:40  
 21 A. A Costly Gamble or Series Reform California  
 22 School Voucher Initiative, Proposition 38.  
 23 Q. For the record, you used your CV to refresh 15:12:12  
 24 your recollection; is that correct?  
 25 A. Yes. Exhibit 4.

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1 Q. Did you reach any conclusions concerning the 15:12:28  
 2 overall cost associated with implementing class size  
 3 reduction in California?  
 4 MS. LHAMON: The question is vague. Are you  
 5 asking if he ever has or --  
 6 MR. SIMMONS: Just in connection with the paper  
 7 for now.  
 8 THE WITNESS: My recollection is that the  
 9 reference to class size reduction was made in terms of  
 10 the substantial cost of class size reduction in  
 11 California, which has amounted on average to anywhere  
 12 from \$1.6 to \$1.8 billion a year, compared to the  
 13 effects on student achievement, which have been  
 14 difficult to measure because of a variety of other  
 15 policy reforms that were implemented at the same time.  
 16 MR. SIMMONS: Would you read that back for me,  
 17 please.  
 18 (Record read.)  
 19 BY MR. SIMMONS:  
 20 Q. Have you ever made any effort to cost out the 15:13:50  
 21 total resources that would be necessary to fully  
 22 implement class size reduction in California?  
 23 A. I believe the \$1.6 to \$1.8 billion reflects a  
 24 near 99 percent, I believe, of all K-3 classes in  
 25 California having adopted the class size reduction

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1 program.  
 2 However, that figure does not account for the  
 3 additional resources that local districts have had to  
 4 supplement in order to maintain the program.  
 5 Q. What additional resources are necessary for 15:14:51  
 6 districts to provide in order to maintain the program?  
 7 A. I refer only to the same resources that are  
 8 necessary to maintain the basic framework of the  
 9 program in that the resources that are coming for the  
 10 state to fund the program have not been sufficient to  
 11 keep up with facilities' demands or teacher salaries  
 12 or the other necessary resources to get the program  
 13 going.  
 14 That's been well documented in work by Rand  
 15 and the consortium of research institutes that have  
 16 been looking at the class size reduction issue since  
 17 1997.  
 18 Q. Do you know whether the states -- strike 15:15:43  
 19 that. Do you know whether the monies provided by the  
 20 state -- strike that.  
 21 Do you know whether any of the monies  
 22 provided by the state in connection with the class  
 23 size reduction program were earmarked for professional  
 24 development?  
 25 A. I don't recall.

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1 (Pause in proceedings.)  
 2 THE WITNESS: Can I strike the last answer. As  
 3 indicated in the report, there was some funds from  
 4 CSR, class size reduction, that -- I'm referring to  
 5 Page 24, about the sixth line down. There were some  
 6 funds that were allotted through professional  
 7 development. However, it's not clear whether this  
 8 money was actually used for professional development  
 9 or for the -- or for funding the other demands of  
 10 keeping the class size reduction.  
 11 BY MR. SIMMONS:  
 12 Q. Do you have a sense as to what additional 15:17:56  
 13 resources, if any, would be necessary to make class  
 14 size reduction a successful program, in your opinion?  
 15 MS. LHAMON: Just for clarification, what  
 16 additional resources? Are you asking only about  
 17 dollar resources?  
 18 MR. SIMMONS: In that sense, I was -- or in that  
 19 question I was trying to use it a little bit broader  
 20 as more than just dollars.  
 21 THE WITNESS: For most, the successful  
 22 implementation of the class size reduction or any  
 23 other reform would involve an adequate number of  
 24 facilities to house students, credentialed or  
 25 certified teachers to teach the students, as well as

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1 the additional resources that are necessary as new  
 2 classrooms are created, in addition to the  
 3 professional development that is necessary to involve  
 4 teachers -- or to further train teachers on different  
 5 methodological approaches to teaching.  
 6 BY MR. SIMMONS:  
 7 Q. Now, the additional resources that you've 15:19:32  
 8 identified -- this next question is going to make me  
 9 sound like a simpleton, but those additional resources  
 10 don't come without a cost; right?  
 11 A. Clearly, yes.  
 12 Q. So what should the state do if it doesn't 15:19:49  
 13 have the additional funds to include those resources  
 14 in the class size reduction program, in your opinion?  
 15 A. I think that's the point where the state  
 16 would have to engage in a full assessment of the  
 17 resources -- I'm sorry -- a full assessment of needs  
 18 assessment across the state, which would involve  
 19 looking at how schools are using their resources,  
 20 whether they're doing so efficiently and would allow  
 21 us to identify where resources are being -- are  
 22 inadequate and where resources may be better spent for  
 23 the identification of best practices which we may  
 24 identify.  
 25 As far as offering an opinion in how the

1 state could raise additional resources, I'm not  
 2 prepared to comment on that.

3 Q. Just a point of clarification for me. If the 15:21:09  
 4 state wanted to include additional resources for class  
 5 size reduction, it essentially has two options, either  
 6 provide more -- provide more money or take money from  
 7 somewhere else. Is that a fair statement?

8 A. When you refer to providing "more money,"  
 9 from where are you referring that money should come  
 10 from?

11 Q. Well, I guess that's a good question, as 15:21:48  
 12 well. I mean, we can raise taxes, I suppose. Is  
 13 there some other place the additional resources could  
 14 come from?

15 A. Are you suggesting we raise taxes? I'm  
 16 sorry. This is my deposition.

17 Q. That's okay. I'm willing to answer that 15:22:11  
 18 question. No.

19 A. Can we start over.

20 Q. Yes. 15:22:18  
 21 (Pause in proceedings.) 15:22:18

22 MR. SIMMONS: Do you want me to have her read the 15:22:18  
 23 question back.

24 THE WITNESS: Oh, yeah. Please.  
 25 (Record read.)

1 MS. LHAMON: The question is vague and ambiguous  
 2 as phrased.

3 THE WITNESS: I would need you to define from  
 4 where the state would provide more money, from where  
 5 you are suggesting that the state provide more money.

6 BY MR. SIMMONS:  
 7 Q. They could either take it from the 15:23:13  
 8 educational budget or from some other budgeted area of  
 9 expanses; is that correct?

10 A. But you had suggested, perhaps, increasing  
 11 taxes, as well, which would create new money; is that  
 12 correct?

13 Q. Yes. I guess I'm just essentially making 15:23:29  
 14 sure that we're on the same page as far as there's  
 15 essentially two ways for the state to allocate more  
 16 resources to education.

17 MS. LHAMON: The question is vague and ambiguous  
 18 because it seems to me now that there have been more  
 19 than two ways listed. It could be it's my confusion.

20 THE WITNESS: I'm interpreting that there are  
 21 more than two ways.

22 BY MR. SIMMONS:  
 23 Q. Can you define those for me, the different 15:23:54  
 24 ways that you're interpreting?

25 A. Your words were take money from existing

1 revenues comprised of existing school revenues, I  
 2 think you indicated, or take money from other public  
 3 sector programs, and I've identified a possible third  
 4 option which you suggested, not myself, which would be  
 5 to increase taxes. We might come up with a variety of  
 6 other examples. I'm not prepared to suggest how the  
 7 state would come up with more money.

8 Q. As you sit here today, can you think of any 15:24:34  
 9 other ways that the state could raise additional funds  
 10 or allocate additional funds to education?

11 A. For -- I'm not prepared to create a list of  
 12 how to fund raise -- how the state is going to do any  
 13 sort of fund-raising for schools.

14 Q. So as you sit here today, the three methods 15:25:09  
 15 of obtaining additional monies for education are the  
 16 only methods that you can identify?

17 MS. LHAMON: Mischaracterizes the testimony.  
 18 THE WITNESS: No.

19 BY MR. SIMMONS:  
 20 Q. What other methods can you identify? 15:25:30  
 21 A. The three methods that are on the record that  
 22 have been identified are three methods which you  
 23 identified, not myself. I am indicating that I'm not  
 24 prepared to suggest what fund-raising approach the  
 25 state would take to increase revenues for the state.

1 Q. So as you sit here today, you have no opinion 15:25:53  
 2 on that subject?

3 A. I have no opinion. Yes.

4 Q. Thank you. 15:25:59  
 5 (Pause in proceedings.)

6 BY MR. SIMMONS:  
 7 Q. Could you turn to Page 16 in the report. Do 15:26:58  
 8 you see where it says the -- that the class size  
 9 reduction program "provided funds for additional  
 10 teachers but not for increasing the salaries of  
 11 veteran credentialed teachers in order to retain them  
 12 in urban areas; therefore many urban communities found  
 13 themselves hiring more teachers with emergency  
 14 credentials in order to reduce class sizes, thereby  
 15 undermining the intention of class size reduction."

16 A. Yes.

17 Q. Do you agree with that opinion? 15:27:40  
 18 A. Yes.

19 Q. What funds, if you know, did the state 15:27:50  
 20 provide in connection with the class size reduction  
 21 program to be used for additional teachers?

22 A. The amount of funds for school or --

23 Q. If you know. 15:28:06  
 24 A. I don't know what the exact -- I don't recall  
 25 what the exact number -- the exact amount of funds

1 that were allocated per school or per student for the  
 2 class size reduction. I only know the aggregate  
 3 amounts, which we spoke about.

4 Q. Is it your opinion that the state should have 15:28:26  
 5 increased the supply of credentialed teachers prior to  
 6 implementing class size reduction?

7 A. It's my opinion that when class size  
 8 reduction was implemented, we were, as a state,  
 9 already operating with a short supply of teachers.  
 10 The sentence that you read from Page 16 refers to the  
 11 migration of so-called well-seasoned or veteran  
 12 teachers from urban areas to some suburban areas,  
 13 leaving many urban areas without veteran teachers.

14 And it's a well-known fact some of the  
 15 suburban areas were offering higher salaries than  
 16 urban areas, which was one of the causal factors for  
 17 the migration, and this has been well evidenced by the  
 18 work from CSR Research Consortium, which is Rand,  
 19 among the three other research institutes in  
 20 California.

21 Q. As you sit here today, is it your opinion 15:29:33  
 22 that the state should have postponed the class size  
 23 reduction program until it could have increased the  
 24 supply of credentialed teachers?

25 MS. LHAMON: Incomplete hypothetical.

1 THE WITNESS: It's my opinion that class size  
 2 reduction is a very good example of a policy  
 3 disconnect that occurs when state level policy does  
 4 not adequately account for the conditions at the local  
 5 level.

6 Specifically, in the context of class size  
 7 reduction, the state did not assess whether there was  
 8 a ready supply of teachers necessary to take jobs in  
 9 many of the newly created classes throughout the  
 10 state.

11 The state did not fully assess what the needs  
 12 would be as far as facilities to house new classrooms  
 13 that were created. The state did not fully assess  
 14 whether the extent to which new materials that would  
 15 be necessary to provide to these many new classrooms.  
 16 And in the spirit of the new school finance, this  
 17 reflects a clear example of why it's necessary first  
 18 to engage in a full assessment of what local  
 19 conditions are before we fund new reforms.

20 BY MR. SIMMONS:

21 Q. So is it your position -- is it your position 15:31:09  
 22 that the state did not assess at all whether there  
 23 were -- there was a -- strike that.

24 Is it your opinion that the state did not  
 25 assess at all whether there were -- there was a

1 sufficient supply of credentialed teachers to fill the  
 2 additional teaching positions that would be required  
 3 as a result of class size reduction?

4 THE WITNESS: Can you just repeat that last  
 5 question.

6 (Record read.)

7 THE WITNESS: Yes.

8 BY MR. SIMMONS:

9 Q. Just so we're clear, my question is 15:32:09  
 10 attempting to seek out whether you think the state  
 11 just didn't assess this issue or whether it  
 12 miscalculated. Do you understand the distinction I'm  
 13 trying to draw?

14 A. I understand the distinction you're trying to  
 15 draw. I'm not certain whether it was short-sighted  
 16 planning on behalf of the state or whether it was an  
 17 inadequate accounting of what the potential effects  
 18 would be.

19 Q. So do you know whether -- 15:32:45

20 A. However -- excuse me.

21 Q. Excuse me. 15:32:49

22 A. -- had the state engaged in a full assessment  
 23 of needs -- of existing needs before class size  
 24 reduction, perhaps some of the unintended side effects  
 25 of class size reduction may have been avoided.

1 Q. Just in your opinion, isn't it a reasonable 15:33:24  
 2 approach to reduce class sizes and then attempt to  
 3 increase the supply of credentialed teachers?

4 MS. LHAMON: Argumentative.

5 THE WITNESS: I think that that approach is  
 6 short-sighted in the sense that when you're dealing  
 7 with children who are going to require both facilities  
 8 and the resources in the form of materials and a well  
 9 trained and credentialed teacher, it's too important  
 10 to gamble on that sort of predicament that you  
 11 implement the program first and then find out what the  
 12 effects are.

13 BY MR. SIMMONS:

14 Q. Are you aware of any studies that assess the 15:34:38  
 15 effect of credentialed teachers on the educational  
 16 outcomes of students in low socioeconomic groups?

17 A. Yes.

18 Q. What effect, if any, do those studies 15:35:06  
 19 attribute to credentialed teachers on the educational  
 20 outcomes of students in low socioeconomic groups?

21 MS. LHAMON: Overbroad and compound. There's a  
 22 range of studies.

23 THE WITNESS: There's a wide range of studies  
 24 that have looked at a variety of different factors,  
 25 ranging from the work of Ron Ferguson in Alabama and

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1 Texas to the recent work in California, which looks at  
 2 the distribution of credentialed teachers across  
 3 districts in California, and also specifically, it  
 4 looks at how these -- how uncredentialed teachers are  
 5 distributed disproportionately among districts that  
 6 serve primarily low income and minority students.  
 7 There's also the work, the recent work, which  
 8 I believe is cited in this expert report by Goe, which  
 9 also has some preliminary analysis of this issue.  
 10 BY MR. SIMMONS:  
 11 Q. Do those studies reach any contradictory 15:36:26  
 12 results, if you know?  
 13 A. No. Clarification. You mean amongst the  
 14 results of those studies? Whether there's  
 15 contradictions or is there agreement with the results?  
 16 Q. Is there agreement with the results reached 15:36:49  
 17 by the various studies?  
 18 A. There's a fair amount of agreement among the  
 19 results of the studies, yes.  
 20 Q. Is there any disagreement? 15:36:56  
 21 A. Only to the extent that they're looking at  
 22 different student populations -- or I'm sorry.  
 23 Looking at student populations in different states.  
 24 However, the overall conclusions were similar.  
 25 Q. Are you aware of any studies that assess the 15:37:08

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1 effect of reduced class size on students of low  
 2 socioeconomic groups?  
 3 A. Yes.  
 4 Q. What would have been the results of those 15:37:20  
 5 studies, if you know?  
 6 MS. LHAMON: Compound and overbroad.  
 7 THE WITNESS: Two credible studies, one in  
 8 Milwaukee and the other one in Tennessee, which I've  
 9 examined, the issue of class size reduction have both  
 10 concluded that the effects of class size reduction are  
 11 more significant for students from lower socioeconomic  
 12 status and minority students, as well.  
 13 It's important, however, to clarify that the  
 14 Tennessee study was done under an experimental model,  
 15 and to some extent, the work in Milwaukee and the SAGE  
 16 program, it's S-A-G-E, has also been conducted in a  
 17 controlled environment and has not -- and have not  
 18 been broad, wide-scale implementations of class size  
 19 reduction as in California.  
 20 So with that in mind, it's difficult to  
 21 generalize the results of those studies to what has  
 22 happened or what can potentially happen in California  
 23 with the class size reduction.  
 24 BY MR. SIMMONS:  
 25 Q. Are you aware of any studies or research 15:38:51

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1 efforts that have attempted to determine whether  
 2 credentialed teachers or class size reduction has a  
 3 greater effect on the educational outcomes of students  
 4 in low socioeconomic groups?  
 5 A. I do not recall any studies that I've  
 6 examined that have looked specifically at those two  
 7 variables that may be combined in the same regression  
 8 formula to examine what the effects have been. I  
 9 cannot account for any.  
 10 MR. SIMMONS: Could we go off the record for a  
 11 second.  
 12 (Recess taken from 3:39 P.M. to 3:55 P.M.)  
 13 BY MR. SIMMONS:  
 14 Q. If you'd turn to Page 24, Dr. Huerta, I think 15:55:16  
 15 you'll see, down towards the bottom of the page on 24,  
 16 it says, "Second Class Size Reduction required more  
 17 classrooms, and in schools that were already at  
 18 capacity, this required using portables, public spaces  
 19 like auditoriums, and any other available nook and  
 20 cranny to teach classes." Do you see where that  
 21 sentence is?  
 22 A. Yes.  
 23 Q. Is that your opinion in this case? 15:55:49  
 24 A. Yes.  
 25 Q. What do you mean by "schools that were 15:56:00

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1 already at capacity"?  
 2 A. Specifically, that refers to schools that  
 3 were already over crowded.  
 4 Q. Have you ever conducted a study to determine 15:56:16  
 5 the extent to which schools that were already at  
 6 capacity were required to use portables once the class  
 7 size reduction program was implemented?  
 8 A. I personally have not conducted that type of  
 9 study. However, that evidence is clearly outlined in  
 10 the work by the consortium, the CSR research  
 11 consortium. I do in addition have personal accounts,  
 12 having been a teacher in California during the first  
 13 year of class size reduction implementation at a  
 14 school that was already running a year-round calendar,  
 15 and it was extremely challenged to create five, six or  
 16 more additional classrooms.  
 17 Q. Are there any other -- I believe you 15:57:18  
 18 identified the consortium which was -- of which Rand  
 19 was a part. Are there any other studies that you're  
 20 aware of that focus on the extent to which schools  
 21 that were already at capacity were required to use  
 22 rooms like portables as a result of the class size  
 23 reduction program?  
 24 A. There were a couple of preliminary reports  
 25 that were published. I mentioned '97 and '98 which,

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1 using a representative sample of schools across the  
 2 state and surveys, began to account for some of this  
 3 information, and these are the preliminary reports  
 4 that then led to the actual consortium, which was  
 5 created specifically around class size reduction that  
 6 involved Rand, AIR, Pace, and I believe there's a  
 7 third research institute in California.

8 Q. Who was responsible for those initial studies 15:58:42  
 9 that you identified, if you can recall?

10 A. One of these studies was conducted at Pace  
 11 while I was employed there, and the other study was  
 12 conducted by one of the other institutes that was part  
 13 of the consortium, and I don't recall which research  
 14 institute it was. I believe it was WESTED. I don't  
 15 recall exactly.

16 Q. Would you turn to Page 27 of the expert 15:59:31  
 17 report. Is the Beginning Teacher Support and  
 18 Assessment program a categorical with which you are  
 19 familiar?

20 A. I only -- I'm familiar with what the program  
 21 is, but not in detail what the program entails.

22 Q. What is your understanding -- are you 16:00:43  
 23 familiar with it being referred to as BTSA? Have you  
 24 heard that term before?

25 A. Remind me what the acronym stands for.

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1 Q. BTSA. I've heard it pronounced BTSA before. 16:00:54  
 2 A. Oh, yes.

3 Q. So if I refer to it as BTSA, you'll be able 16:00:59  
 4 to understand what I mean?

5 A. Yes.

6 Q. What is your general understanding of BTSA? 16:01:06  
 7 A. BTSA is the program that was created to help  
 8 teachers make the transition from certification  
 9 programs to job placements in schools throughout the  
 10 state.

11 Q. Do you know when the BTSA program was 16:01:39  
 12 started?

13 A. I don't know exactly.

14 Q. Do you have a rough estimate? 16:01:49  
 15 A. There's been a variety of similar programs  
 16 over the years. I don't remember if BTSA was --  
 17 directly followed CSR or was an earlier program. But  
 18 the idea of BTSA has existed for a long time in  
 19 California.

20 Q. Was the BTSA program in place when you were 16:02:17  
 21 teaching in California public schools?

22 A. It was a BTSA-like program. I don't remember  
 23 if I was -- if BTSA was actually the program that was  
 24 operating where -- at that point during my first  
 25 semester of teaching, for example, I was still

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1 finishing my final phase of my credentialing process.  
 2 Q. Do you have a general sense as to the 16:02:49  
 3 professional development program -- strike that.

4 Do you have a general sense as to the type of  
 5 professional support that is provided to teachers  
 6 under BTSA?

7 A. I'm familiar with the fact that BTSA -- a  
 8 component of BTSA is ongoing professional development,  
 9 but I do not know to the extent or the quality of the  
 10 professional development is actually provided to  
 11 teachers that are participating in the BTSA program.

12 Q. So, for example, do you know whether teachers 16:03:33  
 13 that are participating in the BTSA program are  
 14 assigned a mentor teacher?

15 A. I'm sorry. What's your question?

16 MR. SIMMONS: Could you read the question back,  
 17 please.

18 (Record read.)

19 THE WITNESS: If I recall, part of the BTSA  
 20 program is that an individual at the school site is  
 21 assigned to a new uncredentialed teacher a mentor or a  
 22 master teacher under which they work.

23 MR. SIMMONS: Could you read that answer back,  
 24 please.

25 (Record read.)

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1 BY MR. SIMMONS:  
 2 Q. Do you see at Page 27 where it says, 16:04:50  
 3 "emergency permit teachers are not allowed to intern  
 4 or student teach in classrooms"?

5 A. Yes.

6 Q. Is that a correct statement, as far as you 16:05:07  
 7 know?

8 A. Yes.

9 Q. Do you know the specific source of that 16:05:21  
 10 prohibition?

11 A. I believe that comes from the committee on  
 12 the CCTC, the committee on -- I forgot what the  
 13 acronym stands for.

14 Q. The California Commission on Teacher 16:05:42  
 15 Credentialing?

16 A. Yes.

17 Q. Is it your understanding that the BTSA 16:05:55  
 18 program is not available to individuals who are  
 19 teaching on an emergency credential?

20 A. Yes.

21 Q. On what do you base that understanding? 16:06:10  
 22 A. That's -- I don't recall if that's a BTSA  
 23 regulation or something that comes from the CCTC. I'd  
 24 have to look back to verify.

25 Q. Do you know whether the state provides 16:06:29

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1 professional development opportunities for teachers  
 2 who possess an emergency credential?  
 3 A. Other than the profession development that's  
 4 offered through the school district in which these  
 5 teachers are employed, I don't know of any formal  
 6 program. However, that doesn't mean that one doesn't  
 7 exist. You're speaking of teachers outside the BTSA  
 8 program?  
 9 Q. Well, my understanding is that you have 16:06:58  
 10 testified that BTSA, the BTSA program is not available  
 11 to teachers -- to individuals who are teaching on an  
 12 emergency credential; is that correct?  
 13 A. Yes.  
 14 Q. And so my question was just are you aware of 16:07:12  
 15 whether the state provides professional development  
 16 opportunities other than BTSA to individuals who are  
 17 teaching on an emergency credential?  
 18 A. And my reply is that other than the  
 19 professional development which may already exist in  
 20 districts which the individuals may be teaching, I  
 21 don't know of another formal program that's exclusive  
 22 to uncredentialed teachers.  
 23 Q. Have you heard of the pre-intern program? 16:07:44  
 24 A. I've heard of an intern program. I don't  
 25 recall.

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1 Q. How about the district intern program. Have 16:08:01  
 2 you heard of that?  
 3 A. Yes. I've heard of the district intern  
 4 program before.  
 5 Q. What's your understanding of that program, if 16:08:09  
 6 any?  
 7 A. It's another program that has been in use in  
 8 one form or another for many years that matches  
 9 teachers that are on route to getting fully  
 10 credentialed but not fully credentialed yet with  
 11 master teachers or mentor teachers at district levels.  
 12 There's been a variety of different approaches.  
 13 Sometimes there's agreements between the  
 14 local college which is funding -- which is where the  
 15 student is attending in -- there are agreements where  
 16 the actual salary of the intern is paid by both  
 17 parties. But there's a variety of different forms of  
 18 these type of intern programs, but that is an area  
 19 that I'm not an expert in.  
 20 Q. You mentioned that districts may provide some 16:08:59  
 21 professional development for their -- for the  
 22 individuals within the district that are teaching on  
 23 emergency credentials; is that correct?  
 24 A. No. I indicated that districts may --  
 25 districts provide professional development for which

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1 individuals that are emergency credentialed or any  
 2 other individual who is a teacher in that district  
 3 would benefit from.  
 4 Q. Do you know whether districts provide any 16:09:25  
 5 professional development opportunities specifically to  
 6 individuals teaching on an emergency credential?  
 7 A. That's an area that I don't have enough  
 8 familiarity with.  
 9 Q. Do you have any sense as to how many teachers 16:09:47  
 10 participated in the BTSA program for the 2000-2001  
 11 year?  
 12 A. Are you referring to a section of the report?  
 13 Q. No. I don't think that information is 16:10:04  
 14 contained in the report.  
 15 A. I do not know, but we can readily find that  
 16 out from the state.  
 17 Q. Would your answer be the same with respect to 16:10:13  
 18 the number of teachers that participated in the BTSA  
 19 program in 2001-2002?  
 20 A. As referenced in the report, we know that  
 21 about 50 percent of the teaching force in California  
 22 districts were on emergency permits. I don't know --  
 23 I don't recall seeing or referencing the exact amount,  
 24 the exact number of teachers.  
 25 Q. Do you see on Page 27 where the report says, 16:11:28

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1 "Teachers were enticed out of their preparation  
 2 programs by desperate districts who promised them full  
 3 salaries while they completed their credentialing  
 4 requirements at night or on weekends"?  
 5 A. Yes.  
 6 Q. Do you agree with that statement? 16:11:43  
 7 A. There is documented evidence that speaks --  
 8 that has appeared, I believe both in the CSR  
 9 consortium reports over the last four years that has  
 10 documented some of that evidence, yes.  
 11 Q. Page 27 it says -- the report says, "Teacher 16:12:20  
 12 preparation programs geared up to assist teachers get  
 13 the courses they needed to complete their  
 14 requirements, and it has now been commonplace for  
 15 California teachers to begin their teaching careers  
 16 without a full contractual, with" little -- "with  
 17 little or no supervised student teaching experience,  
 18 and without having completed an induction program."  
 19 Do you see that sentence there?  
 20 A. Yes.  
 21 Q. What teacher preparation programs are being 16:12:53  
 22 referred to in that sentence, if you know?  
 23 A. I don't know specifically.  
 24 Q. Is that -- do you agree with the -- this 16:13:03  
 25 sentence that we've just read there on Page 27?

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1 A. I don't know which specific programs that  
 2 sentence is referring to. However, I do know that  
 3 there are so-called fast track teacher prep programs  
 4 that are offered, I believe, at some of the CSU  
 5 campuses and also some of the private providers, such  
 6 as -- actually, strike the last part.  
 7 I don't know the name of some of the private  
 8 providers that are doing the fast track. I know that  
 9 some of the CSU systems are doing fast track.  
 10 Q. Is it your opinion in this case that 16:13:58  
 11 "attention to state policy to the effects on schools  
 12 and classrooms - as distinct from districts - has  
 13 varied from inconsistent to non-existent"?  
 14 A. Where are you referring to that in the  
 15 report?  
 16 Q. You know, I don't have a page number, but -- 16:14:17  
 17 A. It sounds familiar. It sounds familiar, but  
 18 I just want to make sure that's what we wrote.  
 19 (Pause in proceedings.)  
 20 BY MR. SIMMONS:  
 21 Q. I guess I'm trying to determine that 16:14:37  
 22 regardless of what's in the report, whether that is  
 23 your opinion.  
 24 A. Can you restate what you said.  
 25 Q. That "attention in state policy to the 16:14:43

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1 effects on schools in classrooms - as distinct from  
 2 districts - has varied from inconsistent to  
 3 non-existent."  
 4 A. Yes. It's fair.  
 5 Q. Are there instances where state policy has 16:15:01  
 6 focused on the effects of decisions on schools and  
 7 classrooms, if you're aware of them?  
 8 A. You mean during the implementation plan  
 9 process of the school reform or policy initiative or  
 10 after implementation or --  
 11 Q. At any time. I'm just trying to determine if 16:15:22  
 12 there are instances that you're aware of where the  
 13 state has paid attention to effects on schools in  
 14 classrooms when enacting a state policy.  
 15 MS. LHAMON: Vague and ambiguous.  
 16 THE WITNESS: I cannot think of an example where  
 17 the state has engaged in a full assessment of local  
 18 needs and a full assessment of potential effects of a  
 19 new policy before implementation. And I should  
 20 qualify by "full assessment," I mean a full account of  
 21 what the needs are, especially needs of just the bare  
 22 essentials.  
 23 BY MR. SIMMONS:  
 24 Q. Is it your opinion that "The largest amounts 16:16:49  
 25 of state funding go to districts to spend as they see

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1 fit"?  
 2 A. Can you clarify the question, please.  
 3 Q. Yeah. I think this is -- I believe this is a 16:17:00  
 4 quote from your expert report.  
 5 MS. LHAMON: It's on Page 32. The bullet point  
 6 in the middle of the page.  
 7 MR. SIMMONS: Thank you.  
 8 Q. Do you see where it says that on Page 32? 16:17:28  
 9 A. No.  
 10 MS. LHAMON: Right here (indicating).  
 11 THE WITNESS: Okay. Let me just read the bullet.  
 12 (Pause in proceedings.)  
 13 THE WITNESS: Can you please ask your question  
 14 again.  
 15 BY MR. SIMMONS:  
 16 Q. Is that your opinion that "The largest 16:19:54  
 17 amounts of state funding go to districts to spend as  
 18 they see fit"?  
 19 A. My opinion, and I need to clarify that the  
 20 phrase in the last sentence, "as they see fit," as I  
 21 interpret it is in reference to how the state sees fit  
 22 in how the money is spent. And that's in reference to  
 23 the restricted dollars that flow to schools in already  
 24 prescribed categories to districts, and it also  
 25 alludes to our lack of knowledge in how then districts

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1 distribute money to schools within the district.  
 2 Q. Does the state impose limits on the way the 16:20:58  
 3 districts can spend revenue, monies that come from the  
 4 revenue limit fund?  
 5 A. There are minimums that are required, for  
 6 example, for teachers' salaries. I'm trying to think  
 7 of other minimums that would be spent or that could be  
 8 allotted. There are some minimums that are required  
 9 with the overall general operating revenue.  
 10 Q. Returning back to this sentence on 32 that 16:21:51  
 11 says, "The largest amounts of state funding" going "to  
 12 districts to spend as they see fit" -- I'm sorry.  
 13 "The largest amounts of state funding go to districts  
 14 to spend as they see fit," is that sentence intended  
 15 to be a critique of the current system, if you know?  
 16 A. I do not know.  
 17 Q. Just from your own personal opinion, do you 16:22:21  
 18 believe -- is it your own opinion that the largest  
 19 amounts of state funding should go to districts to  
 20 spend as the districts see fit?  
 21 A. You're asking for my opinion?  
 22 Q. Yes. 16:22:40  
 23 A. I believe that schools should be allowed  
 24 wider discretion. School districts and schools should  
 25 be allowed wider discretion in the larger amount of



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1 dollars that flow from the state. As I've indicated  
2 on the record already, we do know that school  
3 districts on average have discretion with only about 9  
4 to 11 percent of their total budget, which is a fairly  
5 low amount of discretionary money.  
6 Q. Do you believe that there are benefits to 16:23:34  
7 providing districts with wider discretion as to how  
8 they spend monies provided to them by the state?  
9 A. I believe that local discretion resources is  
10 important if schools -- if school or district level  
11 officials can more freely participate in decisions  
12 necessary to meet -- to first identify and meet the  
13 local needs of their students, as opposed to the  
14 assigned or prescriptive form of funding schools that  
15 exists today.  
16 Q. Do you have an opinion as to whether certain 16:24:36  
17 districts are more qualified to handle a wider  
18 discretion in connection with funds received from the  
19 state?  
20 MS. LHAMON: Vague and ambiguous.  
21 THE WITNESS: I think it would be necessary to  
22 first engage in a full assessment where we can account  
23 for how school districts and schools are using  
24 existing revenues to learn from potential best  
25 practices that exist in resources in these schools

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1 before we can determine whether some districts have --  
2 whether some districts already have the capacity or  
3 the ability to spend discretionary dollars more  
4 efficiently than others.  
5 We're on Page 33.  
6 MR. SIMMONS: I promised we would get through  
7 Section 1.  
8 (Pause in proceedings.)  
9 BY MR. SIMMONS:  
10 Q. Does new school finance make -- strike that. 16:26:23  
11 Is the use of categorical funds a part of new  
12 school finances, as you understand it?  
13 MS. LHAMON: Vague and overbroad.  
14 THE WITNESS: The use of categorical funds in the  
15 context of the new school finance conceptual frame can  
16 be a component of whatever formula is devised to  
17 distribute resources to schools, as can be a block  
18 rent of categoricals that we discussed yesterday, or  
19 several other approaches, which may also include the  
20 basket of goods that we spoke about.  
21 However, before making any sort of  
22 recommendation or opinion to which is best, again,  
23 it's necessary to engage in a full needs assessment of  
24 local schools in California and ascertain a better  
25 idea of what resources are necessary at that level.

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1 BY MR. SIMMONS:  
2 Q. What benefits, if any, are there in providing 16:27:43  
3 resources to districts through categorical funds?  
4 MS. LHAMON: Asked and answered, I think  
5 yesterday.  
6 THE WITNESS: A categorical fund that first  
7 accounts fully for local needs can better -- strike  
8 that. Let me start over.  
9 A categorical fund that is created based on a  
10 comprehensive assessment of what local needs are can  
11 be aimed directly at meeting the differential needs of  
12 students in specific districts. So, yes, categorical  
13 funds can be a useful part of the new school finance  
14 formula approach under those conditions.  
15 BY MR. SIMMONS:  
16 Q. Do you see on Page 32 where it says, "In 16:28:46  
17 effect there is a division of labor, especially in the  
18 post-Proposition 13 era, where the state concentrates  
19 on funding issues and districts, with little choice  
20 over funding levels, concentrate on education  
21 provisions"?.  
22 A. Yes.  
23 Q. What is meant by "education provisions" in 16:29:07  
24 that sentence?  
25 A. What's implied in "education provisions" is

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1 not only the delivery of education, but also the  
2 reporting requirements that are necessary and  
3 burdensome at the local level to account for how  
4 dollars are spent.  
5 Q. To your knowledge, do school districts 16:29:43  
6 participate in any way in the determination of funding  
7 levels?  
8 MS. LHAMON: Vague and ambiguous. Do you mean  
9 funding levels they received from the state or how  
10 much funding should be spent --  
11 BY MR. SIMMONS:  
12 Q. Funding levels that they receive from the 16:30:03  
13 state.  
14 A. Districts are required to report their ADA,  
15 which provides them with the revenue limit funding,  
16 and then for any additional funding after that that  
17 comes from the state, many categorical programs are on  
18 a per-application basis. Some of them are based on  
19 some of the numbers that are reported in ADA. Some of  
20 the information from ADA. So to that extent, yes,  
21 districts are required -- or do participate in -- I  
22 forget the phrasing of your question.  
23 MR. SIMMONS: Can you read that back.  
24 (Record read.)  
25 THE WITNESS: So with that context in mind,

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1 schools can affect their funding levels if --  
 2 depending on what categoricals they may or may not  
 3 solicit from the state.  
 4 BY MR. SIMMONS:  
 5 Q. What about in terms of making their wishes 16:31:28  
 6 known to legislatures? Do districts have a mechanism  
 7 for providing input to the California legislature  
 8 concerning what funding levels from the state ought to  
 9 be?  
 10 MS. LHAMON: Vague as to "input." Do you mean is  
 11 there any context in which the district can identify a  
 12 need or request?  
 13 MR. SIMMONS: Yeah. I mean, I'm certainly not  
 14 talking about them voting. Just, you know, how that  
 15 political process works. Again, it's a question that  
 16 makes me look like a simpleton because there's an  
 17 obvious answer, but --  
 18 THE WITNESS: I think school districts, like any  
 19 regular citizen of the community, can lobby local  
 20 political leaders or state political actors to address  
 21 specific needs which districts may have. There is a  
 22 history of some categorical dollars -- categorical  
 23 programs, excuse me, being developed through that  
 24 protocol.  
 25 ///

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1 BY MR. SIMMONS:  
 2 Q. Is that a type of bottom up approach or 16:32:39  
 3 protocol?  
 4 A. I wouldn't characterize it as the bottom-up  
 5 approach that is consistent with the new school  
 6 finance approach. I would rather characterize that as  
 7 sort of a bottom-up approach of political spoils.  
 8 Q. What do you -- can you explain for me a 16:33:12  
 9 little bit more what you mean about "bottom-up  
 10 approach for political spoils."  
 11 A. I'm referring only to evidence that has  
 12 pointed to the creation of many categorical programs  
 13 in the State of California that have resulted from  
 14 political decisions rather than decisions that are  
 15 based on real needs at local levels through the  
 16 process of what's been characterized in policy debates  
 17 as rent seeking.  
 18 MR. SIMMONS: Would you read the question back,  
 19 please.  
 20 (Record read.)  
 21 THE WITNESS: Go ahead and ask me, Shaun.  
 22 BY MR. SIMMONS:  
 23 Q. I'm sorry. It's getting late in the day. I 16:34:45  
 24 had a tough time understanding that response. What  
 25 did you mean by "rent seeking," first of all?

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1 A. Rent seeking is the process by which --  
 2 political process by which legislators may reward  
 3 their constituents or their constituents may reward  
 4 politicians by an exchange of promises or rewards in  
 5 the sense that it's the idea that -- let's strike  
 6 that. I'll give you the textbook answer in a minute.  
 7 Rent seeking in the context of political  
 8 spoils is -- and in the context of school policy is  
 9 the process of -- and in the context of creating  
 10 categoricals is the process by which new categorical  
 11 programs may be created absent any real local need or  
 12 assessment of local needs, but rather, specifically  
 13 for the purpose of political gain where legislators  
 14 may create new programs that influential constituents  
 15 may demand.  
 16 Q. So things like political spoils and rent 16:36:36  
 17 seeking, aren't they just -- are those things just  
 18 inherent in a democracy?  
 19 A. Yes. That's a fair assessment.  
 20 Q. So in what ways can the state expect to limit 16:36:49  
 21 those characteristics of democracy in the educational  
 22 context?  
 23 MS. LHAMON: Are you asking for specifics? I  
 24 mean, vague and ambiguous.  
 25 THE WITNESS: Specifically, by creating a -- by

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1 first assessing -- engaging in a wide scale  
 2 assessments of local needs, and in the case of  
 3 specific programs that may be necessary in some  
 4 local -- some districts but not others, to engage in  
 5 more detailed assessment of what those local needs are  
 6 to see if a specific program is necessary to address  
 7 those local needs. That's one process of building in  
 8 some level of accountability and then in the creation  
 9 of a categorical program.  
 10 BY MR. SIMMONS:  
 11 Q. In the course of conducting the assessment of 16:38:08  
 12 needs, wouldn't you expect that there's going to be a  
 13 lot of differing viewpoints about what is needed?  
 14 A. There certainly may be differences, but  
 15 that's where involving both local professional actors  
 16 and community individuals, as well as some state  
 17 involvement would provide for a more accurate  
 18 assessment.  
 19 Q. Doesn't someone have to have a final say on 16:38:47  
 20 what actually constitutes the actual need in terms of  
 21 how it's going to be funded?  
 22 MS. LHAMON: Incomplete hypothetical.  
 23 THE WITNESS: I think if we have a fair  
 24 assessment of local needs and -- as defined by the  
 25 professionals who I already indicated would be

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1 involved, and as well as community members and the  
 2 like, then it is up to the legislature in most cases  
 3 to approve the creation of new categorical programs.  
 4 So the decision wouldn't be left up to one individual,  
 5 but the legislators who represent us.  
 6 MR. SIMMONS: Let's go off the record real quick.  
 7 (Recess taken from 4:40 P.M. to 4:52 P.M.)  
 8 (Deposition Exhibits 7, 8 and 9 were marked  
 9 for identification and are bound separately.)  
 10 (Pause in proceedings.)  
 11 MR. SIMMONS: For the record, I would just like  
 12 to note that we have marked as 7 an article entitled  
 13 "Determining the Cost of a Basic or Core Education."  
 14 This is the article that Ms. Lhamon was speaking about  
 15 yesterday but we neglected to mark. So we've now  
 16 marked that as Exhibit 7.  
 17 We've also marked as Exhibit 8 a copy of  
 18 Straw Into Gold, which was a copy that Dr. Huerta  
 19 brought with him and which contains a couple of notes.  
 20 So we have marked this as an exhibit to be attached to  
 21 the deposition, as well.  
 22 Q. Dr. Huerta, I'll show you what has been 16:52:48  
 23 marked as Exhibit 9. That was one of the materials  
 24 that was provided to us via E-mail last night.  
 25 Do you recognize that document? 16:53:07

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1 A. Yeah. This is a document that you requested,  
 2 which was in the bibliography of the expert report,  
 3 which was a document that was relied on for -- as a  
 4 reference in the expert report.  
 5 Q. Did you rely on that document at all in 16:53:33  
 6 forming the basis of your opinions?  
 7 A. No. This was only a document that was part  
 8 of references used for the expert report.  
 9 Q. Okay. But that's not a document you reviewed 16:53:46  
 10 at all in preparation for your testimony in this case?  
 11 A. No, it's not.  
 12 (Deposition Exhibit 10 was marked for  
 13 identification and is bound separately.)  
 14 (Pause in proceedings.)  
 15 MR. SIMMONS: I'll show you what's been marked as  
 16 Exhibit 10 now.  
 17 Q. Do you recognize that document? 16:53:58  
 18 A. Yes.  
 19 Q. Can you tell me what it is. 16:54:00  
 20 A. This is a document that you also requested,  
 21 which was referenced in the bibliography of the expert  
 22 report --  
 23 Q. Okay. 16:54:12  
 24 A. -- and which we used in writing this report  
 25 and the previous Straw Into Gold report as a

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1 reference.  
 2 Q. Did you rely on that document in formulating 16:54:23  
 3 the basis of your opinions in this case?  
 4 A. No.  
 5 (Deposition Exhibit 11 was marked for  
 6 identification and is bound separately.)  
 7 (Pause in proceedings.)  
 8 MR. SIMMONS: I'll show you what's been marked as  
 9 Exhibit 11.  
 10 Q. Do you recognize the document that has been 16:54:39  
 11 marked as Exhibit 11?  
 12 A. Yes.  
 13 Q. What is that document? 16:54:46  
 14 A. This is a spreadsheet that I had reviewed a  
 15 couple days ago in preparation for my deposition,  
 16 which is some of the latest numbers looking at  
 17 per-pupil expenditure across the state.  
 18 Q. Why did you review that document? 16:55:04  
 19 A. Because I wanted to examine some of the more  
 20 recent data that's been only recently made available  
 21 in looking at per-pupil expenditures spread across the  
 22 state.  
 23 Q. Is there any other reasons that you reviewed 16:55:22  
 24 that document?  
 25 A. No.

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1 (Deposition Exhibit 12 was marked for  
 2 identification and is bound separately.)  
 3 (Pause in proceedings.)  
 4 MR. SIMMONS: I'll show you what's been marked as  
 5 Exhibit 12.  
 6 Q. Do you recognize what's been marked as 16:55:33  
 7 Exhibit 12?  
 8 A. I think this was part of the same file that  
 9 was part of Exhibit 11, if I'm not mistaken. I didn't  
 10 actually print these.  
 11 THE WITNESS: It was connected to the file;  
 12 right?  
 13 MS. LHAMON: I'll make a representation that 11  
 14 and 12 were connected together, and we separated them  
 15 out for purposes of production because 12 has a  
 16 different title at the top.  
 17 MR. SIMMONS: Okay.  
 18 THE WITNESS: This is, excuse me, average ADA  
 19 across counties in California, and this is also  
 20 information that I just perused for the purposes of  
 21 preparation for the trial -- for the deposition.  
 22 (Deposition Exhibit 13 was marked for  
 23 identification and is bound separately.)  
 24 (Pause in proceedings.)  
 25 MR. SIMMONS: Lastly, I'll show you what's been

1 marked as Exhibit 13.  
 2 THE WITNESS: This is an LAO -- the most recent  
 3 LAO analysis of the 2003-2004 proposed budget. This  
 4 is -- I hope you only printed the -- this is only the  
 5 education section of our much larger report from the  
 6 LAO, which looks at other public sector agencies  
 7 across the state and how the new proposed budget will  
 8 affect those public sectors.

9 BY MR. SIMMONS:

10 Q. You reviewed that document in preparation for 16:57:27  
 11 your deposition; is that correct?

12 A. Very briefly, only to look at how some of the  
 13 new -- specifically to look at the proposal for new  
 14 categorical programs, but just very briefly.

15 Q. Do you know what pages of the document you 16:57:50  
 16 reviewed?

17 A. I reviewed the first couple pages on the  
 18 Section E 43 -- beginning Section E 43 which looks at  
 19 categorical reform program -- or the governor's  
 20 categorical reform program, but I reviewed this very  
 21 briefly.

22 Q. Is there any particular reason why you 16:58:41  
 23 reviewed that document or the few pages in that  
 24 document?

25 MS. LHAMON: Asked and answered yesterday.

1 I declare under penalty of perjury  
 2 under the laws of the State of California  
 3 that the foregoing is true and correct.

4 Executed on \_\_\_\_\_, 2003,  
 5 at \_\_\_\_\_, \_\_\_\_\_.

6  
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 10 \_\_\_\_\_  
 11 SIGNATURE OF THE WITNESS

1 THE WITNESS: I was interested in looking at what  
 2 some of the new proposals are in the categorical block  
 3 rent.

4 MR. SIMMONS: Off the record.  
 5 (TIME NOTED: 4:59 P.M.)  
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1 STATE OF CALIFORNIA ) ss.  
 2 COUNTY OF LOS ANGELES )  
 3

4 I, NANCY J. MARTIN, CSR No. 9504, do hereby  
 5 certify:  
 6

7 That the foregoing deposition testimony of  
 8 LUIS HUERTA was taken before me at the time and place  
 9 therein set forth, at which time the witness, in  
 10 accordance with CCP Section 2094, was placed under  
 11 oath and was sworn by me to tell the truth, the whole  
 12 truth, and nothing but the truth;  
 13

14 That the testimony of the witness and all  
 15 objections made by counsel at the time of the  
 16 examination were recorded stenographically by me, and  
 17 were thereafter transcribed under my direction and  
 18 supervision, and that the foregoing pages contain a  
 19 full, true and accurate record of all proceedings and  
 20 testimony to the best of my skill and ability.  
 21

22 I further certify that I am neither counsel for  
 23 any party to said action, nor am I related to any  
 24 party to said action, nor am I in any way interested  
 25 in the outcome thereof.

1 IN WITNESS WHEREOF, I have subscribed my name  
2 this 27th day of March, 2003.

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\_\_\_\_\_  
NANCY J. MARTIN, CSR No. 9504

DEPOSITION EXHIBITS  
LUIS HUERTA

NUMBER	DESCRIPTION	IDENTIFIED
6	Teaching and California's Future	225
7	Dertermining the Cost of a Basic or Core Education	326
8	Star Into Gold, Resources into Results	326
9	The Lasting Benefits Study: Grade 6, Technical Report	326
10	Researcgh Report, Modeling the Relationship Between School District Spending and Academic Achievement	327
11	Current Cost of Education as of June 14, 2002	328

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VOLUME II

4 TUESDAY, MARCH 18, 2003  
6 WITNESS EXAMINATION  
8 LUIS HUERTA  
10 (By Mr. Simmons) 165, 233

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DEPOSITION EXHIBITS (CONTINUED)  
LUIS HUERTA

NUMBER	DESCRIPTION	IDENTIFIED
12	Current cost of Education, as of June 14, 2001, County Totals	329
13	Education, LAO 2003-2004 Analysis	329