

3-87-190-CV

CAUSE NO. 362,516

C 8353

EDGEWOOD INDEPENDENT SCHOOL
DISTRICT, ET AL

VS.

WILLIAM KIRBY, ET AL

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IN THE 250TH JUDICIAL

DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

FILED
IN SUPREME COURT
OF TEXAS

JUN 21 1989

JOHN T. ADAMS, Clerk

By _____ Deputy

STATEMENT OF FACTS

VOLUME XIII OF XLVI



TAKEN FEBRUARY 10, 1987

MONICA ROSS WEIDMANN

Official Court Reporter
250th Judicial District Court

KFT
1590
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-1987
V.13-14

CAUSE NO. 362,516

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

STATEMENT OF FACTS

BEFORE THE HONORABLE HARLEY CLARK, JUDGE PRESIDING

APPEARANCES:

MR. ALBERT H. KAUFFMAN and MS. NORMA V. CANTU,
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201 N. St. Mary's Street, San Antonio, Texas 78205.

-and-

MR. PETER ROOS, Attorney at Law, 2111
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MR. CAMILO PEREZ-BUSTILLO and MR. ROGER RICE,
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Cambridge, MA, 02138

-and-

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ATTORNEYS FOR THE PLAINTIFFS

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6 MR. DAVID R. RICHARDS, with the law firm
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8 ATTORNEYS FOR THE PLAINTIFF-INTERVENORS
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10 MR. KEVIN THOMAS O'HANLON, Assistant
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12 -and-

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

23 -and-

24 MR. JIM DEATHERAGE, Attorney at Law,
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25 -and-

1 APPEARANCES CONT'D

2
3 MR. KENNETH C. DIPPEL, MR. JOHN BOYLE, and
4 MR. RAY HUTCHISON, and MR. ROBERT F. BROWN, with
5 the law firm of HUTCHISON, PRICE, BOYLE & BROOKS,
6 Attorneys at Law, 3900 First City Center,
7 Dallas, Texas, 75201-4622

8
9
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16
17 ATTORNEYS FOR THE DEFENDANT-INTERVENORS

18
19 BE IT REMEMBERED that on this the 10th day of
20 February, 1987, the foregoing entitled and numbered
21 cause came on for trial before the said Honorable Court,
22 Honorable Harley Clark, Judge Presiding, whereupon the
23 following proceedings were had, to-wit:
24
25

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1 FEBRUARY 10, 1987

2 MR. O'HANLON: May I proceed, Your Honor?

3 THE COURT: Yes, sir.

4 DR. JERRY CHRISTIAN

5 was recalled as a witness, and after having been reminded
6 he was still under oath, testified as follows, to-wit:

7 CROSS EXAMINATION (RESUMED)

8 BY MR. O'HANLON:

9 Q. Dr. Christian, we're going to see if we can't work on
10 some different, just theoretical solutions to the
11 district's financial problems here.

12 Now, you say that you pulled out a million
13 dollars in the last four years from your maintenance
14 and operations part of your budget for purposes of
15 working on your construction.

16 A. Yes, sir.

17 Q. All right. That's \$250,000.00 a year, is that
18 correct?

19 A. Yes, sir.

20 Q. And if that's coming out of the maintenance and
21 operations fund, and you say it takes a penny to
22 raise \$23,000.00, it's costing you 11 cents per year,
23 approximately?

24 A. Yes, sir.

25 Q. All right. Now, I want you to assume with me for a

1 second that instead of doing that, that you went back
2 to the voters and you took that million dollars, and
3 instead of taking it out of your maintenance and
4 operations budget, that you floated a bond issue to
5 do that construction, okay?

6 A. (Witness nodded head to the affirmative.)

7 Q. Now, given today's interest rates, 10 percent should
8 easily take care of both the debt obligation and
9 payments with respect to principle to retire those
10 bonds given today's market conditions, is that
11 correct? Is that about right?

12 A. Give me that again, please.

13 Q. Given today's market conditions, I think bonds are
14 selling for somewhere in the neighborhood of 7
15 percent right now, between 6 and 7 percent, but 10
16 percent would easily not only pay the interest, but
17 principle payments that come due on an annual basis?

18 A. That would probably be close.

19 Q. Okay. Now, that would cost you, if it's 10 percent,
20 \$100,000.00 a year, correct?

21 A. I don't know what you're talking about, how long your
22 doing this bond and so forth, so that would be a --
23 that would be hard to --

24 Q. Somewhere between 15 and 30 years, depending on what
25 the market will bear. Not going to make that much

1 difference --

2 A. Right.

3 Q. -- because of the way mortgage payments, in essence,
4 work, is it?

5 A. I'll go with that.

6 Q. Okay. So instead of pulling that million dollars out
7 of your maintenance and operations, you float a bond
8 issue, you have to pay that back at a hundred
9 thousand dollars a year, now, that's going to cost
10 you about 4.6 cents to retire those, isn't that
11 right, 23,000 pennies, \$23,000.00?

12 A. Yes.

13 Q. All right.

14 A. Approximately.

15 Q. And that's going to leave you the difference between
16 4.6 -- let's call it four and a half right now just
17 for figuring purposes, or let's call it five --
18 that's going to leave you 6 cents that you can run
19 your maintenance and operations with, isn't that
20 right?

21 A. Well, you've made some assumptions there that I
22 couldn't go along with. If you're -- in our
23 situation, I don't look at it that way. The -- in a
24 normal budget year, if we have a 5 percent
25 differential between our expenditures and budget, we

1 will normally generate that \$250,000.00; if we have a
2 good year, we don't have any catastrophies and our
3 energy costs are stabilized and so forth. So we
4 don't really budget monies for this construction, for
5 this \$250,000.00. We actually -- if we do have a
6 good year and we have that left over, then we can put
7 that in the construction.

8 Q. Uh-huh.

9 A. What you fail to recognize there is that we're also
10 drawing interest off of that money further helping
11 our situation and our -- for construction. So that
12 differential there would not be, you know, correct.
13 Our present million dollar bond issue is at 12.1
14 percent.

15 Q. Well, that was in 1982 and the market was a lot
16 higher back then, wasn't it?

17 A. That's correct. But everything is relative. And so,
18 we have opted to try, and when we can have a
19 differential in any given year to set that aside, and
20 then, we in turn draw interest on that to further
21 help our facility.

22 Q. Okay. I want you to assume with me that we did just
23 what I'm proposing here, okay?

24 Now, you're paying the same tax rate, whether
25 it's M&O, it still translates into dollars that the

1 district has got to spend regardless if it's M&O or
2 I&S, isn't that right?

3 A. Well, of course you're tied into what you have to
4 spend on I&S.

5 Q. I understand.

6 A. You don't have any flexibility there.

7 Q. That's correct. But you're still drawing that money,
8 that rate off the same tax base. The tax base for
9 I&S and M&O is the exact same tax base.

10 A. That's right.

11 Q. So you get the same yield, whether you call it one or
12 the other.

13 A. That's right.

14 Q. Okay. Now, assuming that it takes 5 cents to pay
15 that off, all right, you've still got 6 cents left
16 over, don't you?

17 A. That's what you're saying. I wouldn't look at it
18 that way.

19 Q. Well, if it only takes 5, you're using 11 cents right
20 now, your tax rate?

21 A. You're not considering the interest on that money
22 and --

23 Q. We'll figure in the interest in a minute. You're
24 still going to have that money that you're going to
25 be earning interest on any way you cut it, aren't

1 you?

2 A. Yes, for maintenance and operations.

3 Q. Because when you collect it, you're going to put it
4 in the bank and it's going to earn interest, right?
5 No different than you're doing now, isn't that right?

6 A. Basically.

7 Q. Okay. So, you take this 5 cents, you have got 6
8 cents left over times \$23,000.00, and you've got
9 \$138,000.00 more the maintenance and operations in
10 your district without increasing the tax rate?

11 A. No, sir, because if you float that bond issue for a
12 million dollars, then our last bond issue, if you
13 float that for 14 years as we did, then we would be
14 spending over that time probably another million and
15 a half on interest.

16 Q. Sure.

17 A. So rather than pay it on interest, we're trying to
18 capture that with interest to pay for those
19 facilities to protect the maintenance and operations.
20 So all you would be doing is decreasing your
21 maintenance and operations budget when you would do
22 that, so...

23 Q. Well, now, you're actually not decreasing your
24 maintenance and operations budget because you're
25 pulling out 11 cents worth right now, aren't you?

1 A. Well, but all you're looking at is a very short-term
2 situation. I'm looking at the long haul and needs
3 that I've got to put into operations. And I've got
4 those -- I've got those mandates that I have to
5 address, so I can't -- I don't really have that
6 option. I could do that, but all I'm going to be
7 doing is backing myself out of the operational
8 budgets, in effect.

9 Q. How are you going to be doing that? Doesn't this
10 give you more money for operations, Dr. Christian?

11 A. Well, I think that it goes without saying that any
12 time you're borrowing money versus paying cash,
13 you're not bettering your situation. And I would
14 differ with you on that point.

15 Q. Well, if you --

16 A. If we borrow money in Lampasas, you know, to build
17 the facilities, that's not going to be as financially
18 advisable and in the best interest of our district if
19 we can pay cash. As a matter of fact, the wealthier
20 the district, the better opportunity they have to pay
21 cash for their facilities and increase their
22 financial ability to --

23 Q. Well, you're not saying that you can't get --

24 A. -- operate.

25 Q. You're not saying that you can't get bonds. You're

1 not saying that your district won't qualify for the
2 guaranteed bond program, for example?

3 A. No, sir.

4 Q. All right. So you're going to get the best rate
5 that's available because that, in essence, guarantees
6 you a Triple A rating, doesn't it?

7 A. Yes, sir.

8 Q. Okay. So you're going to get the same rate that a
9 rich district gets?

10 A. Basically.

11 Q. Okay. And isn't it true that you're using, in
12 effect, you're using 11 cents of that tax rate for
13 maintenance and operations to build facilities right
14 now?

15 A. I would say basically that's correct.

16 Q. Okay. And for a nickel, you can -- how much more do
17 you need in facilities in your district? How long
18 are you going to be pulling \$250,000.00 out of
19 student services and putting them into facilities?

20 A. Well, if I continue to have a deficit budget as I did
21 last year and I project for this coming year, I doubt
22 that we're going to see that. We're seeing that come
23 to a close as far as being able to have a
24 differential in our budget at the end of the year
25 that we could move into construction funds. And I

1 also will see probably within a three to five-year
2 period the need for a bond issue for facilities. So
3 I, you know, I obviously have to be as conservative
4 as I can in trying to make those dollars go as far as
5 I can with cash monies as long as I can.

6 Q. But by doing that, you're consciously making a trade
7 off, aren't you? You're consciously saying that my
8 program -- that you've gone up there and said that
9 it's woefully short in some areas, can suffer
10 \$250,000.00 being taken from it for purposes of
11 facilities?

12 A. I would say that 90 percent of my job is making
13 judgments as to what would be in the best interest of
14 our district, and that would include good financial
15 management. And I perceive that to be what we've
16 been doing with these monies.

17 Q. I'm not accusing you of that. What I'm saying
18 is -- I'm not saying that you're poorly managing your
19 district now, I'm saying it's a question of trade
20 off, isn't it?

21 A. I'm just saying that everything is a trade off.
22 Property poor district, you're constantly trading
23 off. If you've got limited funds and something has
24 to give, if you're going to spend more on something
25 else, that wouldn't just be in facilities, that could

1 be in anything we're doing. And I don't consider it
2 a trade off, I consider it trying to manipulate and
3 to manage those finances in the best interest of the
4 long haul for our students.

5 Q. I understand that.

6 A. You can make a little short-term analysis there, but
7 that, in essence, may be the worse thing that you're
8 doing over the long haul for your students.

9 Q. Why is that?

10 A. Well, if it's a poor management and you end up
11 spending a lot of money on interest, you know, to
12 those investors rather than spending it on your kids.
13 And that's our conscious effort to try, as we have
14 done, and that's to maximize our maintenance and
15 operations budget so we can make sure that we're able
16 to put as much as we can into construction.

17 And if we get into the bond issue, as we do
18 that, we're going to be strapping our maintenance and
19 operations. That's the trade off, as I look at it.

20 Q. Okay. Now, let's figure back something else.

21 Let's assume at 10 percent, that you're
22 spending \$250,000.00 a year on construction right
23 now, correct, for the last four years?

24 A. Yes, sir.

25 Q. How many dollars worth of bonds would that service,

1 that \$250,000.00? At our 10 percent rate, that would
2 service \$2.5 million worth of bonds, wouldn't it?

3 A. If you could afford to -- well, it wouldn't serve
4 that much in my opinion. But if you, you know, made
5 that assumption, you would have to assume that we're
6 going to have that \$250,000.00 year in and year out.

7 Q. You had it for the last four years, haven't you?

8 A. No, sir. That will vary. I believe I explained
9 earlier in my testimony that we depleted our fund
10 balance to \$280,000.00 one year in order to spend
11 that money.

12 Q. Uh-huh.

13 A. So, you know, that fluctuates from year to year. And
14 as a matter of fact, last year, we had a 100,000
15 deficit in our budgets, so I cannot count on
16 \$250,000.00 a year in construction. I doubt if that
17 can continue. I don't see how it can.

18 Q. No. But if you float the bond issues, the
19 construction is going to continue because the
20 taxpayers in your district have to pay those off,
21 don't they?

22 A. That's correct. Once you have a bond issue and
23 you're paying that, you're obligated to it.

24 Q. Okay. So if you want to guarantee that the kids in
25 your district have adequate facilities, that's the

1 way you go rather than suffer the vicissitudes of a
2 budget cycle?

3 A. That's a little presumptuous, but you've got to pass
4 a bond issue. You can't guarantee all of that. And
5 once that you've paid that and you've gotten whatever
6 facilities that bought, you're still going to have
7 needs for facilities. And so, you know, that's a
8 game you could play, but realistically, it's going to
9 be difficult for me to see that that would be a
10 preferential way to do it if you can spend in small
11 quantities cash monies for your facilities.

12 Q. Well, you say small quantities, but didn't you say
13 yesterday that a hundred dollars a kid is going to
14 make all of the difference in the world to your
15 district?

16 A. It would in instruction, it would.

17 Q. And \$250,000.00, is that a hundred dollars a kid?
18 It's a little more than that, isn't it?

19 A. Yes, sir.

20 Q. And by doing it a different way, we can put a bunch
21 of money into instruction in your district without
22 raising the tax rate, can't we?

23 A. What am I going to do for facilities, then?

24 Q. Well, you take the proceeds from the bonds and you go
25 build the facilities that you need, and then you

1 retire them like virtually every other district in
2 this state does.

3 A. You're saying you're paying that money in interest
4 rather than trying to maintain in your maintenance
5 and operations. I don't follow that.

6 Q. Well, do the kids need the facilities right now or
7 don't they?

8 A. Yes, sir.

9 Q. If they need them, then you need to build them.

10 A. Well --

11 Q. Not wait until you just might have the money in
12 savings that you squeezed out of your operations,
13 isn't that right? Or is it because you're just
14 afraid that the board of trustees that you said
15 yesterday want a more challenging program, but are
16 not willing to pay for that more challenging program?

17 A. My board of trustees is very positive and very
18 supportive of our program as well as the community.
19 They are -- we're not afraid of anything. We're
20 doing the best we can to provide the best we can for
21 our students. There are obviously limitations on
22 that that are going to be defined by the public, but
23 we feel like they're supporting us. They're
24 supporting us with a good tax rate, they're paying
25 good taxes, and they're supporting us in other ways

1 that we don't have a lack of support from our
2 community.

3 Q. Well, you say you need another hundred dollars a
4 child in your district. You can do it with a
5 ten-cent tax rate.

6 A. No, I didn't say that. I need a whole lot more than
7 a hundred dollars per student in my district. I said
8 in earlier testimony that a hundred dollars per
9 student in an instructional program is not anything
10 to sneeze at. It's significant.

11 Q. Have you gone out there and have you -- what do you
12 ask the trustees for when it comes to that? What did
13 you ask them for in budget increase the last time it
14 came up, this fall, this August?

15 A. I don't recall. Our actual revenue increase was
16 about 9 percent.

17 Q. Okay. Did you tell them that we need a lot more than
18 that and that what we need to do is raise the taxes?

19 A. Oh, yes. They're very much aware of the fact that we
20 have a lot of needs. They're also patient people
21 that recognize that over time we work as hard as we
22 can to meet those needs. We can't correct all of
23 that with our property base. You could raise taxes
24 significantly and you're not going to correct all of
25 the needs, you know, in a very short time frame. So

1 we have to be patient. We recognize that.

2 Q. Well, if you raise your taxes to what Mr. Sybert's
3 taxes are, you're going to raise \$250.00 a child.
4 That's going to go a long way, isn't it, toward
5 rectifying a lot of the problems you've got in your
6 district?

7 A. Yesterday when you asked me about Mr. Sybert, I think
8 you used 95 cents as a true tax rate.

9 Q. The same one --

10 A. When I investigated last evening in the last Bench
11 Marks, my true tax rate was 72 cents and his was 70
12 cents in comparing true tax rates. So I think we had
13 a little misnomer there about our effort as compared
14 to Socorro's.

15 Q. No. But what you were privy to is Mr. Sybert
16 testified that they bit the bullet this year and they
17 raised their taxes up to 95 cents --

18 A. We bit --

19 Q. -- and their voters did roll them back because they
20 went to the citizens of that community and said, "By
21 golly, we need it. We need it for educating our
22 kids."

23 A. My tax rate last year was 97 cents.

24 Q. Then you've lowered your tax rate?

25 A. No. We had a reappraisal last year, so you have to

1 compare true tax rates if you're going to be fair.

2 If in the last Bench Marks that's correct, then
3 I have a higher true tax rate than Mr. Sybert at
4 Socorro, you know, at that time. I don't know what
5 it is at this present time.

6 Q. Your true tax rate last year was what?

7 A. In the Bench Marks, it shows to be 72 cents.

8 Q. And you said it was 72?

9 A. Mr. Sybert's, in the Bench Marks, is 70 cents --

10 Q. I understand.

11 A. -- approximately.

12 Q. And he said for '86-'87, this school year, he's
13 raised it up to 95 cents.

14 A. I don't believe that's his true tax rate.

15 Q. Okay. Well, we'll have to take Mr. Sybert at his
16 word at this point.

17 What is your tax rate right now?

18 A. 71 cents.

19 Q. What did you say about 97?

20 A. Last year, my actual rate --

21 Q. Your nominal rate?

22 A. -- in our district was 97 cents.

23 Q. Your nominal rate?

24 A. That would not be true tax rate.

25 Q. That's right. That because you've got a high number

1 of exemptions in your district.

2 A. No. That's because I went through reappraisal last
3 year. When you go through reappraisal and you up all
4 of your values on your property, and you revalue that
5 property and it goes up substantially, then by law in
6 truth in taxation, your tax tax rate has to come
7 down. So that tax rate is 71 cents this year. It's
8 still a higher tax rate than the 97 cents last year.

9 Q. Oh, I'm sorry. I thought the values in your district
10 declined this year. I thought you testified
11 yesterday that the values in your district declined
12 from 111 to 103.

13 A. No. You're misstating that. That's the values per
14 student. We had an increase in students --

15 Q. I see.

16 A. -- this year.

17 Q. Okay.

18 A. And with a pre-kindergarten and the normal increase,
19 we have about 115 or 120 students, so that impacted
20 it as well as -- it would be hard for me to say what
21 our total property tax value did since we reappraised
22 and there was all of that readjustment between
23 categories. But overall, the bottom line is that we
24 did decrease in value per student.

25 Q. But your absolute value of the property in your

1 district is increasing?

2 A. I couldn't say that.

3 Q. Well, didn't you just say that?

4 A. With reappraisal, sir, when you reappraise the
5 property and you go from maybe a 65 percent value of
6 a hundred percent market value and you go up to let's
7 say 95 percent to a hundred percent, then obviously
8 your value as you are valued in your county has gone
9 up, but what the property -- the State Property Tax
10 Board's value on that is relatively the same.

11 Q. Were the people in your county appraising their
12 property at 65 percent?

13 A. Oh, it was between 65 and 70 percent, which is common
14 all over the state.

15 Q. Okay.

16 A. You see, every four years you have to reappraise, and
17 we have not reappraised. Some people reappraised the
18 year before so -- but that has nothing to do with
19 your financing because the State Property Tax Board
20 takes care of that. They come out and study your
21 values. They adjust them --

22 Q. Uh-huh.

23 A. -- you know, to a hundred percent market value. And
24 so it really doesn't make any difference as far as
25 the district is concerned. The State Property Tax

1 Board will assess that value, so --

2 Q. Well, it might make a difference to the taxpayers if
3 you can say -- if you can tell the taxpayers that I
4 can actually -- if we up the appraised values, you
5 can lower the rate and still make more money, can't
6 you?

7 A. Mr. O'Hanlon, our taxpayers still receive their tax
8 statements and they still know that their tax
9 statement this year is higher than last year.

10 Q. I understand that.

11 A. You know, because we reappraised and that tax rate
12 went down doesn't do anything for the taxpayers.

13 Q. Well, what I'm trying to find out is, are the
14 taxpayers in your district willing to expend more of
15 their tax dollars to provide you what you say you
16 need in the district?

17 A. They're already providing better than the state
18 average in the tax rate. I think they're making that
19 effort.

20 Q. But you said --

21 A. Why should my people in a ranching and farming
22 community that is strapped just as much as the oil
23 and gas and everybody else, why should they expect to
24 pay more than the average state taxes and not have as
25 much for their kids; that's my question.

1 Q. Why did the people in that district let the
2 facilities in that district go to hell in a
3 handbasket?

4 A. Well, I'm sorry, but I don't -- I feel like that
5 effort in our district has been there. I think
6 they've been doing as well as they, you know, they
7 can with the wherewithal they have.

8 Q. You said something interesting yesterday. You said
9 that you had a 337 percent increase in your taxes
10 over the last -- in your tax rates over the last ten
11 years?

12 A. Ten years.

13 Q. Do you know what that makes that tax rate ten years
14 ago in your district?

15 A. No.

16 Q. About 21 cents.

17 A. What you fail to recognize in that, over that same
18 ten-year period, you have the state implementation of
19 the 65 and over exemptions, the homestead exemptions,
20 you also have the state average tax rate going up
21 significantly and probably pretty close to that over
22 that same ten-year period. So our relative effort
23 back ten years ago to what the state was making has
24 not changed that much.

25 Q. But aren't you making an extraordinary effort in your

1 district right now to -- what you're having to do
2 with respect to construction in your district right
3 now isn't normal maintenance, is it? You're playing
4 catch up, and that's causing you a problem.

5 A. Not really. You know, I can say that, "Yes, we
6 played some catch up," but these -- this million
7 dollars is not catch up. Most of this million
8 dollars is trying to keep up with the mandates. Now,
9 the million dollar bond issue that was catch up.

10 Q. Well, okay.

11 A. This million dollars --

12 Q. Just switch it around. I mean, you spent a million
13 dollars to play catch up. And that's -- that means
14 -- that tells me that what happened in your district
15 for a long time was that they just neglected it. The
16 people that were in charge of that district did not
17 spend the money that it took to ensure --

18 A. The people in charge with that district were trying
19 to do something about it with the bond issues in '72
20 and '78 that failed. They were trying to do what you
21 were explaining to me a while ago, and that is to
22 pass a bond issue.

23 Q. Okay. Then the citizens of the community were not
24 willing to do what it took to provide a reasonable
25 education for their children in their community?

- 1 A. I don't know that I could assume that either one of
2 those bond issues would have solved what it would
3 take to provide a reasonable education to the
4 students. I think that would be an assumption that,
5 you know, would be hard to make. I don't know that
6 -- just as I would say that this million dollars of
7 cash that we spent has not solved having a reasonable
8 education for our students. So, you know, the
9 perceptions of the community and whether that really
10 would have been a solution to the district or not
11 would, of course, be subject to a lot of scrutiny.
12 And I don't know whether that was good or bad.
- 13 Q. Despite the condition of your facilities, despite all
14 of the things that you say that you need, you've done
15 a pretty good job in providing a basic education for
16 the kids in your district, haven't you?
- 17 A. I think we've done the best job we can do with the
18 resources that we have available.
- 19 Q. As a matter of fact, your district is right at state
20 average with respect to TEAMS scores, isn't it?
- 21 A. Yes.
- 22 Q. You wouldn't argue that your district or that any
23 district in particular is entitled to have more than
24 the average in terms of test scores, would you?
- 25 A. Oh, I think when you're talking about test scores,

1 you're talking about another ball game that I don't
2 personally feel like is a fair comparison. If you
3 start comparing the TEAMS scores, I assume you're
4 talking about that exit level TEAMS scores as
5 reported in there.

6 Q. Yes, sir.

7 A. There are probably umpteen factors that go into those
8 scores that can't be measured just in terms of, you
9 know, dollars spent or whether we're wealthy or poor.
10 It can't measure how many the kids dropped out before
11 they even took that test. And feasibly, you're going
12 to have a district that has the highest drop out rate
13 that's increasing its TEAMS scores simply because the
14 kids aren't there to take the test.

15 Mr. Sybert and all superintendents, I think,
16 are aware that those TEAMS scores, unless you look
17 behind the scenes and you get down into the trenches
18 and see what's happening actually in the school to --
19 -- and all of the social and economic factors that
20 impact that school can you really tell much about a
21 TEAMS scores in a comparison.

22 Q. Well, are all of the poor kids dropping out of your
23 school so that your TEAMS scores are going up?

24 A. We have a higher drop out rate than I want to have.

25 Q. Well, I mean, is that why you've got average TEAMS

1 scores?

2 A. Oh, no. I would say that that impacted it. That
3 would be one of the factors. I would say another
4 factor in my school district, to be frank with you,
5 I'm not happy with those scores. I think they ought
6 to be higher than that.

7 Q. That's right.

8 A. And I've got 84 percent Anglo students, I've got a
9 fairly heterogeneous type of situation in Lampasas.
10 If I compared with a like school district, I would
11 probably say that they ought to be higher than that.

12 Q. Okay. How are you doing in 1st, 3rd, 5th and 7th
13 grades right now?

14 A. Well, I, of course, I don't have the -- we're doing
15 well.

16 Q. Doing better than the exit level tests?

17 A. That would be a hard comparison to make.

18 Q. Well, you can compare where they are in the national
19 percentiles, can't you?

20 A. No. See, they're giving us the national percentile
21 ratings, they're at the 11th grade exit level test,
22 but they're not in the other grade levels.

23 You know, again, I would say on my other tests,
24 I give the California Achievement Test at other
25 levels through 8th grade, and I'd say my kids do

1 above the national norms, but they don't do as well
2 as I would expect them to do.

3 Q. All right. So if we go back, if your 11th graders
4 are national norms and kids follow them in -- in your
5 district right now are doing better than that?

6 A. I would say in most every district that would be the
7 case.

8 Q. Okay.

9 MR. O'HANLON: I don't have any further
10 questions.

11 CROSS EXAMINATION

12 BY MR. TURNER:

13 Q. Dr. Christian, you stated, I believe, that you worked
14 for the Texas Education Agency for some period of
15 time?

16 A. Yes, sir.

17 Q. Will you refresh my memory now on when you worked for
18 the TEA?

19 A. '79 through '81.

20 Q. And what were your duties at that time?

21 A. I was in the cooperative superintendency program,
22 which is a joint effort between the University of
23 Texas and TEA. And in that program, you work on your
24 doctorate with the University of Texas and you work
25 full-time for the Texas Education Agency. And that

1 my full-time work with the Agency, I was in the
2 division of accreditation, both years.

3 Q. So, from '79 to '81, is that period of time you
4 referred to that you were able to go out and view a
5 lot of school districts --

6 A. Yes, sir.

7 Q. -- and see firsthand their programs and their
8 facilities?

9 A. Yes, sir.

10 Q. Do you recall or would you recall for me the school
11 districts that you had occasion to go visit as a part
12 of the accreditation survey process?

13 A. I visited -- I can tell you most all of them.
14 Amarillo, Sherman, Mesquite, Arlington,
15 Lubbock-Cooper, which is a little school district
16 south of Lubbock, Brady, Navasota, Bremond, Calvert,
17 Franklin, Gilmer, Union Hill, I believe it was,
18 Hidalgo, Santa Maria, Santa Rosa, Valley View and
19 McAllen. There's more. That's all I can think of.

20 Q. And I believe you stated that you, when you went out
21 and you were able to look at these different school
22 districts, you saw some variation in both the quality
23 of the program and in the type of facilities that
24 were present?

25 A. Yes, sir.

1 Q. I guess the best way for me to ask you this is ask
2 you which ones of these districts kind of stick out
3 in your mind as being good quality program districts,
4 and which ones reflect good facilities, and which
5 ones do you recall from all of those visits that kind
6 of form the basis of your comparison?

7 A. I would say there were dramatic differences between
8 districts such as Sherman, Arlington, Bryan. And I
9 guess on the other extreme, Hidalgo, Santa Maria,
10 Brady, oh, Calvert, Calvert, Bremond, Franklin. I
11 believe this little school district, Union Hill I
12 believe was the name of it, would be at the other
13 extreme.

14 Q. As an example of good program district?

15 A. I would say Arlington or Sherman or Bryan.

16 Q. I meant Union Hill. You said extreme.

17 A. Oh, no, the other extreme. I was naming all of those
18 last ones in the --

19 Q. Where is Union Hill?

20 A. Well, it's somewhere in the Gilmer area in East
21 Texas, if that's the correct name that I -- maybe it
22 was Union Grove. It's been a little while. It was
23 union something.

24 Q. Is that a small school district?

25 A. Yes, it was.

1 Q. Did you visit any small school districts that you
2 felt like had good facilities, good programs?

3 A. As I recall, all of the small districts that I
4 visited personally were poor districts. They were
5 not only small, but they were poor. I don't recall
6 visiting a small district that had considerable
7 wealth.

8 Q. We heard in this courtroom from a teacher a few days
9 ago that taught at the Rosebud-Lott School District.
10 I don't suppose you've ever visited Rosebud-Lott,
11 have you?

12 A. No, sir.

13 Q. And she shared with us a comment, and I might say she
14 was wanting her facilities to be better. The person
15 had that desire. But she shared with us the
16 statement that people were pretty well satisfied with
17 it the way it was.

18 And in visiting, as you've done, around the
19 state, these school districts you've mentioned, I
20 want to ask you why is it when you go in to many
21 times to some of these small rural school districts,
22 you not only find these poorer facilities, but you
23 seem to find that attitude present among the people
24 that they're just really pretty well satisfied with
25 it the way it is?

1 MR. GRAY: Excuse me, Your Honor. He has
2 not laid the predicate with this witness to know if
3 this witness has that opinion that if the poor
4 districts he saw, were they satisfied with what they
5 had. He's assuming a fact not in evidence. I'm
6 merely objecting to having him lay the predicate that
7 this is this witness' experience. That's what he's
8 asking him about.

9 THE COURT: Okay. You might be one
10 question ahead of yourself, I don't know. I'll
11 sustain.

12 BY MR. TURNER:

13 Q. Dr. Christian, in your own school districts, you've
14 mentioned that you have a rural farming community
15 type district.

16 A. Yes, sir.

17 Q. And you also described your people as very patient
18 people.

19 A. Yes, sir.

20 Q. I believe was your words.

21 My question for you, I guess, can be asked in
22 terms of your own people. Why is it that we find in
23 some of these rural communities this attitude of --
24 you described it as patience -- of what we have, the
25 demands for something better is just not as strong as

1 sometime those of us interested in education might
2 want it to be.

3 A. Mr. Turner, I think you misread patience if you mean
4 that that's -- if you take that to mean that they're
5 satisfied. My people, I think, are patient people.
6 They give us latitude in recognizing the restraints
7 that we have to do the best job that we can. They're
8 not at all satisfied in Lampasas; neither are they
9 in, I think, most districts that have knots.

10 As an example, in Lampasas, Llano is in our
11 district with our U.I.L. and so forth, so my people
12 see Llano schools and Marble Falls schools. And
13 those districts are -- I believe, Llano is a budget
14 balanced school district. Marble Falls is
15 considerably more wealthy. Burnet is about twice our
16 wealth.

17 And our folks are -- my people are constantly
18 badgering me as to why it is that Llano, as an
19 example, has more things, as they see it, and of
20 course, they're looking at that from that external
21 way, but I think in general they do have more things
22 than we do. Why can't we have that in Lampasas? And
23 by the way, why are we paying twice the taxes they
24 are? And I'm asked that constantly in Lampasas ever
25 since that I've been there. That's been more

1 dramatic over the years and even now and they say,
2 you know, they are paying and they know that.
3 They're paying substantially less taxes than we are
4 here in Lampasas, but they've gotten more stuff. And
5 why can't we have all of that. And so I try and, you
6 know, go through a reasonable explanation that, you
7 know, we're making that effort and we're not wasting
8 our money. That's hard for them to understand. And
9 they are not satisfied, but they've been, I think,
10 reasonably patient.

11 Q. Well, Dr. Christian, if the majority -- I guess the
12 question I have for you -- if the majority of the
13 people in your school district felt as the ones you
14 just described, why would you have a bond issue fail
15 in 1972 and 1978, which I'm sure were well
16 intentioned efforts to try to remedy the problems
17 that you have?

18 A. Let me address that in this way. I've been in
19 various places. I've also been in Duncanville, who
20 is on your side of the table. Duncanville is below
21 the -- interestingly enough, they're below the state
22 average in property wealth, but they're still on the
23 wealthy side of the table in this case.

24 But there's a dramatic difference between
25 Duncanville and Lampasas in the makeup of their

1 communities. I have, in this rural environment, I
2 have an older -- a lot of retired people, I have an
3 element within my community that has children that
4 says I want more and more, you know, for our kids.
5 But I have a greater element that is trying to -- on
6 fixed incomes that are trying to just, you know, keep
7 things going, and they have tax No. 1 in their mind.

8 When I was in Duncanville as a principal there,
9 we could pass a bond issue at the drop of a hat. The
10 people -- it was a young, progressive child-oriented
11 type society. So as far as difficulty in getting
12 things for children, I'd say it's much more difficult
13 in my environment, even though there's a -- you know,
14 there's an overall concern for children. There is
15 also a large element there that's concerned about
16 just keeping their -- keeping themselves together
17 with their finance situation. So, I think there --
18 you know, you can't answer that question easily.
19 Every community has a different makeup that impacts
20 that in a different way.

21 Q. So what you've noted is that the quality of the
22 school program as well as, I suppose, the quality of
23 buildings that the program is being carried on in,
24 directly relates to the attitude of the local people
25 toward the priority they place on education?

1 A. Absolutely not. I think what I'm saying is that it
2 directly relates to the resources that are available
3 to be spent on those children.

4 I find little difference in attitudes as far as
5 the parents of children and their interest in their
6 children. Our parents are as interested in their
7 children as the ones in any of your school districts.

8 Q. Well, obviously, if you live in a district where you
9 have the difficulty of passing a bond issue, it's got
10 to be, I think, reflective of the attitude of the
11 majority of the people toward their commitment to
12 education, does it not?

13 A. Mr. Turner, what you fail to recognize in that
14 question is that the difficulty in passing that bond
15 issue in my district as compared to another district
16 may be the difference in a 1 cent tax effort and a 10
17 cent tax effort or a 5 cent tax effort or something
18 else. So you're not comparing apples and apples just
19 to say that, well because a bond issue passed, that
20 our people aren't interested. Our people are
21 interested and they care. They don't have the
22 wherewithal to pay for that bond issue that someone
23 down the road has that has four times the wealth or
24 ten times the wealth.

25 Q. Well, I believe you just told me a minute ago that

1 the people in Duncanville, where you were
2 principal --

3 A. Yes.

4 Q. -- seemed always ready and willing to support those
5 schools and pass those bond issues and to increase
6 the levels of funding. And that attitude was present
7 there in Duncanville that you noticed you don't have
8 in Lampasas.

9 A. Duncanville had an attitude problem this last year,
10 if you're aware of their situation, when using bond
11 monies that had been issued some years ago, they
12 determined to construct a new stadium, multi-million
13 dollar stadium and natatorium, and they got in a
14 lawsuit, they won the lawsuit, but there was
15 considerable consternation in that district as to the
16 use of that monies.

17 And I think that would be shared and common in
18 Lampasas that every one is going to scrutinize what
19 kinds of use of monies you're going to be making for
20 those bonds and whatever expenditures you're making.

21 I think that in general, I would have to say,
22 though, that there's a much more progressive posture
23 towards support of education when you have a younger,
24 more professional type of a community as far as your
25 makeup of your families and the support of their

1 children. I think that that -- I think that's
2 significant.

3 Q. One district that I represent, you're probably
4 familiar with, is the Eanes district. Are you
5 familiar with the Eanes district?

6 A. I'm somewhat familiar with Eanes.

7 Q. In the Eanes district, the patrons pay a true tax
8 rate, according to Bench Marks, of 87, almost 88
9 cents.

10 A. (Witness nodded head to the affirmative.)

11 Q. And that, I'm sure, is reflective of that attitude
12 that you're talking about in the makeup of the
13 population of the district.

14 A. I think that's great.

15 Q. And if you live in a district or you are
16 superintendent in a district where you don't have
17 that kind of population makeup, I assume it's a
18 handicap to you in trying to accomplish what you need
19 to accomplish?

20 A. Mr. Turner, in Eanes, I would love for my population
21 just to support us with an 88 or whatever it was, you
22 know, cent tax rate. And we would also like to have
23 AstroTurf and a few other things that you folks have.

24 We're not really -- we don't care about that
25 frankly. We're glad that Eanes has an outstanding

1 district. We're glad for those children. I amen
2 every effort that they're making. We're not wanting
3 to be super wealthy and have Astroturf and have all
4 of those kinds of niceties.

5 We just want to have a fair opportunity to
6 provide a reasonably quality program for our kids,
7 because our kids are not going to be in Lampasas for
8 the rest of their lives. They've got to compete with
9 your kids from Eanes when they go to the University
10 of Texas, as I did, from a small town and a property
11 poor district.

12 Our kids, when they go, as I did to the
13 University of Texas, they'll compete with those kids
14 for a big world scene. And I just want to see that.
15 I'm not interested in all of the super wealth or
16 super nicety things.

17 Q. Dr. Christian, you mentioned in your own area that
18 there were a couple of school districts that other
19 people kind of looked to and kind of looked at the
20 greener grass on the other side. Was it Marble Falls
21 you mentioned?

22 A. Marble Falls and Llano.

23 Q. I was looking here in Bench Marks at the operating
24 expense per ADA in those districts. Bench Marks
25 shows your district, Lampasas, to have \$2,823.00 per

1 ADA in spending. Llano spends 2,902 per ADA. And
2 Marble Falls, 3,045 per ADA.

3 Doesn't that appear to you to be about the same
4 level of spending going on in all three of those
5 districts?

6 A. When you're talking about operating, that would be
7 they're spending more than we are in operating.
8 They're going to be spending considerably more than
9 that in their I&S. And, of course, when my people
10 drive through there -- most people don't know what's
11 happening in the classroom when they drive through a
12 community, so they usually judge based on those
13 facilities. They see dramatically nicer facilities
14 in those school districts than they do in mine.
15 Unfortunately, I think that's an unfortunate, you
16 know, comparison or value to make, but that's what
17 people do. But in effect, they're also spending more
18 in operations, as you just pointed out, so they're
19 probably doing better in that area, too.

20 Q. When you say you think it's unfortunate to make that
21 comparison when you look at those facilities; what do
22 you mean by that?

23 A. Well, I mean that I don't have to have Astroturf;
24 that I can have a regular stadium and still do a real
25 fine job. So the fact that somebody may have a

1 beautiful fantastic building does not necessarily
2 make them a better school district than I do as long
3 as I have a reasonably good facility.

4 And the same thing would occur in the
5 operations and instructions. I don't think the
6 general public sees a true picture of the
7 instruction, and I don't think this -- really this
8 Court can see those differences without really being
9 in the trenches, so to speak, to see what's actually
10 happening in the classrooms of these various
11 districts. But that, to me, is the finer measure of
12 it.

13 Q. Well, to get your facilities up to a level that you
14 feel they ought to be, I mean, it's obvious you are
15 going to have to pass another bond issue, aren't you?

16 A. Yes, sir.

17 Q. And I'm sure you've got some projections as to the
18 size of that bond issue that you need, don't you?

19 A. Well, we don't at this time because we can't even
20 look at it for probably three to five years.

21 Q. And the last bond issue that you did pass, when did
22 that pass?

23 A. '82.

24 Q. And what did that do for you in terms of facilities?

25 A. It built us a new library at high school, a new

1 science -- two new science rooms, two new homemaking
2 rooms, dressing facilities, a band/art facility at
3 middle school, renovation of the old wing at middle
4 school, and the gymnasium restrooms that I referred
5 to earlier that we had a sewage back up problem. And
6 that was the extent of that bond issue.

7 Q. And where do you see your future construction needs?

8 A. Well, we're trying to keep up with our classroom size
9 22 to -- and just general growth. We've had -- we'll
10 normally have about oh, 30 or 40 kids more per year.
11 That's a very slow growth. This year we had
12 considerable more growth than that because of the
13 implementation of the pre-kindergarten program.

14 We are also seeing this problem that's
15 compounded with the retention that's in the law that
16 says we don't socially promote. And we've had a
17 higher retention level, which is impacting our 1st
18 through 2nd grades. As those grades now are up over
19 200 students, we're going to see them track through
20 the system for the remainder of their grades and
21 their 12 years through school.

22 And with our present facilities, we're not
23 going to be able to handle those kids as they go
24 through. So we're going to see a projected need to
25 take care of those 1st and 2nd graders presently as

1 they go on through 3rd, 4th and 5th. And that's
2 something that's dramatic to us that's facing us
3 right now.

4 Q. Dr. Christian, you mentioned several school districts
5 that you visited that you thought were examples of
6 poor facilities and poor programs.

7 A. Yes, sir.

8 Q. You mentioned -- was it Calvert?

9 A. Calvert was one.

10 Q. What kind of school district is Calvert?

11 A. Oh, as I recall, it was a fairly small school
12 district, a rural. And as I recall, there was just
13 no industry at all. It was just like a, you know,
14 just a little school set in the middle of a bunch of
15 cotton patches, I guess, is the way I describe it as
16 far as location. The facilities were poor. They
17 had -- I don't recall all of the problems that they
18 had instructionally, but they had considerable problems.
19 And I think they've had a history of problems in that
20 district as far as accreditation goes.

21 Q. How many ADA's did that district have, do you recall
22 approximately?

23 A. No, I don't.

24 Q. Bremond you mentioned is another example of a
25 district that you thought had poor facilities?

1 A. That's Bremond.

2 Q. Where is Bremond?

3 A. Bremond is -- it's not far from Calvert and in the
4 Franklin area. It's in that same vicinity.

5 Q. Is that another small district?

6 A. Yes, sir.

7 Q. And what kind of situation did you find when you
8 visited Bremond?

9 A. Bremond was similar. Bremond, I felt like, was
10 trying to make a better effort. In fact, I thought
11 they were making progress. They still had a lot of
12 deficiencies, but they seemed to be aware of them and
13 trying to address them.

14 Q. Was the community makeup in Calvert and Bremond much
15 alike in terms of their rural setting?

16 A. It was difficult on those visits to really determine
17 a community makeup because, you know, when you go in
18 on a monitoring visit, you normally in those
19 districts, you would spend a day, and your time was
20 consumed by your actual visitation of the school. It
21 was difficult to get a handle on that. So, to tell
22 you the truth, I don't really know if I could compare
23 the communities, themselves, very well.

24 Q. After visiting some of these small schools, Dr.
25 Christian, does it cause you to have any opinions

1 regarding the efficiency of operation of some of
2 these small districts, their capability to provide
3 quality education programs?

4 A. You're just talking about efficiency?

5 Q. Yes.

6 A. You know, that's difficult in a short visit to
7 determine, you know, how efficient someone is. I
8 think I could probably speak in terms of my own case
9 a little bit better on that. I think that probably
10 the -- it's more difficult to be efficient in a
11 property poor school district.

12 I can give you an example in Lampasas that we
13 recently spent \$109,000.00 on our elementary school
14 in redoing the entire air-conditioning system and
15 putting in an energy management system. And the pay
16 back period on that is five years, which tells you
17 just how, you know, how inefficient our system was.

18 And I have found out, being a superintendent,
19 that you have to spend money sometimes to save money.
20 That money wisely spent will do a whole lot in, you
21 know, better -- providing for better efficiency. And
22 I think as a result, sometimes the poor districts
23 that don't have the money to spend readily, they'll
24 put off, and put off, and put the money into their
25 kids in instruction, and sometimes they're spending,

1 you know, double what they need to in other areas.

2 And I would say in general, I would say I'd
3 find that to be the case as I view these school
4 districts that aren't doing the job. I think there's
5 sometimes a compounding effect of being poor, if you
6 will, because you, you know, you could spend a little
7 money to fix that, fix the windows in your high
8 school, you know, you would be saving some other
9 monies, too.

10 Q. That Bremond district, I was looking at it here in
11 Bench Marks where you described it as having poor
12 facilities and not very high quality in terms of an
13 accreditation visit.

14 Bremond, according to Bench Marks, had a market
15 value per ADA of \$333,000.00, which is above the
16 state average of \$251,000.00.

17 Were you aware that Bremond had well above the
18 state average in wealth.

19 A. You sure we have the same -- now, mine, I'm talking
20 about is Bremond with a "D."

21 Q. Bremond, B-R-E-M-O-N-D, it's in Region 6.

22 A. That's correct. I'm surprised at that kind of wealth
23 because that would indicate that they must have some
24 kind of a mineral wealth or something that I don't
25 think they had when I was there.

1 Q. I notice they have a true tax rate of 67 cents, which
2 is a penny below the statewide average.

3 A. I'd say that that would -- I did, when I visited
4 there, I did feel like that those people were making
5 a significant effort compared to other like districts
6 that were poor, so that doesn't surprise me.

7 I'm really sort of amazed at that property
8 value figure because when I was there, as I recall,
9 it would have been a very poor school district. They
10 may have had some kind of mineral impact on that
11 district and I would assume that would be the case.

12 Q. I notice Bremond has 266 students, average daily
13 attendance. That would be considered a pretty small
14 school district, wouldn't it?

15 A. 286?

16 Q. 266.

17 A. 266. Yes, sir.

18 Q. The other district you mentioned, I believe, that you
19 thought was an example of poor facilities and bad
20 programming was Franklin, am I correct?

21 A. Yes, sir.

22 Q. What did you find at Franklin?

23 A. At Franklin, as I recall, I would say I would compare
24 them more like Calvert. I didn't feel like they were
25 making as much effort as they should. They -- I

1 think they had a little bit more money than Bremond
2 or Calvert had, as I recall. And I felt like -- I'm
3 just making general statements here -- but I felt
4 like they should have been making a lot more effort
5 than they were. And I don't know what the conditions
6 are now. This would have been back in probably '80.

7 Q. Franklin, according to Bench Marks, has a market
8 value per ADA of \$365,000.00. Again, well above the
9 state average. And I suppose, in fact, above
10 Bremond. Does that surprise you that they would have
11 that level of wealth?

12 A. Yes, it does. Now, of course, you're dealing with
13 the time span frame there from when I was there. I
14 recall that I felt like Franklin was considerably
15 wealthier at that time than Bremond or Calvert, and I
16 felt like they should have been making more effort.

17 But that figure still surprised me a little
18 bit. That would indicate to me, from having been in
19 the community and not seeing any oil wells or gas
20 wells or anything, I would assume there's been some
21 impact there that has brought some significant monies
22 into that district.

23 Q. I notice Franklin has 611 students. Is that still,
24 in your judgment, a small school district with 611
25 students?

1 A. I don't know how you really classify, you know, small
2 or large, but you know, that's -- I'd say when you
3 get into the 600 and 800, you've got an awful lot of
4 school districts that size, so that's not small in
5 terms of like the 266, but, of course, considerably
6 smaller than I am.

7 Q. What is your ADA, Dr. Christian?

8 A. I think it's 2,246.

9 Q. In visiting those small schools, did you say that you
10 had a view regarding their ability to provide the
11 kind of program that you would want them to provide
12 based on their size?

13 A. Well, you're just talking about small districts now?

14 Q. Yes.

15 A. You know, that varies. There are small districts
16 that have considerable wealth, as you're aware. And
17 then there's small districts that are very poor. So
18 small districts are like anybody else, they vary, you
19 know, from A to Z as far as wealth goes. And they're
20 going to vary in effort, too. So I don't know if I
21 could make a general, you know, a general assumption
22 from that.

23 Q. Dr. Christian, one of the school districts you
24 mentioned that you visited was Sherman. What did you
25 find at Sherman?

- 1 A. Well, at Sherman, as I recall, Sherman had
2 considerable wealth. And I'm not sure they were
3 making the effort that I would have felt like they
4 could have probably. I was -- frankly, I was
5 disappointed with what I saw compared with what their
6 ability was. I'm making a very general statement
7 there, because it's been too long. I don't know what
8 their effort was at that time, what their wealth, but
9 I perceived at the time that they had a pretty good
10 tax base and they really were not making as much
11 effort as they should, as I saw it.
- 12 Q. Now, when you say you saw that -- perceived to have a
13 pretty good tax base, do you say that based on your
14 recollection of their wealth per ADA or just by going
15 in and seeing those physical facilities gave you the
16 impression that they had wealth to provide the nicer
17 facilities that you saw there?
- 18 A. I think probably the pumping oil well located behind
19 their high school gave me that impression that maybe
20 they had a little bit better tax base than most.
- 21 Q. Well, would it surprise you for me to tell you that
22 Bench Marks says that Sherman has a wealth of
23 \$190,000.00 per ADA?
- 24 A. No, that wouldn't surprise me.
- 25 Q. That figure is, in fact, well below the state

1 average?

2 A. Well, Duncanville, which we were talking about a
3 while ago, has 216,000. I consider that to not be a
4 significantly below their -- while they're below the
5 state average, they're still considerably wealthier
6 than we are, you know, in comparison.

7 Q. Well, let's see, your wealth per ADA was how much?

8 A. 103,000.

9 Q. 103 --

10 A. Now, in that Bench Marks, it's 111,000.

11 Q. 111. And in the Bench Marks, Sherman was a 190.

12 A. Uh-huh.

13 Q. And state average is 250.

14 A. Uh-huh.

15 Q. But when you visited Sherman, you saw what you
16 considered to be an outstanding physical plant and
17 quality program?

18 A. Well, you know, from the externals, they had, you
19 know, they had a pretty good system. I thought they
20 could have had a considerably better system than they
21 had. I wouldn't call it outstanding, no.

22 Q. But it was, when you described it to me earlier, one
23 of the three you mentioned as being in the high
24 category.

25 A. Well, I would have to -- when you say high category,

1 you know, I didn't visit Highland Park and
2 Iraan-Sheffield and you know, everything is relative.
3 Relative to the visits that I made, Sherman,
4 Arlington, Bryan, some of those school districts
5 would have been in the upper end for me, but, no,
6 those weren't -- I wouldn't consider any of those
7 districts to really be extremely wealthy. They're
8 probably somewhere around the average wealth in the
9 state, and they would be considerably wealthier than
10 I am.

11 So, when I made that statement, you were in the
12 30 -- about 30 districts that I visited, that would
13 have been in the upper range from the ones that I
14 visited. Making this comparison, I could have -- my
15 lands, I could have gone -- if I had gone to any
16 number of districts that you have considered to be
17 property wealthy, then I would have seen an even more
18 of a dramatic difference, I think.

19 Q. I guess the question I'm trying to ask you, Dr.
20 Christian, is there seems to be something at work
21 here other than this wealth per ADA in terms of the
22 quality of the facilities and the quality of the
23 program that's offered at any given school district.
24 And I think you've identified community attitudes as
25 one factor. And I guess I want to ask you what other

1 factors, from your experience, go into these
2 differences that we see other than the pure numbers
3 of wealth per ADA?

4 A. I would say that those are basically the, you know,
5 the main two ingredients, and that would be your
6 ability to raise funds for your kids, and then your
7 attitude or your effort that you're going to put with
8 those funds. And past that, you know, I've mentioned
9 to you, you know, what impacts the, I guess, the
10 attitude of a community. I'm sure that there's a lot
11 of other impacts on that, but from my experience
12 level, I'd say that's the most dramatic difference
13 that I've seen.

14 Q. Dr. Christian, you've gone into Lampasas and provided
15 Lampasas with a superintendent with a Doctor's
16 degree, that background, that training, is that
17 common for school districts of mid-size to have that
18 quality of a superintendent?

19 A. Well, thank you. I can't make a comparison. I'm
20 pretty impressed with all of my colleagues. And I
21 don't know that I'm any better than anybody else as
22 far as a superintendent goes. I'm proud to be in
23 Lampasas, and I think I've done a credible job with
24 the resources that I've had. I know many, many
25 superintendents that are my colleagues and friends

1 that don't have a Ph.D. that are doing probably a
2 better job than I am and they don't have as good a
3 school as I have. But they're doing a better job in
4 the sense that they're utilizing to the best of their
5 ability and doing the best they can for their kids
6 with the resources they have. So --

7 Q. Well, Dr. Christian --

8 A. -- I don't really see that as a pertinent.

9 Q. Well, would it not be what we might call the
10 managerial talent of the administrators, particularly
11 the chief administrator, and the managerial
12 background, training and talent of a school board
13 have a very significant bearing upon the quality and
14 level of education provided in any given district?

15 A. I would say that I've seen property wealthy districts
16 that were very poorly managed, and I felt like that
17 really wasted a lot of their money. I've also seen
18 property poor districts that I would consider to be
19 poorly managed. On the other hand, I've seen well
20 managed, you know, at both levels.

21 So while that has an impact, I don't think
22 there's anything inherent that would say that a
23 property poor district would inherently be poorly
24 managed and a wealthy district would be well managed.
25 I think there's all flavors of that. And I think in

1 any case, obviously better management, you know,
2 helps. And I think that as far as management goes,
3 it's just a tougher problem when you don't have
4 the -- you don't have the alternatives. You don't have
5 the, you know, much creativity in your management becaus
6 you just don't have much flexibility when you're
7 trying to meet minimum standards.

8 Q. So, managerial talent and ability and managerial
9 competence, in your judgment, can be found present or
10 absent in all wealth districts. There's no -- you
11 can find it anywhere?

12 A. I'd say you would see that.

13 Q. So, we've identified managerial capabilities, and
14 community -- what you called community attitude, and
15 wealth per ADA as factors that go into the quality of
16 the educational program in any given district, and
17 perhaps even the quality of the facilities, because
18 those attitudes and those managerial decisions impact
19 those facilities.

20 Can you identify any other factors that you
21 believe go into the process of determining quality of
22 the educational program provided in any given
23 district?

24 A. I can't. I'm out of soap.

25 Q. All right.

1 A. Those are the major -- I think the major differences.

2 Q. You mentioned that you thought there were umpteen --
3 I'm quoting you -- umpteen factors that go into the
4 TEAMS score results of any given district --

5 A. Uh-huh.

6 Q. -- other than wealth.

7 And if you will, spend just a moment with me
8 thinking about that and try, if you will, for me to
9 kind of enumerate those factors that you referred to
10 when you said there are umpteen factors that go into
11 a TEAMS score for a given district other than the
12 wealth of the district.

13 A. I'd say that any time you start comparing, and
14 that's, of course, what we get into in this -- I
15 think in this court case, you start comparing, you
16 have to go beyond, you know, just bottom line, very
17 simplistic looks at this. And I think test scores
18 would be a very, you know, one of those areas that
19 would be, I think, a real problem when you just look
20 at that for face value that, you know, that this says
21 something. Well, I don't think it says something
22 unless you look at other, you know, characteristics.

23 I think that the nature of your student body
24 that is taking that, or from what kind of educational
25 environment they've been in in their homes, who their

1 parents are, if their parents are, you know,
2 professional type people that have high education,
3 and then that child is probably going to have a
4 better shot at doing well on any test, and
5 particularly a basic skills test. So, your student
6 makeup would impact that, I think, you know,
7 dramatically.

8 I think that as I said, your drop out rate
9 would. If you have a very low drop out rate, then
10 you've got more kids that are taking that. In fact,
11 we deal with that with the SAT scores all the time.

12 Our SAT scores are compared with the rest of
13 the nation, as you well know. Sometimes that's
14 unfair because in some states, only 5 percent of the
15 kids are taking the SAT test. Well, sure, their
16 scores are going to be dramatically higher if you
17 take only 5 percent of your kids taking a test. I
18 think we have the same thing with any test. You have
19 to look at, you know, what is impacting -- who is
20 taking that test, not just the bottom line. And so I
21 think the drop out rate would, you know, be a factor
22 there.

23 One thing, the TEAMS test, we give our TEAMS
24 test to all of our special ed. kids. We don't have
25 to. Some school districts choose not to do that. We

1 want to see how our special ed. kids are doing, so
2 we're using that test for purposes of measuring
3 ourselves. We don't care if we don't stack up with
4 somebody else in a comparison.

5 So, I think an appropriate use of that test is
6 to look at yourself and see if there's anything you
7 can be doing better for your students. So I think
8 that's an impact on it.

9 I think an impact on it as to what degree any
10 given school and group of teachers concentrates on
11 preparation for that test. I think it would be naive
12 to say that there are teachers that don't do a pretty
13 significant job of preparing youngsters for those
14 tests. And then in other places, they're not
15 involved in that. They're more interested in doing
16 what they normally are doing in the classroom, which
17 is what they ought to be doing and not specifically
18 preparing for that test. That's probably as
19 significant a factor as anything else.

20 In fact, I've been in -- as an elementary
21 principal, where I felt like one elementary school
22 had a philosophy where there was a significant
23 pressure from the principal of that school to do well
24 on those tests to the fact that those teachers preped
25 those kids for that test. And I made a very strong

1 effort to let my teachers know that they were not
2 going to be measured by that test, and I wanted us to
3 go on with school business and not be concentrating
4 on that test.

5 I think any educator that's been there very
6 long knows that happens and you have to be concerned
7 about it. Those are variables that really you can't
8 get a handle on. So when you get into those
9 comparison things, you've got to be very very
10 careful.

11 Other than that, what conditions that the
12 children took the test, what kind of environment they
13 were in at the time, what happened the night before,
14 whose parents are going through divorces, and you
15 know, all of the emotional impacts that might be on a
16 school or a set of individual students.

17 Q. You mentioned divorces and emotional problems. As an
18 educator, do you see that a more significant factor
19 in terms of student performance today than it was
20 years past?

21 A. That's why I would like to have elementary
22 counselors. I think it's a tremendous impact. I
23 think in our society with the divorce rate up as high
24 as it is, we're seeing in the schools really
25 commensurate emotional problems with our children,

1 and a lack of stability. And I think that we hurt,
2 as educators, in our need to provide some measure of
3 that stability and give guidance and help to those
4 children.

5 I don't think that's a property wealth issue, I
6 guess everybody has got that problem. And I don't
7 know that that's any more dramatic in a property poor
8 district than it is a property wealthy, but we're all
9 seeing that.

10 Q. These factors you mentioned, the makeup of the
11 student body -- and I might ask you when you say
12 makeup or the nature of a student body, what are you
13 talking about when you say nature or makeup of a
14 student body?

15 A. Well, related to their environment, their background,
16 are they from a home that, you know, the father and
17 mother are highly professional, highly educated,
18 they've got books and all kinds of resources
19 available to them. And that kid has been from the
20 day they were in diapers, they have the advantage of
21 all of that stimulating environment, or are they from
22 a home that's broken and in poverty and they barely
23 have food and clothes to wear, much less, you know,
24 these educational opportunities. And I guarantee any
25 educator worth their salt knows that there's a

1 difference in educational needs of those two kinds of
2 kids.

3 Q. And I take it, Dr. Christian, that all of these
4 factors that you have listed that would impact a
5 school district's TEAMS scores, in addition to
6 perhaps the property wealth of the district, would
7 also impact the quality overall of education that's
8 provided by any given school district?

9 A. Well, it would not impact the opportunity for quality
10 education. And that's my concern, Mr. Turner, is
11 that once I have that opportunity in Lampasas, what I
12 do with it, yes, there's an awful lot of variables
13 that go into that, my community attitudes, my
14 managerial style, the kinds of kids that I'm dealing
15 with. I would welcome that opportunity, though. And
16 then I think that -- and my community would. And I
17 think they would be excited to have a reasonable
18 opportunity to provide that.

19 I think outside of that, I can say that there
20 will be wealthy districts that still are making a
21 poor effort; and there are going to be poorer
22 districts that are making a poor effort. And
23 obviously, we can't control all of those factors. So
24 when you're saying equal education, as I heard you, I
25 want to add to that that equal educational

1 opportunity. And that's what I'm concerned with.

2 Q. Dr. Christian, how do you, in your judgment, evaluate
3 your teacher work force in the Lampasas School
4 District?

5 A. Well, as with every one else, we have a state
6 appraisal system that we're utilizing that we have
7 to. And we're consistent across the state as of this
8 year with that appraisal system.

9 Of course, we already had a local appraisal
10 system previous to that, and we were doing basically
11 the same thing. We're doing it at a much more state
12 defined level than we were.

13 Q. Well, even beyond what the state has put in place to
14 evaluate teachers, what's your view, as
15 superintendent of that school, regarding the quality
16 or lack of it of the teacher work force that you have
17 in place there?

18 A. That appraisal system is -- is my view. I think
19 that's the vehicle that I'm using to appraise that
20 staff. I think that that appraisal system reflects
21 what we would think about, you know, any particular
22 teacher.

23 I don't know exactly what you're asking me
24 there.

25 Q. Well, I suppose I'm asking you to compare your

1 teacher work force to others that you have seen, and
2 tell me whether you think you have a good quality
3 teacher work force in Lampasas, or you have a poor
4 one, or what, in your judgment, based on your
5 experience, do you have to work with there?

6 A. I'd say that I have outstanding teachers, and I have
7 mediocre teachers, and I have all in between. And I
8 think that most school districts will, you know, if
9 they're honest, would say the same thing.

10 I have -- my needs are mainly in critical areas
11 that I have trouble in competing with teachers. And
12 I've found that to be the case in my six years there,
13 that for it to have a quality staff, that many times,
14 I'm just not able to get as high quality as I really
15 would like to have, because I'm just not able to
16 attract somebody to come to Lampasas. And I've
17 gotten stuck with some people that aren't there any
18 more, and we just had to live with, you know. And I
19 have a tremendous distaste for that because I think
20 that's at the heart of your program.

21 But then, I also have some outstanding
22 teachers, too, obviously. I'm proud of my staff, but
23 if you get down to, you know, a general quality, you
24 know, I could improve that general quality if I could
25 make it more attractive for my teachers to come to

1 Lampasas.

2 THE COURT: I'm going to stop there,
3 please, sir. We're going to stop and we'll get
4 started at 11:00.

5 (Short recess)

6 THE COURT: All right, sir.

7 CROSS EXAMINATION (RESUMED)

8 BY MR. TURNER:

9 Q. Dr. Christian, you were talking about your teacher
10 quality before the break, and you mentioned that you
11 wished you could improve that in certain areas. And
12 you said that was kind of at the heart of the issue.
13 What did you mean when you said that was at the heart
14 of the matter, the issue, I forget exactly if you
15 used the word heart.

16 A. Obviously -- I'm a little out of breath here, excuse
17 me -- obviously, the classroom consists of a teacher
18 and her students -- his or her students and, of
19 course, all of the other resources are available.
20 But I think all of us would recognize that an
21 outstanding teacher will go a long way toward a good
22 program for your kids. And so that's what I mean at
23 the heart of it. Obviously, the teacher and the
24 child relationship is at the heart of the educational
25 process.

1 Q. Would it be your view, then, that if there would be
2 one priority that we ought to have in education, and
3 that would be to improve and enhance the quality of
4 the teaching work force?

5 A. That along with giving them the tools that are
6 necessary for them to do their job. I think
7 obviously I've got cases of outstanding teachers that
8 I'm limiting in their ability to do a good job
9 because of the facilities or the resources that they
10 need to perform their task to the best degree that
11 they can. And I know of those cases in our district.

12 But in general, I would say, yes, that's at the
13 heart of it. If we can have outstanding teachers,
14 obviously that's very important.

15 Q. Now, the salary schedule for teachers, as I
16 understand it, was substantially increased under
17 House Bill 72.

18 A. Yes, sir, it was.

19 Q. How did that impact your salary schedule in your
20 district?

21 A. Well, it was very favorable as it was, I think,
22 across the state. The state guaranteed that every
23 teacher would get at least a \$1,700.00 raise. My
24 teachers are fairly experienced compared to the
25 state. I'm above average as far as the experience

1 level. And so that means that, you know, we would
2 have considerably more than \$1,700.00. So we
3 probably -- it generated somewhere in the
4 neighborhood of -- that first year probably generated
5 in a neighborhood of \$300,000.00 to \$350,000.00
6 increase in salary. And then, of course, in
7 subsequent years, it's about \$160,000.00 increase
8 every year until we stabilize sometime in the future.
9 So, I was very pleased with the state salary
10 schedule.

11 Unfortunately, we're not able to go above that.
12 We don't feel like we are. And so I'm still in a
13 competitive disadvantage with other school districts
14 that are able to, you know, to pay a supplement to
15 their teachers.

16 Q. Dr. Christian, when we talk about trying to improve
17 the quality of the teacher or the teacher work force.
18 From your perspective in looking at your own
19 district, what is it going to take to improve the
20 quality beyond what you have there present to date?

21 A. It would be some mechanism and that's, number one,
22 going to be financial. And that mechanism would be,
23 you know, the money it would take to attract someone
24 to come and teach there instead of going to teach
25 somewhere else that they could make more money.

1 Q. I take it, then, that if the teacher salary schedule
2 was increased again by the Legislature and the
3 funding came along with it to cover that increase in
4 schedule, that you wouldn't feel like you were any
5 better off?

6 A. On a competitive basis, I would not be any better
7 off. And actually, I'm worse off because that state
8 money hasn't come along to cover these increased
9 salaries. So I'm actually worse off on a competitive
10 basis.

11 My teachers are better off because of the state
12 salary schedule. I hope they retain it. There's
13 been some talk of doing away with that and going to a
14 system that you just have a basic salary schedule.
15 That would be detrimental to my teachers, so I'm
16 happy that that schedule is there. The fact that
17 it's taking more local effort to keep up with that
18 schedule is detrimental to me as far as the finances
19 go. And as far as the competition with other school
20 districts, that remains the same.

21 Q. Now, Dr. Christian, when you said the money didn't
22 come along with the increased salary schedule?

23 A. Yes.

24 Q. I thought I understood your situation to be that as a
25 lower than average wealth district, that the

1 percentage of increase of state funds coming to you
2 was much greater than the average in terms of
3 additional money under House Bill 72?

4 A. I think that I was clear in saying that that first
5 year, as far as -- well, all of the costs were not
6 covered that first year. But basically, I would have
7 to say the money for the salaries did come to us.

8 It hasn't since that time, and I'm still having
9 \$160,000.00 increase every year on that state salary
10 schedule. And just like this last year, it just
11 didn't come. We had to take that out of local funds.
12 This next year, I don't think it's going to come.
13 So, when you say that it came, it was back to, I
14 think I heard Dr. Walker say in this equity thing,
15 you know, you can take a shot at equity and, you
16 know, you may take a good shot at it that one year
17 and at least move forward, but then you immediately
18 in ensuing years, you're going to move backwards
19 unless mechanisms are there to address that.

20 And that's exactly what's happened with the
21 salary schedule, as well as the other mandated parts
22 of that reformed legislation.

23 Q. So, if you were to try to improve the quality of the
24 teacher that's available to you in Lampasas, you
25 would say that an increase in state funding would not

1 be helpful to you?

2 A. Well, I think the increase in state funding would be
3 helpful to the state as a whole. It would not be
4 helpful to me as far as in a competitive situation.

5 Now, if the increase in state funding just came
6 about as a result of equalization, then I would have
7 a better opportunity to address salary schedule in
8 some way to make that more attractive for my
9 teachers.

10 For instance, I would like to be able to pay my
11 Master's degree teachers, you know, more salary. I
12 would really like to do that. I really think that
13 would make a difference. I think it would encourage
14 my teachers to go back to school and get higher
15 education. And I think that would have a real
16 impact. So, you know, there are various ways that
17 you could take care of that.

18 But I think all the state has addressed is a
19 state salary schedule that would be, you know, quote
20 "minimal," and it must be paid to the teacher. You
21 still have the differential or the variance between
22 school districts, based on their ability to pay more
23 money to their teachers.

24 Q. Dr. Christian, do you know what the average increase
25 in teacher salary was in your district after House

1 Bill 72 was implemented?

2 A. Well, as I said, every teacher was guaranteed at
3 least \$1,700.00 increase. I would say that it would
4 be somewhere in the neighborhood, that first year, of
5 \$1900.00 or -- I'm just coming off the top of my head
6 there, but it would be somewhere in that vicinity,
7 \$1,900.00 to \$2,000.00 increase.

8 Q. Did you, as a result of those increases in salary
9 levels, modify or change in any way the teachers that
10 you had in the work force before the increase? Were
11 you able to hire different teachers or relieve some
12 of the teachers that you think are below quality
13 level?

14 A. No more than normal. In other words, that did not
15 impact anything that would be abnormal. You know,
16 you go through that every year. There are teachers
17 that leave and teachers that come. And obviously,
18 you're trying to get the best teachers as you can as
19 you're bringing them into your district. But I
20 wouldn't say that that caused any difference there.

21 Q. As I recall, that salary increase for teachers was
22 the largest percentage increase that we've ever seen
23 in Texas. Do you recall it to be that way?

24 A. I'd say probably so. You know, my teachers -- for
25 instance, my beginning teacher went from \$11,100.00

1 -- which is what they were making the year before as a
2 beginning teacher -- to 15,200, and that was an
3 outstanding, you know, help.

4 And I think as a state, that probably teaching
5 became more attractive, you know, as a state. I
6 would hope that maybe people said, "Well, that's
7 better. Maybe we'll go ahead and get into teaching."
8 So I think the teaching profession, as a result of
9 that, became more attractive.

10 I don't think that my relative attraction as a
11 school district, you know, changed is what I was
12 addressing.

13 Q. Do you have any feel for how much those salary levels
14 would have to change before you would feel like it
15 impacted Lampasas in relationship to other districts?

16 A. Well, I think it would have to change, you know,
17 pretty drastically. And I don't know that I have a
18 feel for that. I know of districts that are paying
19 \$3,000.00 and \$4,000.00 and \$5,000.00 and above and,
20 you know, I would say if a teacher could make
21 \$20,000.00 starting salary, which there are a number
22 of districts that have at least \$20,000.00 starting
23 salary, as opposed to my 15,200, I think that would
24 make a real difference.

25 I think that probably a primary difference that

1 I could make would be if I could work with the
2 teachers I have. I don't -- you know, I've got a lot
3 of teachers that I feel like could be a whole lot
4 better teachers, and if I could encourage them to go
5 back to school and, you know, become higher in their
6 -- or to obtain a higher level of education and
7 concentrate on those areas that are directly related
8 to their teaching function, then I think I would
9 probably make more mileage on that than anything
10 else.

11 But I don't think it's so much the attraction.
12 I don't know that I'm going to go out and be able to
13 recruit people all over the state to come to Lampasas
14 as so much as when people would like to come to that
15 area and they -- or for whatever reasons they're
16 looking for us, and they're an applicant, and they're
17 an applicant at some other district, if that district
18 is paying significantly higher, then I'm going to
19 have to lose them. And I know of cases that I have.
20 So, you know, that's a fact of life.

21 Q. Well, maybe it would be helpful to me if you would
22 enumerate for me the factors that go into determining
23 the quality of teacher that you're able to attract in
24 Lampasas that are present in addition to the salary
25 that you might be able to offer.

1 A. Well, you know, their experience level, their
2 background, you know is -- comes to my mind
3 immediately. I mentioned earlier in my testimony, I
4 lost a band director this summer to a higher paying
5 job, and that band director that I lost had excellent
6 experience, a track record of outstanding service.
7 And instead, I got a young lady that just graduated
8 from college to come in, and you know, in as our band
9 director. And I think she's going to be an
10 outstanding band director in time, but, you know,
11 she's going to cut her teeth on us, and that's fine,
12 we're willing to tackle that. And I think she's, you
13 know, doing a relatively good job and is going to be
14 an outstanding band director.

15 But that's an example that I could give to you
16 that, you know, a difference that could be made from
17 somebody that already had a track record, you know,
18 that already knew all of the ropes and had an obvious
19 background that would be able to come in and already
20 knew all of the answers to someone who is probably
21 going to have to get their feet wet and learn our
22 system. And probably what will happen is that
23 particular lady will -- she's just going to do us a
24 real fine job and she's going to grow in that
25 position and then we're going to lose her to a better

1 -- quote "better system."

2 Q. Where did you lose your band director to?

3 A. Well, he went back to school and so he didn't go to
4 another school district. He was -- he's pursuing his
5 Doctorate, I think, at Texas Tech.

6 Q. Dr. Christian, aren't there some factors that go into
7 -- that become a part of the problem that you have in
8 Lampasas attracting quality teachers that are factors
9 other than the amount of money that you pay them?

10 A. Oh sure. The educational environment, the quality of
11 the facilities impacts that. Who wants to come teach
12 in a portable building and a building that's
13 unair-conditioned or that just looks, you know, poor,
14 or doesn't have the instructional resources available
15 that they have somewhere else. And someone else has
16 all of those things, I think that's a tremendous
17 attraction to a teacher. He says, "I can go in there
18 and I've got all of the tools that I need to really
19 do an outstanding job." And when we don't give those
20 tools to our teachers, we really shortchange them.
21 And I think that's probably equally important to a
22 teacher.

23 Q. Dr. Christian, is Lampasas growing?

24 A. Yes.

25 Q. What kind of growth do you have in Lampasas?

1 A. It varies. We're in the Fort Hood area, so we do
2 have impact from the military. It's not as dramatic
3 as -- we're about 30 miles away, so it's not as
4 dramatic as Killeen and the Copperas Cove area.

5 We have had, over the past few years, a history
6 of approximately 30, 40 students a year growth. This
7 year, we had a pretty dramatic growth, mainly because
8 of the addition of the pre-kindergarten program and
9 our kindergarten program that we're getting many more
10 kindergarten students into the school. So our real
11 growth is still fairly, fairly constant. And I'd say
12 that we've averaged somewhere in that 30 to 40 range
13 of students for the last five years. We project it
14 will probably be picking up. That's what the study
15 shows as far as the impact on the Temple -- the I-35
16 corridor and the outlying areas tell us, that
17 probably we're going to pick up considerably over the
18 turn -- before the turn of the Century.

19 Q. Can you identify for me what's attractive and is
20 causing Lampasas to have growth?

21 A. Well, basically, there's a number of factors. The
22 Copperas Cove area is pretty saturated, so we've seen
23 quite a bit of growth into our school district simply
24 because they, you know, they need -- they're
25 saturated in Copperas Cove. And I would say that

1 that's accounted for probably most of that growth.

2 Other growth is just -- we have added an
3 industry in the last two years that -- Standard Meats
4 came to town and that was about, I guess, 150 to 200
5 jobs and that had a very positive effect on us.

6 But basically, it's a fairly stable kind of
7 community environment, so we're not going to be
8 looking at any dramatic growth until we see the I-35
9 corridor catch up with us.

10 Q. Dr. Christian, how many teachers do you have in your
11 school system?

12 A. Oh, it's approximately 130.

13 Q. And of those 130 teachers, how many of them would you
14 say are below the quality level that you would like
15 to have in your school district?

16 A. That would be an answer that I don't think I would
17 want to come off the top of my head, Mr. Turner,
18 because, you know, that would be pretty difficult to
19 say. And you're talking of a value there that
20 obviously there's many people that we would like to
21 be doing a better job and including myself. So, I
22 think that I really can't answer that.

23 Q. Well, can you think of one area of teaching, one area
24 in the curriculum that you think you are deficient in
25 where you need to attract a higher quality teacher to

1 provide the level?

2 A. Well, it wouldn't be just related just to teachers.
3 It would be the other resources, too. But I would
4 say in the math and science areas and special
5 education are my most dramatic needs for improvement.

6 Q. That generally seems to be -- when school people talk
7 about needs, that seems to be the areas that they all
8 mention.

9 A. Yes, sir. I think that's fairly typical.

10 Q. How many math and science teachers do you have that
11 you think you should perhaps replace if you had a
12 better option?

13 A. If I thought I should replace them, I would be
14 replacing them. So, I would say none. If you say
15 that they need to improve and I need to have a better
16 quality of staff, I would say yes.

17 If I replaced math teachers that I thought
18 really, you know, they were doing an average job, but
19 I really wanted to do a better job, if I went to
20 replace them, I probably would replace them with
21 someone that would not be doing that good a job. And
22 that's the reality of the problem. So, you know,
23 it's hard for me to address that question.

24 I think the quality of my staff is relatively
25 good. There will be individual situations that I

1 feel like should -- that need more dramatic
2 improvement than others. And I think, though,
3 whenever I am able to employ someone, obviously I
4 would like to look at more than one person that's
5 just, you know, can't find a job anywhere else. And
6 I've been in that situation many times. When I hired
7 someone, and they couldn't find a job anywhere else,
8 and that's the only person I had, so, I -- and I had
9 to have a person in that position, so, I took a
10 chance and in those cases usually a year later, I
11 give it another shot. And, you know, that's
12 frustrating when you're trying to build a program and
13 improve it.

14 Q. Dr. Christian, if it's difficult for you to tell me
15 you could identify a math teacher or science teacher
16 that you really would like to have out of your
17 system, let's just assume for a minute that one of
18 them leaves, one of them that might be at the lower
19 end of the spectrum in terms of quality of teacher.
20 What would you like to have in terms of a dollar
21 amount to be able to hire a math teacher or a science
22 teacher to fill that slot so that you could go out
23 there and get somebody that you could put in front of
24 that classroom that you knew was rendering quality
25 education to those students?

1 A. You know, that question has so many other parameters
2 to it that it's -- you know, I would like to have
3 \$50,000.00, if you want me to answer it that way.
4 That's unrealistic. So you've got to say, well,
5 where in there is realistic, and that's all impacted
6 by the whole discussion of what we're talking about.
7 So whatever time in the future that we would have
8 opportunity to put monies there, I would have to
9 determine whether I'm going to encourage my present
10 staff to get Master's degrees and more professional
11 growth or whether I'm going to put that into a basic
12 salary schedule. And then, is that going to be
13 commensurate with what other people in my area are
14 making, and how that's changing. And so, you know, I
15 couldn't give you a dollar amount. You know,
16 obviously, I as a superintendent, I would like to be
17 paying \$20,000.00 base salary, and I think that would
18 make a difference, as I communicated a while ago.

19 If I can't have that, you know, then I would
20 like to have whatever I can get and at least be able
21 to stay up with the Jones and the Smiths next door to
22 try and at least have a shot at those folks. And,
23 you know, that's my answer.

24 Q. Dr. Christian, the law permits you to go out and hire
25 a teacher for math and pay them \$5,000.00 above the

1 minimum salary schedule to put them in that
2 classroom?

3 A. Yes, I believe it does.

4 Q. Have you ever done that?

5 A. No, sir.

6 Q. Or anything close to it?

7 A. No, sir.

8 Q. Why would you not consider that option to try to
9 remedy a problem area?

10 A. I guess that, you know, you might solve one problem
11 and create about 129 other problems.

12 Q. You're aware, are you not, Dr. Christian, that in the
13 business world that's done all the time?

14 A. I'm also aware that we're not in the business world
15 in the public sector, that we have some parameters
16 there that are a little different than that business
17 world.

18 Q. So you're telling me that if you want to improve the
19 quality of education and the quality of the teacher
20 work force, which is the most important element in
21 terms of improving quality in the Lampasas
22 Independent School District, that to do that, you're
23 going to have to raise everybody's salary \$5,000.00
24 just to get that one math teacher we're talking about
25 that we could put into that classroom and render

1 quality education to those students?

2 A. No, sir.

3 Q. Well, is there a half way in between compromise
4 there?

5 A. No, sir, you're misreading what I'm stating. And
6 that's a -- I said that there are many school
7 districts that are paying at least \$20,000.00 and
8 that's \$5,000.00 above base. That doesn't mean that
9 they're paying at all levels \$5,000.00 above. If
10 they are, then so be it, and that's well and good.

11 I'm simply saying that the greater differential
12 there is between those who can pay those kind of
13 monies to their teachers, the greater problem I have
14 in competing for those teachers.

15 Q. But you're saying to me that you would be unwilling
16 in your math and science area, where you have a
17 problem in terms of quality and teaching work force,
18 to suggest to your board that we provide a supplement
19 of even \$2,000.00 or \$3,000.00 to allow you to go out
20 and try to attract a competent quality teacher to
21 place in front of those students in math and science?

22 A. Yes, I think that differential would have to be so
23 much that the subsequent problems of morale and
24 difficulties with the remaining staff would undo more
25 than we did in doing that very thing.

1 Q. Do you think that attitude that exists among the
2 teachers in your school district that would cause
3 them to have declining morale were you to try to
4 attract a quality teacher by providing a salary
5 supplement, do you think that's an appropriate
6 educational environment to operate in?

7 A. I think we have a little history in the last couple
8 of years to show that when you go into a merit
9 system, even based on the quality of the teachers the
10 state has, that there are significant problems and
11 detriment that come with such a system. And I've
12 seen those personally, and I think that that is
13 measuring quality. And I can certainly -- I can
14 certainly emphasize and, you know, adopt that
15 philosophy in my own thinking.

16 But if you're simply saying that because you're
17 teaching one subject area over another one, whether
18 you're a better teacher or not, you're going to make
19 "X" number of dollars more, I think the problem would
20 even be greater. So I think whether that's
21 appropriate or not, the reality of the situation is
22 that's going to occur.

23 Q. Well, you don't think the teachers in your area would
24 accept a higher salary for a math teacher if you were
25 making that decision, not based on the fact that they

1 teach math, but upon the fact that you have had
2 difficulty achieving quality in the teaching of math
3 and that you could not attract it unless you were
4 able to provide the supplement?

5 A. I would have a much easier time providing a
6 supplement for that math and science teacher as some
7 districts do if I was also providing a supplement for
8 all teachers, and maybe that supplement was at a
9 different level, I think that probably would wash a
10 lot better than the fact that I'm not supplementing
11 my teachers at all and I'm supplementing others, you
12 know, considerably. So if I were able to pay, you
13 know, "X" thousand dollars above to my teachers and
14 also supplement for math or science or for these
15 various situations, then I would probably have an
16 easier time of that in that kind of an environment
17 than I would in the situation that I presently have.

18 I would also probably try to extend the
19 responsibilities of that person to, you know, help
20 with that morale and the perception of that.

21 Q. So again, in order to improve the quality of the
22 teaching work force, even though you acknowledge you
23 have a lot of high quality teachers, you're telling
24 me that you're going to have to raise the salary of
25 all of the teachers in order to get the quality in

1 the few areas where you feel you have deficiency?

2 A. I'm saying that in the real world, I'm not paying the
3 supplements that other school districts are. And
4 therefore, I'm at a disadvantage in a competitive
5 sense for those teachers. Whether there's any innate
6 product that comes out of paying those teachers more,
7 a supplemental salary, that that is going to make
8 them a better teacher is not so much a function in
9 that picture as it is the fact that I am at a better
10 competitive level in attracting those teachers.

11 I don't know that I could say that you pay a
12 teacher a thousand dollars more that you're going to
13 get a thousand dollars better teacher, that you're
14 going to increase your, you know, teaching
15 efficiency.

16 I think I've got teachers in my district that
17 couldn't care less if it's a minimal salary or not,
18 they're going to do the best job of the kids that
19 they possibly can. And I've got teachers that you
20 could pay them \$5,000.00 more and they're not going
21 to be one ounce of a better teacher. But I can tell
22 you that if I am able to be at a competitive level
23 with my salary schedule, I've got a better chance of
24 attracting and keeping better teachers. And I think
25 that makes sense.

1 Q. Dr. Christian, would it be appropriate to say that
2 your problem that you have in the math and the
3 science area is perhaps in terms of education, in
4 terms of providing education, one of the most serious
5 problems that you have in the Lampasas district?

6 A. Give me that again. I'm not sure what --

7 Q. I said in terms of measuring what you do in terms of
8 educational quality, would it be fair to say that
9 your problem in the math and science area is one of
10 the most severe and serious problems that you have in
11 terms of accomplishing that goal of providing quality
12 education?

13 A. In terms of measuring that?

14 Q. Or in terms of providing it.

15 A. I wouldn't stop at math and science, but, you know, I
16 think that those are the areas that, of course, are
17 very critical. Special education would go right in
18 there with them. But see, you know, that's an over
19 statement just to pick out a certain area.

20 I'd say in social studies, for instance, when I
21 don't have any remedial programs or gifted programs
22 for social studies, then I've got a real problem
23 there because I've got kids that need to be in
24 remedial programs that are floundering, who are having
25 troubles. I wouldn't rate the math student or the

1 science student, you know, ahead of that.

2 So, it's real difficult to, you know, make
3 those kinds of comparisons.

4 Q. Well, what I was trying to get at, obviously, when
5 we've got problems in a school district, we've got to
6 prioritize them, don't we?

7 A. Oh, yes.

8 Q. So we put our squeakiest wheels at the top, our
9 greatest problems ought to be at the top of the list.

10 A. Yes, sir.

11 Q. And I'm just asking you if that problem you have in
12 math and science wouldn't be up there pretty close at
13 the top of the list in terms of problems, in terms of
14 providing quality education?

15 A. In the real world in the trenches, if you will, if
16 you don't even have a classroom facility, that's
17 going to take priority over improving your science
18 and math programs.

19 You know, there are some things that we have to
20 do per the TEA mandates before I'm going to be able
21 to address any significant improvement in my math or
22 science programs. You know, I might be able to say
23 that in those programs I'm, you know, I'm meeting
24 basic standards. I'm not, but even if I were, before
25 I would go to improve them, I would have to meet

1 other mandates that are put upon me. And that would
2 have to take priority. Even though my heart might be
3 with those programs, as superintendent, and I think
4 as a school board, we've got to look at the big
5 picture.

6 So it's very difficult to say that they would
7 be -- take priority over, for instance, providing a
8 classroom that you don't have that you have to have.
9 I'd say that probably that would take priority before
10 I would, you know, improve my math program or science
11 program.

12 Q. Now, when you say, Dr. Christian, provide a
13 classroom, your problem, as I understand it, is not
14 that you don't have classrooms. Everybody is in a
15 classroom. It's just the number of students in that
16 classroom in that it, in some areas, exceeds the
17 mandated teacher/pupil ratio?

18 A. Well, I had a waiver in the fall on 1st grade. Now,
19 I've got a waiver in kindergarten. And that's
20 mandated. So I've got to have a kindergarten
21 classroom and I don't have it.

22 And I just got through in my primary school, I
23 moved my total 2nd grade out of that school and put
24 it up on my elementary campus a year and a half ago,
25 and I was real proud of that. And I thought, well,

1 we're making great strides. I'm already out.

2 So that's an example of a priority. I've got
3 to provide. TEA is not going to say, "Well, we
4 understand" and, you know, they will understand on an
5 emergency basis and I can apply for a waiver.
6 They're not going to understand this fall if I do not
7 have that classroom with a teacher and with those
8 kids and meeting that class size 22.

9 Q. What if you didn't meet that requirement this fall?
10 What would your options be?

11 A. I guess pleading for mercy.

12 Q. And the law would allow you to apply for another
13 waiver?

14 A. Well, I -- frankly I don't know what it would be. I
15 don't intend for that to happen. I intend to meet
16 the mandate. And I have to add a portable -- two
17 more portable classrooms in the primary so we're
18 going to meet the mandate. But I don't know.

19 TEA, I think, has been very -- works very well
20 with us when obviously we, you know, we can't control
21 things. As right now, I can't control, you know,
22 that problem. But I think TEA is going to say that
23 there's a way to control that for next year and
24 you're expected to do that. And I imagine they'll be
25 pretty heavy handed on it.

1 Q. How much do one of those portable buildings cost,
2 Dr. Christian?

3 A. Oh, it will probably be around 40,000.

4 Q. And you're planning to build how many of them next
5 year?

6 A. Well, two portable classrooms, which would be the
7 40,000.

8 Q. Two portable classrooms?

9 A. Yeah, if I have -- normally, I'll get two classrooms
10 in a portable. You can get individual portables, but
11 our practice has been to have two classrooms in a
12 portable.

13 Q. So, basically you're getting a classroom for
14 \$20,000.00, is that the way it figures out?

15 A. Yes.

16 Q. And if you were just going to build one, it would
17 cost you 20,000 or 25,000 just to build one rather
18 than the double?

19 A. Well, it would cost you a little bit more than that
20 just to build one. You're obviously going to be a
21 little more efficient in buying two together than you
22 are one at a time.

23 Q. And these buildings you're talking about, are these
24 being built to accommodate growth that you're having?

25 A. As I've stated, they're being built to accommodate

1 the class size 22, and the compounding effect of the
2 retention rate of students in the primary grade
3 levels.

4 Q. As I recall, I believe you told me you had some
5 pretty good growth in student population in those
6 grades --

7 A. Yes.

8 Q. -- here recently.

9 A. Uh-huh. My over all district size has been very
10 small growth, but my primary growth has been
11 substantial, and part of that reason is my
12 kindergarten.

13 I think I testified earlier that we had for 12
14 years kindergarten in a Texas National Guard Armory
15 building. Obviously, that was not very attractive.
16 At that time, we had a First Baptist kindergarten
17 that had most -- a lot of the kids. Given the
18 option, the parent that could afford it would put
19 their child in that private kindergarten rather than
20 put them into that Armory.

21 Once we built a kindergarten addition to our
22 primary campus, you know, we saw dramatic increase in
23 numbers of kids that were coming into our
24 kindergarten, not only from First Baptist, but just
25 from the general public. People don't have to put

1 their kids in kindergarten, but once we had a
2 reasonable facility to house those kindergarten
3 classrooms, then we had a lot of folks that decided,
4 yes, they'll put their kids in kindergarten. Of
5 course, we amen that.

6 But see, we used to have three kindergarten
7 classrooms. Now, we've got -- or this next year,
8 with the mandated added kindergarten, we'll have
9 eight. And nothing has changed about our
10 kindergarten program except the image that we've had.

11 And so, it's a shame that we didn't have more
12 kindergarten kids for those 12 years. It's a crying
13 shame, really. That disgusts me to think of all of
14 the children that did not go through our kindergarten
15 program and the tremendous impact it had on them.

16 But at any rate, see, that was -- you know,
17 that's increased needs that I don't have any control
18 over. And it happened and it's because we were doing
19 a better job. And I can't fault that.

20 So this additional classroom need is more
21 dramatic than people -- I'm sure the Legislature,
22 David, realizes that's been pretty tough on us.

23 Q. So the building that you're going to build is for
24 kindergarten, two kindergarten classrooms?

25 A. No, we've already done that. That was part of this

1 million dollars of cash money we're talking about.

2 Q. All right. And the building you're going to build,
3 what grade is that for, the portable you're going to
4 build that has two classrooms in it?

5 A. Oh, kindergarten. See, we built -- I guess moved in
6 our kindergarten now, oh, it's been, three years ago.
7 And we're real proud because we had, you know, we
8 were well facilitated. And when we moved our 2nd
9 grade up to our West Oaks Elementary campus, then we
10 were real pleased because then we had some room for
11 growth.

12 But with the class size 22, I've got an
13 additional four classrooms at 1st grade, and I've got
14 an additional five classrooms at kindergarten, and
15 I've got an additional pre-kindergarten classroom.
16 Just that alone is ten additional classrooms on that
17 little primary campus, and it only had 12 classrooms
18 to start out with. And so, you know, it's a -- we're
19 already out at that campus.

20 Q. How many years ago was it you said you had three
21 kindergarten classes, and now you have eight?

22 A. Let me correct that. I had three and a half. I
23 forgot that we -- this would have probably been about
24 three or four years ago. The half came in that we
25 were -- at that time, the state was funding for

1 half-day kindergarten, I believe, and we were able to
2 get federal funds to -- no, excuse me, I believe the
3 state funded for educationally deprived children. It
4 was state funded.

5 For educationally deprived children, meaning
6 free and reduced lunch kids, they could go to school
7 for the full year, full day, full year. We were
8 funded as such so we had three sections of that and
9 then we had a half section that came in in the
10 spring, and we usually added one section in the
11 spring that was for non-educationally deprived
12 children. Obviously, all of the other
13 non-educationally deprived children were going to
14 that First Baptist kindergarten or not going to
15 school.

16 Q. And how many students did you have in those
17 classrooms when you had three sections full day and a
18 half section in the spring?

19 A. Oh, at that time, we only had about, oh, I'd say 18
20 -- about 18 kids. Really a pretty good situation.

21 Q. And now you've grown to eight classrooms?

22 A. Yes, sir.

23 Q. And you say you have to have eight classrooms to meet
24 the 22-to-1?

25 A. Yes, sir.

1 Q. All right. I want to ask you, Dr. Christian, how do
2 we know that the fact that you have to have those
3 additional classrooms so you can meet the 22-to-1 is
4 a result of state requirement or a result of the fact
5 that you've been accustomed to having kindergarten
6 with 18-to-1 ratios in it?

7 A. Well, you can do that by just looking at my 1st grade
8 and recognizing there's ten sections of 1st grade to
9 meet the class size of 22. So obviously, I could
10 have a need for ten classrooms of kindergarten if it
11 weren't for First Baptist kindergarten. So I think
12 if you look at that objectively, you could see that
13 objectively, if I've got to have ten classrooms of
14 1st grade then I could feasibly -- to meet class size
15 of 22, I could feasibly meet ten classrooms of
16 kindergarten to meet the same class size.

17 Q. How many students did you have in the 1st grade class
18 three years ago?

19 A. Oh, I would have in the upper twenties.

20 Q. In your 1st grade?

21 A. Yes, sir.

22 Q. And what did you have in your 2nd grade?

23 A. 2nd grade, I would still probably have in the upper
24 twenties. As I went up the ladder, I had more. In
25 my 3rd, 4th and 5th grade, I usually have in the

1 lower thirties.

2 Q. Did you think that was a good circumstance?

3 A. No, sir.

4 Q. Would you have maintained it?

5 A. No, sir. As a matter of fact, we haven't maintained
6 it. You can look at my 3rd, 4th and 5th grades
7 presently and their class size is down to around 26
8 and 27. One time my 5th grade was up to 37. All of
9 those grades were normally in the lower thirties. So
10 irrespective of the mandates, we have decreased those
11 class sizes recognizing that need.

12 Q. It takes -- it's going to take ten classrooms for you
13 to have a 22-to-1 ratio in 1st grade this next year?

14 A. Yes, sir.

15 Q. And that will be accommodated by the construction of
16 this additional portable?

17 A. No. The 1st grade, I'm already meeting the class
18 size 22.

19 Q. All right. Maybe I misunderstood. What grade is the
20 portable?

21 A. Kindergarten.

22 Q. Kindergarten. And you will meet the 22-to-1 in
23 kindergarten if you build this portable building?

24 A. If First Baptist stays in operation, and if we don't
25 have other kids come in that I don't know about,

1 eight classrooms will meet that 22 class size.

2 Q. And if you cut back and only had nine classrooms,
3 then you would have a 25-to-1 ratio. Am I
4 calculating that right?

5 A. In kindergarten?

6 Q. Right.

7 A. If I cut back into nine sections -- I don't have nine
8 sections now.

9 Q. Well, you have ten -- you're going to have -- excuse
10 me, eight.

11 MR. GRAY: He's eight. You're getting 1st
12 and kindergarten confused.

13 BY MR. TURNER:

14 Q. You have eight, and if you cut back to seven
15 classrooms in kindergarten, you'd have 24-to-1.

16 A. No, sir. I presently have seven classrooms in
17 kindergarten. I'm supposed to have eight to meet the
18 class size 22.

19 Q. All right. What's your ratio now that you just have
20 seven?

21 A. It's 1-to-23 point something.

22 Q. All right. If you did not construct that portable
23 building or at least you only constructed one
24 classroom, and you ended up into next year with a
25 23.1-to-1 ratio, what would be the consequence of

1 that with regard to the law and the Texas Education
2 Agency?

3 A. I don't know. I don't think I can end up with that
4 because I have to -- if I sign a waiver request to
5 the State of Texas and my board president has to do
6 the same, then we have to state in that that we've
7 made every reasonable effort to meet that mandate. I
8 could not conscientiously sign that statement for
9 next year if I -- knowing that I had not
10 conscientiously made every provision to meet that
11 mandate.

12 Q. Well, Dr. Christian, what would happen if you and
13 your board met and you decided that it was a greater
14 priority for you to improve the quality of your math
15 and science teachers, and you were going to spend
16 \$20,000.00 and allocate that in supplements among
17 some given three or four math and science teachers,
18 and you were going to go out and find you some
19 quality math and science and put it in that
20 classroom, couldn't you still sign that statement to
21 the Texas Education Agency and say, "I've made every
22 reasonable effort to meet this, but I just happen to
23 have a higher priority in another area where I spent
24 that money"?

25 A. No, sir, I couldn't.

1 Q. And why couldn't you?

2 A. Because I have those math and science teachers to
3 meet the, you know, basic requirements. I don't have
4 it in kindergarten, and I don't think I could
5 conscientiously say that I've made every effort to
6 meet that mandate.

7 Q. But I believe you told me that you thought your
8 greater educational need was in the math and science
9 area, and that additional one student in those
10 kindergarten classes, in your judgment, don't make
11 that much difference in terms of educational quality?

12 A. There's a lot of needs that I have that I would like
13 to improve, but until I get to a state mandated
14 program, which is what we're here talking about, and
15 I'm able to do that, I'm having difficulty, you know,
16 addressing those things that, yes, I would like to.
17 I'm spending all of my time just trying to make sure
18 I have an accredited program.

19 Q. Well, I guess what I'm getting to, Dr. Christian, is
20 I'm trying to find out how state mandated this
21 program is.

22 It seems to me that you're telling me that you
23 can get a waiver of that requirement if you'll sign
24 statements saying you've made every reasonable effort
25 to meet the requirements, but failed, is that

1 correct?

2 A. That's correct.

3 Q. And there's a lot of things that I could think of,
4 I'm sure you could think of, that would defeat you in
5 the ability to be able to meet that requirement,
6 could we not?

7 A. Yes.

8 Q. And it seems to me that one of them could very well
9 be that you and your board decided you had a very
10 severe need to improve the quality of your math and
11 science program at the high school level, and you
12 made a conscious decision, separate and apart from
13 any decision on classrooms, to supplement salary to
14 get quality in your classrooms?

15 A. I don't think that would wash.

16 Q. And why don't you think that would wash?

17 A. I don't think that I could make that statement. I
18 think that that need for that kindergarten class,
19 when I've got 24 kids in a kindergarten, I think
20 that's a dramatic need that I can make a difference
21 in immediately. And I would prioritize that over a
22 need to take an already existing math and science
23 program and try in some way improve that program.

24 Q. So, what you're telling me is that it's not really
25 the state mandate that makes you make that change,

1 but your own judgment about priorities and providing
2 quality education at Lampasas. You would make the
3 decision to provide smaller class size in the 1st
4 grade before you would do anything about the math and
5 science problem?

6 A. It is a state mandate that requires 22. It's also
7 the state mandate that I be in compliance. It's also
8 the state mandate that causes me to have to sign that
9 statement. And, yes, past that, I've got, I guess,
10 all kinds of judgment, if you want to call it that.

11 I don't see that as a whole lot of judgment on
12 my part.

13 Q. Well, Dr. Christian, surely you wouldn't think that
14 you would have to maybe eliminate a science teacher
15 or math teacher at the high school level if it took
16 that to meet that class size requirement so you could
17 sign that statement, would you?

18 A. I've had to eliminate positions. I've had to
19 eliminate a vocational counselor. I shouldn't say
20 positions, excuse me. I've had to eliminate a
21 vocational counselor position. I've had to eliminate
22 an elementary P.E. position, you know, due to these
23 kinds of problems. So, that's not something -- we're
24 constantly having to grapple with those priorities
25 and, you know, find some measure of being able to do

1 something, and that's going to hurt something else
2 unless you have an abundance of resources, financial
3 resources available to you.

4 Q. I guess what I'm getting down to, Dr. Christian, it
5 seems to me that the choice you made in trying to
6 move toward reducing class size, though it be a state
7 requirement, for which a waiver would be available,
8 but that you're moving in that direction because you,
9 as an educator, in terms of weighing the priorities
10 have determined in your own mind that that is a
11 priority that you need to honor in the Lampasas
12 Independent School District?

13 A. I am a conscientious person that does want to be in
14 compliance with the mandates of the law. I believe
15 in that. I believe that laws are there for a
16 purpose. They're reflecting our state society and
17 its will. And I think that I've got to honor law.
18 And that's going to be a high priority with me.

19 Secondary to that, I think, yes, 22 class size
20 is outstanding. And I amen that effort to have class
21 size 22 limits in those early grades. And I think
22 that will have a tremendous impact on children. And
23 so, I'm happy to honor that law, not only from a
24 conscientious point of view, but because I think that
25 will make a difference with my kids. I am not proud

1 that I've got 24 kids in those kindergarten
2 classrooms. I don't think that's good.

3 MR. TURNER: I'll pass the witness.

4 THE COURT: Let's stop for lunch. It's
5 almost noon. We'll see you again at 2:00.

6 (Lunch recess.)
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AFTERNOON SESSION

THE COURT: All right. Here we go.

CROSS EXAMINATION

BY MS. MILFORD:

Q. Dr. Christian?

A. Yes.

Q. My name is Mary Milford. I'm one of the attorneys representing the group of Defendant-Intervenors school districts in this lawsuit.

I believe you testified you had a 135 teachers in your district, is that correct, approximately?

A. Approximately.

Q. Last year, about how many teachers in numbers were non-renewed for poor evaluations and teaching deficiencies by your school district?

A. None.

Q. None?

A. (Witness nodded head to the affirmative.)

Q. What about the year before that, the '84-'85 school year?

A. None.

Q. None?

A. Most of the time you don't --

Q. I believe you've given me my answer. None, is that correct?

1 A. Well, I would like to explain that as you go through tha
2 informal process, that most of the time those teachers
3 will resign before you go through that non-renewal
4 process.

5 Q. All right. Let me ask you the question, how many
6 teachers did you force their resignation last year?
7 Based on teaching deficiencies, not personality or
8 other problems, based on a teaching problem,
9 how many were forced to
10 resign?

11 A. I would say we'll normally have one or two.

12 Q. Can you remember how many you had last year?

13 A. No, I can't.

14 Q. Did you have any that were forced to resign last
15 year or could it be that you didn't have any?

16 A. I'd say I had at least one, but my memory doesn't
17 tell me who that was, so...

18 Q. So you think it's one, but you could be mistaken,
19 you're not sure?

20 A. Huh-uh.

21 Q. Let me draw your attention back to 1984 before House
22 Bill 72 became a reality. Were you familiar with
23 House Bill 72 in its formative stages before it was
24 passed?

25 A. Well, of course, to some extent.

1 Q. Did you visit with your state representative or your
2 state senator regarding House Bill 72 in any way --

3 A. Yes.

4 Q. -- prior it to it being passed?

5 A. Yes.

6 Q. Did you encourage your state senator or
7 representative to pass the bill or did you voice
8 opposition to it?

9 A. I encouraged them.

10 Q. You were in favor of House Bill 72 prior to its
11 passage, is that correct?

12 A. Yes.

13 Q. And did encourage and voice this to your senators and
14 encouraged them to pass this bill?

15 A. Yes.

16 Q. In your opinion, are the students and the school
17 children in your district better off or worse off
18 educationally since the advent of House Bill 72?

19 A. In some respects -- most respects, better off; in
20 some respects, not as well off.

21 Q. Okay. What about your district's ability to deliver
22 these educational services to the student? Is it
23 better off or worse off with the advent of House Bill
24 72?

25 A. Worse off.

1 Q. House Bill 72 has decreased your school district's
2 ability to deliver educational services?

3 A. Yes.

4 Q. In what regard has it decreased the ability to
5 deliver services?

6 A. Well, our relative financial ability to support the
7 mandates that are there has decreased over the
8 implementation of the law.

9 Q. These mandates you say are good for education and
10 good for their children?

11 A. Yes.

12 Q. Did House Bill 72 -- it makes mandates and it
13 provided funding for these mandates. Are you
14 testifying that House Bill 72 decreased your
15 district's financial ability across the board and
16 left it in a worse financial statement?

17 A. I'd say that the initial impact was very good. The
18 ensuing impact, when you get to the trenches, is that
19 relative to the bill and the mandates of the bill,
20 that we're relatively less -- we have less ability to
21 meet those mandates now than we did when it was
22 instigated.

23 Q. And yet it's produced enough money to embark on a
24 \$250,000.00 a year building project, to add children
25 to the district, to add teachers to the district, to

1 add portable buildings to the district. It has
2 provided funds to keep up with these, has it not?

3 A. Well, that money was not as a result of the -- monies
4 that came as a result of House Bill 72, because there
5 were all the costs that were incurred with that. I'd
6 say that money was basically available as we managed
7 very conservatively and we had very good years, which
8 is fortunate, very good years in terms of our costs
9 in the district.

10 Q. How would your community feel about consolidating
11 with several other school districts, let's say, three
12 or four counties to reach the maximum efficiency?
13 Would your community be in favor of this type of a
14 consolidation, say, four of your surrounding counties
15 into a unit?

16 A. I would say that I would have to know what kind of a,
17 you know, consolidation that you're talking about. I
18 would say in general, people want their school
19 districts to be locally governed and as close to the
20 implementation of their educational process as
21 possible.

22 If, however, there were some means, you know,
23 of consolidating for purposes of equalizing the
24 financial ability of the various regions of the
25 state, then I would say that would be a step forward

1 and we would have to look at that as in the best
2 interest of our children.

3 The analogy that I have to that is -- well, in
4 Lampasas, we have three major highways that intersect
5 in Lampasas, 190 from the Killeen/Temple area, 183
6 from Austin, and 281 from San Antonio. And they all
7 converge at Lampasas. And fortunately, the state is
8 recognizing the need to keep those highways, you
9 know, in good repair and in good condition. If they
10 turn part of that over to the responsibility of
11 Lampasas County, we would have a problem.

12 So obviously, the state has recognized the need
13 to consolidate its efforts as a state to provide for
14 adequate highways, even in Lampasas or other places.

15 Educationally, I would say that the same need
16 is there at least to an extent that there is a basic
17 quality educational program available to our
18 children. And if that would mean that we could in
19 some way -- and I don't know exactly what you're
20 talking about, but if there's some measure of, you
21 know, consolidation for the purposes of equalizing
22 our available tax opportunity to support education,
23 then I would heartily endorse that.

24 Q. Do you think your citizens would endorse the concept
25 of sharing the taxing responsibility on a

1 consolidated basis? In other words, a vote on a bond
2 issue would be on a countywide consolidation basis
3 where several communities would have input as to what
4 the tax rate should be rather than just your
5 community on a purely financial basis? Do you think
6 your community would be in favor of that?

7 A. Well, I don't -- I'm not envisioning what you're
8 talking about. If your --

9 Q. Let me rephrase the question. Do you feel your
10 community would support some form of consolidation
11 whereby they share the decision with the other
12 consolidated school districts as to what the tax base
13 should be, what the tax rate should be, what bond
14 issue should be passed. Would they share their
15 financial decisions on a consolidated basis?

16 A. I think the only consolidation basis that they would
17 support would be that measure of financial support
18 that would -- it would be -- that it would take to
19 provide the accredited state mandated program to that
20 level.

21 That's all that I could visualize, and that's
22 the reason I gave the highways as an example. They
23 certainly support that, because our county is a poor
24 county, and they could not support it. So they
25 support full support from the state.

1 And I would say that in some -- whatever means
2 it takes to have some kind of equitable tax base
3 opportunity for districts to operate, as far as the
4 revenue, I'd say that would be advantageous. I would
5 say that the -- we would be, as most all districts,
6 retaining the power of the local board to, you know,
7 to determine its own course for its children and pass
8 this equitable method of financing, if that's what
9 you're driving at.

10 Q. I don't believe you've answered my question yet. Let
11 me rephrase it one more time.

12 Do you believe the citizens of your community
13 would share with other citizens on a consolidated,
14 much wider basis, the decisions as to what the tax
15 rate should be and whether or not a bond issue should
16 be passed?

17 MR. GRAY: Your Honor, she's just leaving
18 out one integral part, which is, is there any benefit
19 to those districts by getting that. I think she's
20 saying if you had an equalized tax base, if that's
21 what you got by going into consolidation, would they
22 be willing to do it. But that question is not
23 phrased that way, so I think the witness is having a
24 problem.

25 MS. MILFORD: I think my question is very,

1 very specific, Mr. Gray. It's whether or not his
2 citizens will share their decision-making ability
3 with another school district as to what their tax
4 rate will be, regardless of the benefits.

5 MR. GRAY: Okay.

6 BY MS. MILFORD:

7 Q. It calls for a simple "Yes" or "No." Are the citizens
8 in your community willing to share their financial
9 and fiscal decisions with citizens from another
10 school district?

11 A. I can't answer that except to say that that would
12 depend upon how that shared decision-making
13 takes place. And that's what I'm having trouble
14 envisioning in your question. I don't know how that
15 could operate, how you could have a, you know, some
16 kind of consolidated, you know, system that you would
17 retain a measure of local control and yet, if you're
18 talking about that, and yet a financial means of
19 getting revenue into your district, that's one thing.

20 But if you're saying, no, the whole ball of
21 wax, and you're just going to create a super district,
22 they wouldn't be for that. And that's what we have,
23 you know, to distinguish, you know, in that question.
24 And I'm not sure I can distinguish that.

25 Q. I think you have finally given me an answer.

1 MS. MILFORD: I have no further questions.

2 Thank you.

3 MR. GRAY: I have no questions.

4 MR. O'HANLON: I've got just a couple.

5 THE COURT: All right, we'll see.

6 RECROSS EXAMINATION

7 BY MR. O'HANLON:

8 Q. I would like to pursue consolidation with you for
9 just a minute. Lampasas County looks something like
10 that, doesn't it (indicating)?

11 A. Yes, sir.

12 Q. Okay. Where is your --

13 A. We're in the bottom of that, right there (indicating).

14 Q. I'll put an "L" there. Now, the only other district
15 is the Lometa Independent School District, isn't it?

16 A. Yes.

17 Q. Where is that?

18 A. It would be up toward the left, about in there.

19 Q. I'm going to put an "LM" -- well, yeah, for Lometa.

20 All right. Now, what is the relative size of your
21 two districts?

22 A. They're about a tenth of our size.

23 Q. If I'm going to draw their boundaries in, where would
24 I draw it?

25 A. I'm sorry. I was talking in terms of students.

1 Q. Yeah.

2 A. I really can't answer that.

3 Q. All right. Well, what's the distance between here?

4 A. 16 miles.

5 Q. What's your longest bus route in your district?

6 A. Oh, one-way, I would say probably 22 miles --

7 Q. Okay.

8 A. -- approximately.

9 Q. Okay. Have you ever talked -- now, Lometa has got
10 -- according to Bench Marks, you had 20 -- for '85-'86,
11 so I can get comparable years, you had 2,101, I
12 believe?

13 A. When was this?

14 Q. For '85-'86? That's the number in Bench Marks.

15 MR. GRAY: Per ADA.

16 A. I thought it was 2,236 or something, but at any
17 rate --

18 Q. That would be 2,236 this year, wouldn't it?

19 A. No, we're 2,246 this year.

20 Q. All right. And Lometa is about 271 for the '85-'86
21 Bench Marks.

22 Have you ever talked about consolidating with
23 Lometa?

24 A. No, sir.

25 Q. Now, they've got almost as much property wealth with

1 y'all, as you do, don't they?

2 A. Lometa has almost as much property wealth as we do?

3 Q. Per student.

4 A. Oh, per student. I'm not sure. I haven't looked at
5 that.

6 Q. And they've got no debt. Does that surprise you?

7 A. No, sir.

8 Q. Well, if you pick them up, it would allow you to
9 spread your cost of your debt service over and above
10 the tax base, wouldn't it?

11 A. I would assume that to pick Lometa up would probably
12 be a benefit to Lampasas.

13 Q. Okay. Why have you never pursued it?

14 A. We're an independent school district. That's a
15 function of Lometa, not Lampasas.

16 Q. Well, it takes approval by voters to voters in both
17 districts, doesn't it?

18 A. Well, not much point in us soliciting that if they're
19 not interested in consolidation.

20 Q. Have you ever asked them?

21 A. They have that, you know, they have that prerogative.

22 Q. Have you ever asked them?

23 A. No, we haven't.

24 Q. Okay. Are you aware that one of the issues in this
25 case is that -- one of the plans to improve equity

1 would be to force, in essence, consolidation of a
2 number of districts?

3 MR. GRAY: Your Honor, again, that is a
4 mischaracterization of what Dr. Hooker proposed. He
5 proposed what I characterize as reasonable taxing
6 authorities. And I think we've had this same
7 objection before as to what was characterized, not
8 consolidation for operational purposes, but again, to
9 try to equalize the tax base.

10 MR. O'HANLON: Well, once again, they're
11 creating an animal that doesn't exist. The
12 Constitution says with respect to districts, and
13 besides that, Dr. Walker talked about consolidation in
14 districts as a potential remedy for equity and things
15 of that nature.

16 MR. GRAY: I just didn't want him to
17 mislead the witness.

18 THE COURT: Okay. Go right on ahead.

19 MR. O'HANLON: All right.

20 BY MR. O'HANLON:

21 Q. Are you aware that one of the things being bandied
22 about in this case is, in essence, a forced
23 consolidation of districts?

24 A. I'm not aware of that.

25 Q. Okay. Do you approve of such an action?

- 1 A. I don't think in my awareness of this that
2 consolidation is really an issue. I am aware that as
3 the state has mandated increasingly more difficult,
4 you know, mandates on districts, that the smaller,
5 poorer districts are strapped more to be able to keep
6 up. And so I think there's probably a natural
7 consequence of that toward or effect of that toward
8 consolidation, but I'm not aware of anything in this
9 lawsuit that addresses, you know, consolidation as a
10 remedy.
- 11 Q. Well, if you've consolidated your districts, you
12 would be able to reduce substantially -- let's assume
13 that your district had to absorb 271 students?
- 14 A. Yes.
- 15 Q. All right. You wouldn't really have to hire an
16 additional principal for any of the schools involved,
17 would you?
- 18 A. No, sir.
- 19 Q. You have to build more classrooms?
- 20 A. Yes, sir.
- 21 Q. Your administrative staff in your central office
22 would probably essentially be able to deal with it on
23 the same size?
- 24 A. Probably.
- 25 Q. So what you could do, in effect, is eliminate

1 whatever administrative staff that Lometa has. I'm
2 not saying that you could go physically fire their
3 people, but you could eliminate some positions by
4 consolidating those two districts, couldn't you?

5 A. Well, all I would be interested in is the impact on us.
6 That would be an impact on them. You know, an impact
7 of 271 students would obviously be an impact of
8 about, you know, over 20 kids a grade level. And I
9 would say that's not a minor impact.

10 Q. I understand that.

11 A. But I would say that probably there would be a more
12 efficient operation.

13 Q. All right. So the monies that you got from the local
14 sources would go a little farther because you
15 wouldn't have to spend quite as much on
16 administrative things and duplicating essential
17 services within the district?

18 A. I would say that that would be a minor impact, but,
19 yes.

20 Q. Okay. And you would have the benefit of the expanded
21 tax base?

22 A. I think that would be very limited. I don't -- we
23 are in the same county, and I don't think there's a
24 great deal of wealth in Lometa for us to gain from.

25 Q. I understand that. But if you've got smaller

1 administrative expenses because you're serving the
2 same people, that makes your dollars go a little
3 farther, doesn't it?

4 A. That would be the same impact if I got those children
5 from anywhere. If I just add 271 children, then I'm
6 going to have some increased cost. But, you know,
7 again, that impact is more of an impact on Lometa
8 than it is me for whatever reason. If I get 271
9 students, I'm going to have increased costs, you
10 know. I would also pick up increased tax base, but I
11 don't think that tax base would be a dramatic help to
12 me.

13 Q. Have you ever looked at it?

14 A. Oh, I've looked at it before. I don't recall any
15 figures or anything.

16 Q. So consolidation for you is not a realistic remedy?

17 A. Well, I think realistically, Lometa has no intent of
18 consolidating with Lampasas.

19 Q. But you've never asked them?

20 A. I have not specifically asked Lometa to consolidate
21 with us.

22 Q. Okay.

23 A. I have -- let me back up, we -- I did -- we were in a
24 special ed. co-op with Copperas Cove and Gatesville
25 called the tri-city co-op in special education.

1 Copperas Cove was a physical agent. Copperas Cove
2 determined to dissolve that arrangement so that we
3 were essentially independent, and we could not
4 appropriately serve our special education needs and
5 Gatesville was some 45 miles through the country
6 away, so we could not continue to co-op.

7 It was at that time we did solicit Lometa
8 School District to join in with us in a co-op
9 arrangement. They were in a co-op with Hamilton.
10 They chose not to. And subsequent to that, we joined
11 in with Burnet and Marble Falls in a co-op. So we
12 did have one taste of consolidation with Lometa and
13 we were turned down.

14 Q. Okay. Now, let's talk about one other proffered
15 solution in this lawsuit. One of the things that
16 we've heard about is is that we don't increase the
17 level of state funding. That we simply increase the
18 level of the Foundation School Program, which yields
19 around \$2,400.00 for a basic education, not including
20 the weights, and we increase it up to \$3,400.00, as
21 an identified cost. But we don't increase the state
22 funding mechanism. We leave the absolute level of
23 the state funding and we make up that difference of a
24 thousand dollars by increasing the local fund
25 assignment. Now, that's not going to do your

1 district any good, is it?

2 A. No, that would do my district good. And I think
3 that's been shown as the local fund assignment has
4 increased, that's been beneficial to Lampasas without
5 doubt.

6 Q. Okay. Now, we're also forcing a tax rate increase of
7 78 cents for maintenance and operations.

8 A. I don't understand.

9 Q. Well, when we went -- you weren't here, but when we
10 went through the calculations, the only way that we
11 could do that would be to increase the tax rate to
12 fall -- your local fund assignment would go up to 78
13 cents. That's the mathematics of it if we did that.
14 That's what we worked through with Dr. Hooker.

15 MR. KAUFFMAN: Your Honor, I object again
16 to that characterization of Dr. Hooker's testimony.

17 MR. O'HANLON: Excuse me, it's Mr. Foster.

18 MR. KAUFFMAN: Okay. Well, anyway,
19 whichever one it was, I object to the
20 characterization of their testimony. If he wants to
21 use it as a hypothetical, he can certainly do that,
22 but I won't sit here and argue with him or have the
23 witness think that these are the facts in the record.

24 MR. O'HANLON: Well, he testified to it.
25 We sat down and calculated that. I can go back and

1 find the calculations.

2 THE COURT: Well, go ahead and put your
3 question and I'll -- go ahead and put your question.

4 BY MR. O'HANLON:

5 Q. This requires a 78 cent maintenance and operations
6 tax. Do you think the citizens in your district are
7 going to go for that? Now, we've got to add I&S on
8 top of it.

9 A. Of course, I'm really just not following this. I
10 don't know where you're coming from, but are you
11 saying that the state would be mandating this 78 cent
12 tax rate or, you know, that would have to be or I
13 don't -- in other words, my local fund assignment
14 increasing is a part of the whole minimum Foundation
15 Program, or Foundation School Program as we call it
16 and have called this small pod, as that increases,
17 then I would gladly contribute local fund assignment
18 to that because I receive more dividends than I do
19 output to the state for it to support that.

20 So, I'm really at a loss how that that would be
21 a detriment to our present situation in Lampasas, so
22 I don't understand how you would -- this 78 cent
23 figure.

24 Q. Well, I'm using a calculated figure that Dr. Foster
25 came up with with respect to -- or Mr. Foster came up

1 with with respect to what the local fund assignment
2 would have to be.

3 A. I just can't even relate to that. I'm sorry, but I
4 don't know what he was -- I don't understand what
5 you're dealing with here.

6 Q. Okay. Let me ask you one more question.

7 How much money would you raise right now in
8 your tax base if you were levying 78 cents per
9 hundred for maintenance and operations?

10 A. How much actual revenue?

11 Q. Yes, sir, including the state revenue?

12 A. That would bring in, oh, close to 200,000.

13 Q. In addition, how much is that -- how much per
14 student?

15 A. Well, that would be close to a hundred dollars,
16 \$90.00 to \$95.00 a student.

17 Q. Okay. And you're short -- and you said that would
18 make a lot of difference?

19 A. I said, you know, when you start talking about
20 differences, sometimes you say, well, a hundred
21 dollars does not seem like much. And I said that is
22 not inconsequential. That certainly does not solve
23 all of the problems in Lampasas. So, I would not say
24 it's substantial, but I would not say it is
25 inconsequential.

1 MR. O'HANLON: No further questions.

2 MR. TURNER: Pass the witness.

3 MS. MILFORD: Pass the witness.

4 MR. KAUFFMAN: Excuse me a second, Your
5 Honor.

6 MR. GRAY: No questions.

7 THE COURT: I have one or two.

8 EXAMINATION

9 BY THE COURT:

10 Q. When you worked for TEA, and you were going around
11 looking at other schools and school districts, when
12 you were talking about that part of your
13 qualifications, did I hear you say that there were
14 -- that during that couple of years you were looking at
15 other school districts, that you noticed differences
16 in curriculum? Did I hear you say that? Did you say
17 that?

18 A. Yes, sir.

19 Q. Tell me about that. If you can remember an
20 illustration or an example, tell me about that. If
21 you can't, that's okay. Then I've got some other
22 questions about the same thing.

23 A. I would have to probably answer that in general.
24 It's been a little too long, but in curriculum, when
25 you just find that, you know, this district does not

1 have any expanded or remedial, you know, curriculum
2 for their students.

3 Q. Okay. What do you mean expanded. See, I don't know
4 what you mean by that.

5 A. Well, expanded would be if you see the needs for your
6 students to have honors courses, or high academic
7 courses if you would want to call it that, or if you
8 see --

9 Q. Let's just take English.

10 A. Okay.

11 Q. What's an honors course in English like?

12 A. An honors course in English would have a much more
13 stringent curriculum designed to it that would
14 require substantially more students than your average
15 student in what you would classify as your regular
16 English course.

17 Q. Yeah. In other words, you might, instead of at a
18 regular English, instead of writing one essay, you
19 might have them write -- in an excellerated English
20 class, you might have them write three?

21 A. Yes, sir.

22 Q. You might spend more time on them teaching them how
23 to outline?

24 A. (Witness nodded head to the affirmative.)

25 Q. And you might go into poetry in more detail and that

1 sort of thing, is that the idea?

2 A. Absolutely. In other words, in your regular
3 program --

4 Q. Let me ask you this. Sorry to cut you off.

5 A. That's all right.

6 Q. Do you teach calculus in your high school?

7 A. No, sir.

8 Q. There are some high schools that do?

9 A. Yes, sir.

10 Q. Do you teach trigonometry?

11 A. Yes, sir.

12 Q. Solid geometry?

13 A. No, sir.

14 Q. Are there some high schools that do?

15 A. Yes, sir.

16 Q. What else do you not teach that other high schools do
17 that you know of in the math, science, or social
18 studies or languages, tell me?

19 A. Are you still talking about expanded or remedial?

20 Q. It doesn't make me any difference. Let's take
21 regular, and you can talk expanded, and we'll talk
22 remedial, too.

23 A. In basic classes, in your sciences and your social
24 studies, are classes that some schools have that I
25 don't have, which is on the other spectrum, and that

1 would be a class that recognizes that the students
2 that really are having difficulty in basic reading
3 skills are going to be having trouble with those
4 classes or math skills and science.

5 Your upper level, your expanded science, some
6 schools will go further in having advanced biology
7 and chemistry offerings, some have astrology.

8 I believe when I was in Mesquite, as an
9 example. I did go to Mesquite and I found an
10 example. And I attended their -- really, it's a
11 dome, indoor dome. And they have a multitude of
12 astrology courses, including their elementary
13 students are brought in. And that's an example of an
14 expanded curriculum that I thought was outstanding.

15 And I've known of other districts that have had
16 such things as that.

17 Q. Okay. Let me ask you this: Do you teach
18 foreign languages in your high school?

19 A. Yes, sir. Spanish and French.

20 Q. Spanish and French. Are there some high schools that
21 have German and Russian --

22 A. (Witness nodded head to the affirmative.)

23 Q. -- and Portuguese and such as that?

24 A. Well, I know there are some that have Russian and I
25 know there are some that have Latin --

1 Q. Yeah.

2 A. -- and some that have German.

3 Q. Do you teach Latin anywhere in your schools?

4 A. We were able to get Latin through the tie-in. I
5 mentioned the Texas Interactive Instructional Network,
6 which is a satellite system. We were able to get
7 that in one year to our students.

8 Q. But you don't have a Latin teacher?

9 A. No, sir.

10 Q. All right. And remedial, I take it, you have
11 remedial -- some districts have remedial programs in
12 grade schools, junior highs and high schools --

13 A. Yes, sir.

14 Q. Right?

15 A. Yes, sir.

16 Q. Do you have any remedial classes?

17 A. Essentially all of my remedial that I can think of
18 are federally funded programs that -- and they are
19 geared toward reading and math.

20 Q. Okay. But do other school districts have remedial
21 programs beyond reading and math?

22 A. Oh, yes.

23 Q. Give me an idea.

24 A. A real problem in high school is physical science,
25 and that's your first science that you take.

1 Q. Yeah.

2 A. And districts that -- I know of a number of districts
3 that would have a basic physical science class.
4 Physical science class covers very basic skills in
5 biology and chemistry and physics. And it really
6 can be -- it's a pretty difficult class, even though
7 it's a regular class. So some districts will provide
8 a basic skills class for that. That's the first
9 example that comes to my mind.

10 Then remedial classes for your students that
11 are having trouble passing the TABS or the TEAMS
12 tests, the basic skills test. Remedial -- we have
13 basic classes in English, so I shouldn't mention
14 that. Social studies would be the same thing.

15 Q. When you say social studies, what do you mean?

16 A. Social studies would be Texas history, American
17 history, world history.

18 Q. Okay.

19 A. The students having trouble reading, which all school
20 districts will have students that are having
21 difficulty in reading, and obviously you've
22 compounded that problem when they're taking social
23 studies and it requires a great deal of reading.

24 Q. Okay.

25 A. So in a basic skills course, in that area, you would

1 be emphasizing another style of learning, whether it
2 be a visual or oral or -- and you would de-emphasize
3 the necessity for those reading skills.

4 Q. Do some school districts have a variety of history
5 courses? I guess probably most of them have Texas
6 history and American history and U.S history, right?

7 A. They all have to have that.

8 Q. All right. I guess you have those, right?

9 A. I think that probably they do.

10 Q. Okay.

11 A. You know, there's some democracy -- problems in
12 democracy courses and things of that nature that
13 would be, you know, not required, but would be ideal.

14 Q. Do you have some of those?

15 A. No, sir.

16 Q. Okay. We talked about your expanded course
17 situation, what about your -- I still call it
18 vocational courses. I don't know if that's what you
19 call it or not. I mean metal shop, wood shop type,
20 do you have those things?

21 A. Yes, sir. We have an ICT program, a VOE program.

22 Q. Yeah, VOE.

23 A. And our programs, though -- and DE -- our programs
24 are geared toward the work place. We're very limited
25 as far as things -- well, we would like to, for

1 instance, have drafting; we would like to have auto
2 mechanics. We don't have those specific programs as
3 much as we've concentrated on taking the generic
4 vocational programs that will put the student in the
5 work place working with an employer. And that's been
6 our philosophy to maximize our, you know, resources
7 to the kids.

8 Q. Well, how come you don't have these expanded courses?
9 How come you don't have remedial courses? How come
10 you don't have physics and some of these more
11 advanced math courses --

12 A. Money.

13 Q. -- and these others do?

14 A. You have to -- you know, every time that you're doing
15 that, you're having to, again, get into this
16 priority decision-making which says, you know, when
17 you -- you either support it financially or you, you
18 know, or you line up your priorities. And that's
19 essentially what we've been doing.

20 Q. Okay. Has Lometa ever asked you all if you would
21 like to join up with them?

22 A. No, sir.

23 Q. Are there some people in your district that -- you
24 know, you can be satisfied out of ignorance or
25 satisfied out of choice. And I guess you could say

1 I'm satisfied with what goes on in the Austin
2 Independent School District because it would be so
3 out of ignorance because I don't know otherwise.

4 Do you have people in your district that are
5 satisfied with your schools because they don't know
6 what's going on in your school, they don't know what
7 your need is, or they don't know what's going on?

8 A. I would say probably every district has that. Some
9 are satisfied out of choice. They just want to, you
10 know, take care of their pocketbook.

11 Q. Yeah.

12 A. But there are others that probably -- and the problem
13 that you deal with is that when I went through school
14 in San Saba in the early '60s and I compare that to
15 what our kids are getting now, I'm pretty satisfied
16 in the sense that I see that education has come an
17 awful long way since that time.

18 However, as I look deeper into that, and I see
19 the gap between what's happening with my kids, my
20 personal kids, and what's happening in other school
21 districts that my kids are going to be in competition
22 today in this society, I'm not as satisfied.

23 So compared to what my experience level was, I
24 think, boy howdy, we're doing pretty good.

25 Q. Yeah.

1 A. And I think there's a certain satisfaction that comes
2 to particularly older people that look back and say,
3 "My lands, what are you gripping about? You've got
4 it better than we had it." And we do.

5 Q. Yeah. Well, do you have some people out there that
6 are not satisfied, I mean, other than yourself?

7 A. Yes, sir, I do.

8 Q. Okay. But then, of course, those who are not
9 satisfied have to spread the discontentment to the
10 others to get anything done. You know, I think
11 enough people have to be unsatisfied with the
12 situation in order for something to be done on a
13 local basis.

14 A. (Witness nodded head to the affirmative.)

15 Q. That's true on a statewide basis, I suppose, too.

16 A. I think so. And I think the people that are most
17 dissatisfied are the ones that are closest to the
18 educational process, and that's the parents and those
19 that, for whatever reason, they just keep themselves
20 involved. We have people that are, you know, just a
21 real benefit to the schools and they stay involved in
22 whatever way.

23 Q. Yeah.

24 A. And they're the ones that are constantly
25 asking, "Well, why can't we have it if somebody else

1 has it?" But they tend to be the ones that are
2 involved. The ones that are -- now, there's other
3 dissatisfaction and that is, you know, we're always
4 spending too much money. That's the other side of
5 the coin. And I think probably most people just have
6 a general sense of what's going on and a complacency
7 that comes with just thinking that "Well, we know the
8 board, we know the superintendent, we know the
9 people, and we think we're doing, you know, a pretty
10 good job."

11 Q. It's okay because it's ours, that sort of idea?

12 A. Uh-huh. That's the same problem I have and
13 frustration I have in testifying, because, you know,
14 Lampasas is my --

15 Q. Uh-huh.

16 A. I don't particularly like to talk about it in a
17 negative way. But I feel it's necessary to, you
18 know, to look to the needs of our kids in Lampasas.
19 And that's, to me, more important than just posturing
20 ourselves in some superficial way that "Well, we're
21 just doing a great job and everything is fine."

22 Q. Do you think that there are school districts where
23 there's a better general attitude -- let me not ask
24 it in a way to compare it with your district, but do
25 you think that there are school districts in Texas

1 where there's more uniform -- well, where there's
2 fairly uniform enthusiasm for the public schools and
3 a greater willingness to participate in the schools
4 and to be taxed so that there will be good schools.
5 Do you think that there are populations in various
6 school districts around the state that have, oh,
7 let's say, good attitudes in that regard?

8 A. I think there's no question that there is.

9 Q. Okay. Now so the question becomes, if there are
10 those that have good attitudes and those that don't,
11 I guess you could ask, well, how do you change
12 attitudes because I suppose attitudes would have to
13 be changed before you could have a willingness on the
14 part of citizens to tax themselves, huh, isn't that
15 right?

16 A. I think that's where you have to -- you know, that's
17 where I look to the broader picture and I say that if
18 I'm in an environment in Lampasas or anywhere
19 else where, you know, I have a smaller segment of my
20 population that has a real positive attitude, and
21 therefore, I'm having difficulty moving forward in
22 the interest of my kids versus this district where
23 the preponderance of people have a super attitude and
24 they just support everything with the schools, and
25 that's where I say that surely, there's a broader

1 picture that the state has in responsibility just to
2 say at least this child that is not able to, you
3 know, control the attitudes and management, the
4 amount of resources in that district, surely that
5 child, there is some vested interest that the state
6 as a whole has to at least say, "Let's have a basic
7 quality program for all of these kids." And then let
8 the attitude, you know, take care of the rest of it,
9 but at least give that child a, you know, an
10 environment where they're going to have an
11 opportunity, you know, to come out of that and be
12 more progressive and see a bigger picture than just
13 that, oh, repressed environment, if you want to call
14 it that.

15 THE COURT: Any more questions?

16 MR. O'HANLON: Judge, I've got a few to
17 follow up on your curriculum.

18 THE COURT: Okay.

19 FURTHER RECROSS EXAMINATION

20 BY MR. O'HANLON:

21 Q. Dr. Christian, I'm handing you now what's 21.101 of
22 the Texas Education Code. What is that?

23 A. Required curriculum.

24 Q. Okay. Could you read what is required in the State
25 of Texas under 21.101?

1 A. Do you want me to read all of this subchapter?

2 Q. Just the areas of study.

3 A. "Each school district that offers pre-kindergarten
4 through grade 12 shall offer a well balanced
5 curriculum that includes English, language arts,
6 other languages to the extent possible, mathematics,
7 science, health, physical education, fine arts,
8 social studies, economics with emphasis on free
9 enterprise system and benefits, business education,
10 vocation education, and Texas and United
11 States history as individual subjects and in reading
12 courses."

13 Q. Okay. Now, that statute is there because of House
14 Bill 246, isn't it?

15 A. No, sir.

16 Q. It is not?

17 A. The next paragraph says, "The State Board of
18 Education, by rules, shall designate subjects
19 comprising a well balanced curriculum to be offered
20 by a school district that does not offer
21 pre-kindergarten through grade 12."

22 I think that --

23 Q. That's 246.

24 A. As I know 246, it's much expanded over that.

25 Q. Okay. Now, what has happened, then, is that the

1 State Board of Education, as set forth there, has
2 defined in a very detailed manner something called
3 the essential elements, isn't that right?

4 A. In House Bill 246?

5 Q. No. Pursuant to their regulatory function, they've
6 set out a very -- Chapter 75 of --

7 A. Yes, it's very detailed and prescriptive.

8 Q. Okay. And it's very detailed and prescriptive both
9 in terms of scope and sequence --

10 A. Yes, sir.

11 Q. -- of the education.

12 A. Yes, sir.

13 Q. And it tells you -- it tells every district in the
14 state things that it's got to teach, the elements,
15 not only just that you have to teach American
16 history, but you have to teach certain phases of
17 American history and in a particular sequence.

18 A. Yes, sir.

19 Q. And all school districts in the state are required to
20 follow those rules and regulations.

21 A. Yes, sir.

22 Q. Okay. And that's Chapter 75 of the Education Agency
23 rules, right?

24 A. Yes, sir.

25 Q. And does your district follow Chapter 75?

1 A. Well, we're under that -- under the guidelines of
2 Chapter 75, but I would not say that we are in total
3 compliance with Chapter 75.

4 Q. You're doing the best you can to comply with Chapter
5 75?

6 A. I feel like we are.

7 Q. Okay. Now, when you say that you don't offer
8 remedial courses, there's a difference between
9 remedial courses and tutorials that you are required
10 as part of the Texas Education Law to offer in your
11 district, isn't that right?

12 A. The tutorial treatment that's mandated in the law
13 doesn't have really any definitions to it. So
14 tutorial treatment could take the form of a remedial
15 course.

16 Q. Okay.

17 A. In fact, that would be the best form of remediation
18 through the tutorials. But they could also take the
19 form of after school, extended day, summer school,
20 you know, other forms. Probably the remedial course
21 would be the best form, in my opinion.

22 Q. Okay. Well, but you can offer -- there's a
23 difference between a course called a credit course
24 that is offered for a grade and for graduation
25 requirements called remedial math and offering tutor

1 to help kids that happen to fall behind in a given
2 regular kind of math course?

3 A. You know, again, the tutorial could be -- take any
4 number of forms, and remedial course would be one of
5 those forms.

6 Q. Okay. Now, you're required to offer additional
7 help --

8 A. Yes, sir.

9 Q. -- to students that fall behind in your district?

10 A. Yes, sir.

11 Q. And does your district do that?

12 A. Yes, sir.

13 Q. Okay. And so regardless of whether we call it a
14 course or whether we call it tutoring before and
15 after school, there is help available in your
16 district, as in every district in the state that's in
17 compliance with the law, for kids that fall behind.

18 A. You have to qualify that. As an example, we provide
19 for after school tutorials in our school district and
20 we compensate teachers accordingly.

21 Q. Uh-huh.

22 A. Unfortunately, about a third of our students are bus
23 students that live in the country, and so, for those
24 students, there, they have very limited access to the
25 tutorial programs since they're riding the bus. And if

1 there's not a feasible way that they're able to get
2 transportation to and from school, and particularly
3 at the younger grades, then that's -- there's a very
4 limited opportunity.

5 So while we're providing, you know, tutorials
6 after school, unfortunately we have limited, you
7 know -- you know, participation, you know, depending
8 on the circumstances of the child.

9 Q. All the district can do is make it available and then
10 it's up to the parents to see that their kids happen
11 to go if they need the extra help.

12 A. Yes, sir.

13 Q. And your district makes it available.

14 A. We make it available.

15 Q. Okay. Now, compare that situation to the situation
16 -- that is a -- all of this is different from the time
17 that you were in the accreditation division of the
18 Texas Education Agency, isn't it?

19 A. Oh, yes.

20 Q. Okay. Before that time, we didn't have the mandates
21 of Chapter 75, correct?

22 A. Well --

23 Q. They weren't in the detail that they're in now?

24 A. No, that's correct.

25 Q. And there's a lot more lack of uniformity in the

1 state with respect to offerings and things of that
2 nature?

3 A. There's much less prescription from the state. Some
4 parts of that, of course, were in there, but the
5 prescription was much less than it is now.

6 Q. Okay. Is it fair to say that the state has gone a
7 long way in the last five years in requiring that
8 districts are essentially teaching the same things to
9 the kids within their district?

10 A. I think they've made some substantial progress.

11 Q. All right. Now, the fact that somebody may want to
12 teach astronomy, which isn't in the essential
13 elements, is something that if the district has the
14 ability, they can add on on top of what's already
15 there?

16 A. Well, I would add one thing to that, and that is
17 the state does define in that 246 and all of those
18 prescriptive measures what it calls available
19 courses. And it does have a list of all of these
20 available courses that can be taught in the public
21 schools that would meet the requirements of Chapter
22 75. Astronomy and, you know, marine science, and all
23 of these other things are listed as -- in those Chapter
24 75 provisions. Not as mandates, but courses that can
25 be taught in the schools.

1 And so, you have -- the discrepancy comes as
2 whether a school is able to go beyond what it's just
3 having to do or if it can reach out and pick these
4 others up. Astronomy is one of those that is
5 identified as an available course.

6 Q. Is it fair to say that as a school district, if you
7 taught the mandates of Chapter 75, that you would be
8 providing a pretty reasonable basic education right
9 now?

10 A. I would say if you provide all of the mandates of
11 Chapter 75 with reasonable effectiveness --

12 Q. Okay.

13 A. -- that you would have a reasonably good basic
14 educational program.

15 MR. O'HANLON: That's all I have.

16 MR. TURNER: Judge, just a couple of
17 questions.

18 RECROSS EXAMINATION

19 BY MR. TURNER:

20 Q. Dr. Christian, do you provide in your school
21 vocational education programs?

22 A. Yes, sir.

23 Q. Tell us what kind of vocational education courses and
24 programs that you offer?

25 A. We offer DE, VOE, ICT, vocational agriculture,

1 construction trades and building trades.

2 Q. And what are the courses offered in vocational
3 agriculture?

4 A. I'll have to pass on that. I don't know to the
5 extent of those offerings.

6 Q. You don't know how many courses in vocational ag.
7 you offer?

8 A. No, I don't. I know we have a pretty good program
9 of vocational ag., but the specific courses, my mind
10 can't recall those.

11 Q. Give me an example of one type of course you offer in
12 vocational ag.?

13 A. Well, I'm not an expert on vocational ag., so I'm
14 going to have to -- I can't remember the, you know,
15 the different terminology used for the various, you
16 know, courses in vocational ag.

17 Q. What kind of things do you teach in vocational ag.?

18 A. Well, we have all of the -- I don't know.

19 Q. What grades are offered courses in vocational ag.?

20 A. Nine through 12.

21 Q. So we know there's at least one vocational ag. course
22 offered at each grade level 9 through 12?

23 A. Oh, yes, we've got courses offered at all grade
24 levels in the high school.

25 Q. You recall, I'm sure, Dr. Christian, when the Select

1 Committee on Public Education was debating just prior
2 to the convening of the Legislature in 1984 and the
3 recommendation was made to eliminate any special
4 funding for vocational education, do you recall that?

5 A. I recall that.

6 Q. And did you favor or oppose that suggestion?

7 A. I opposed that.

8 Q. In terms of your course offerings in vocational ag.,
9 you know, I realize you can't recall or enumerate
10 them for us, would you say that you offer a much
11 broader range of vocational ag. courses than the
12 average school district in Texas or smaller offering
13 than average?

14 A. Not really being an expert in that, I don't know that
15 I could fairly compare it, but I would say that we do
16 have a pretty strong program, vocational agriculture,
17 because of the nature of our economy. We're a
18 ranching and farming community, so we have strong
19 support for the vocational ag. program, and I think
20 we have a very strong program. So I'd say we
21 probably are about like other people in our kind of
22 school system. I don't know how that would compare
23 with the metropolitan areas and that sort of thing.

24 Q. Do you know how many teachers you have assigned to
25 teach vocational ag. courses?

- 1 A. Two.
- 2 Q. And do you know how many courses they teach a day?
- 3 A. No, they -- you know, their courses are different
- 4 lengths, and so -- I know they teach a full schedule.
- 5 They teach the equivalent of five courses a day.
- 6 Q. So by looking at it from that perspective, would it
- 7 be fair to say that you have probably eight or ten
- 8 separate vocational ag. courses that are offered
- 9 through the high school curriculum?
- 10 A. I'd say that might be, you know, a little much
- 11 because they're different lengths, but that would be
- 12 a good approximation.
- 13 Q. And how many construction trades courses do you
- 14 offer?
- 15 A. I think that we offer two.
- 16 Q. And what are those in?
- 17 A. What are they in?
- 18 Q. Yeah, what course?
- 19 A. Construction trades.
- 20 Q. Just construction trades I and II?
- 21 A. Is the name of it, yes.
- 22 Q. And did you say building trades?
- 23 A. Building trades.
- 24 Q. And how many courses do you offer in building trades?
- 25 A. Building trades is different. I believe that we -- I

1 believe that we offer five courses there. The
2 construction trades is a two-hour block, if I recall.
3 I believe my building trades is -- excuse me,
4 building trades -- I've got that reversed. Building
5 trades is a two-hour block. The construction trades,
6 I believe, is on a period basis. I think we offer
7 five courses in that.

8 Q. In terms of what you believe to be a proper
9 educational curriculum in the Lampasas area, do you
10 believe that these courses that you've just talked to
11 in vocational ag., construction trade and building
12 trades are an essential and appropriate part of
13 providing education to the people in the Lampasas
14 district, the students in Lampasas?

15 A. I think they're a real asset. And obviously, the
16 vocational ag. courses particularly. The co-op
17 programs, I think, are good in the sense that they,
18 you know, give a rather broad flexible base to
19 student's experience level in the work force. The
20 building trades and construction trades, I think, you
21 know, serve a good purpose in that those students are
22 able to learn specific skills that, you know, I think
23 will be beneficial to them as they leave school.

24 Q. Your DE, and your VOE programs, and your ICT
25 programs, are those all programs where you send the

1 student out to work in the field with some local
2 business?

3 A. Yes, sir. There's a combination of class work and
4 the work in a business.

5 Q. And each of those, then, involve one class
6 in addition to the working for an employer --

7 A. Yes, sir.

8 Q. -- in the field?

9 A. Yes, sir.

10 Q. And are there DE courses offered at each grade level
11 in the high school, 9 through 12?

12 A. You're limited on that because you have to -- I think
13 your 11th and 12th graders are the ones that those
14 vocational programs are available to. And in some
15 cases, I think we have a preempted course. They're
16 not in the work force until the 11th grade, but I
17 think there is a preempted course for sophomores, but
18 they don't go into the work place until the 11th
19 grade.

20 Q. And when they're in DE in the 11th grade, are they
21 also in a class?

22 A. Yes, sir.

23 Q. So we have a class, one class at the sophomore level,
24 and one class at the junior level, and one class at
25 the senior level?

1 A. I believe that's correct.

2 Q. Perhaps we should -- I should ask you for the benefit
3 of the Court to tell us what DE stands for and what
4 it is?

5 A. Distributive education. And what it stands for?

6 Q. What does it do? What is the nature of that course?

7 A. Well, as I said, I'm not a vocational expert, so I
8 don't know, you know, all of the provisions for the
9 DE course, but, in effect, it's providing, you know,
10 an opportunity for students to actually be out in the
11 work place to learn the skills that, in general, that
12 go with being a good employee. It's not geared
13 specifically to a particular job as it is to learning
14 good employee skills for the later work place that
15 the children are going to be in or the students will
16 be in.

17 Q. Do you have one DE teacher --

18 A. Yes, sir.

19 Q. -- at Lampasas --

20 A. Yes, sir.

21 Q. -- that teaches all three of these courses --

22 A. Yes, sir.

23 Q. -- and also serves as the DE coordinator with the
24 employers?

25 A. Yes, sir.

1 Q. And what about VOE program, what does that stand for
2 and tell us what that is?

3 A. What is it, vocational office education, I believe,
4 and that is more geared toward the kind of -- oh,
5 skills that would be in the office place, whether it
6 be secretarial or bookkeeping or the like. And I
7 have one teacher for VOE programs.

8 Q. And is there a class offered both in sophomore,
9 junior and senior levels for VOE as in DE?

10 A. I believe so.

11 Q. And what does ICT stand for?

12 A. Beats me. I just --

13 Q. Well, if you can't think what it stands for, what
14 does it do? What is it?

15 A. ICT is geared toward more of the construction type
16 trades. And the students in that case would be
17 actually -- their work place would be construction
18 oriented, so a student might be into, you know,
19 working as a carpenter, or an electrician or actually
20 in the construction phase.

21 Q. Are there course offerings for ICT?

22 A. Yes, sir.

23 Q. Is there an ICT class in each --

24 A. I believe that's correct.

25 Q. -- of the three, sophomore, junior and senior levels?

1 A. I believe so.

2 Q. And do you have one teacher assigned to teach ICT at
3 all of those levels and also coordinate the
4 employment?

5 A. Yes, sir.

6 Q. And I believe I did not ask you how many teachers you
7 have engaged in teaching building trades?

8 A. One.

9 Q. And is there a separate teacher involved in teaching
10 construction trades?

11 A. Yes, sir.

12 Q. So let me be sure I have this correct. Let me review
13 this and you tell me if this is correct or not. You
14 have one DE teacher, one VOE teacher, one ICT
15 teacher, two vocational ag. teachers?

16 A. Yes, sir.

17 Q. Was that -- that teach those eight or ten courses?

18 A. Yes, sir.

19 Q. One construction trades teacher and one building
20 trades teacher?

21 A. Yes, sir.

22 Q. Are you required under the curriculum law or Chapter
23 75 to have any of these courses or are these options
24 at the local district level?

25 A. I don't know specific requirements that are in the

1 legislation. I know the funding for vocational
2 education is basically what we're tying our programs
3 to, the funding that we're getting to cover those
4 programs. I think we have some latitude and
5 flexibility as to what programs we will have. But as
6 far as what would be mandated, I'm not exactly sure
7 what the mandates would be.

8 Q. So, to your knowledge, there are no requirements that
9 you have these courses? These are by local choice?

10 A. As I said, I don't know what the mandates are. I
11 inherited that when I went to Lampasas, and my
12 experience level has essentially been what we had and
13 what was funded. We have continued to have, as we do
14 value that, we've had little -- the only change we've
15 had is the loss of this vocational counselor
16 position. Otherwise, we've been able to maintain our
17 program.

18 Q. Now, is the vocational counselor, is that in addition
19 to the teachers that you mentioned here, is that --

20 A. It was. It is no longer. That was a result of the
21 vocational fund cut back by the state. I believe it
22 was two years ago.

23 Q. All right. Are there any other personnel involved in
24 the Lampasas Independent School District in the
25 rendering of any of these vocational ag.,

1 construction trade, building trade, DE, VOE or ICT
2 programs other than the ones you've mentioned?

3 A. We have a vocational director that directs all of
4 those programs.

5 Q. And you're aware that there are school districts in
6 this state who have chosen not to have any of these
7 kinds of programs within their curriculum?

8 A. I don't know.

9 Q. You are aware that there's a wide variation in the
10 emphasis placed on vocational agriculture and these
11 other things across the state?

12 A. I'm sure of that, because I'm sure -- obviously, I
13 don't think there would be as much emphasis on
14 vocational agriculture in some places as there would
15 be in Lampasas, just as there wouldn't be as much
16 emphasis in Lampasas on other types of vocational
17 programs as in maybe a metropolitan area, so, I'm aware
18 of those kinds of variances.

19 Q. And I take it that your school board concurs with the
20 broad range of vocational courses that you offer there
21 in Lampasas and support it?

22 A. They're very supportive, yes.

23 Q. What kind of facilities do you have that are present
24 on properties of the Lampasas Independent School
25 District that are necessary and are present to render

1 these kind of courses or to teach these kind of
2 courses? You have vocational ag. buildings and that
3 kind of thing?

4 A. Well, your co-op programs are just located in regular
5 classrooms. And we do have a vocational ag. shop.
6 We have a building trades shop. We have assemblance
7 of a construction trade shop. It's very limited.

8 Q. What kind of equipment do you have in your ag. shop?

9 A. Oh, I think they've got welders and, oh, I'm out of
10 my league on this, but, you know, horse or cow pens
11 or things like that that they build. I don't know.
12 There's all kinds of paraphernalia out there. I don't
13 think I could -- probably a lot of them that I don't
14 even know the name of, so I'm not very familiar with
15 it.

16 Q. In your building trade shop, what kind of equipment
17 do you have in there?

18 A. Oh there you have all of your types of saws and
19 table saws, circular saws, band saws, and that type
20 of equipment.

21 Q. And your construction trades, what kind of equipment
22 do you have in that?

23 A. Well, it has some of the same. It's fairly limited.
24 But it would have some of the same kinds of
25 equipment.

1 Q. Dr. Christian, do you have --

2 A. Building trades is more geared toward, you know,
3 actually going out and constructing some facility,
4 going through that experience level. Construction
5 trades will be more in-house, working on things that
6 they're building within the shop.

7 Q. Is the ag. shop a separate -- ag. building a separate
8 building from the building trades building?

9 A. Actually, they're located in the same building.
10 They're connected with a little office between the
11 two.

12 Q. Is that the office that's occupied by the director of
13 vocational education?

14 A. No, that's the two vocational ag. teachers and the
15 building trades.

16 Q. Dr. Christian, does your school district have any
17 computers?

18 A. Yes.

19 Q. How many computers do y'all have?

20 A. Well, at high school, we have a 20 computer lab for
21 computer science. At middle school, we have -- I
22 think it's an approximate 15, I'd estimate 15 computer
23 lab or computer lit. at middle school. Other micros
24 in our district, I would estimate that we only have,
25 I believe, two at our primary school. At our

1 elementary school, we've got more. We've got -- with
2 the exception of 2nd grade, I think we have a micro
3 computer available for each teacher in the
4 elementary, that would be grades 3, 4 and 5.

5 Q. A computer for each teacher --

6 A. Yes, sir.

7 Q. -- in 3, 4 and 5?

8 A. For each classroom.

9 Q. Each classroom. Which would be how many computers?

10 A. Oh, that would be about 20, 21, 22.

11 Q. Dr. Christian, we've talked a moment ago about
12 priorities. I take it, then, that you believe that
13 the current curriculum that you offer in vocational
14 courses is appropriate to the needs of the
15 people in your area and the students in your area?

16 A. I believe that I said there are other things that I
17 would like to have such as drafting and auto
18 mechanics that I think would be very good for our
19 students, but I think that, you know, with the
20 limitations we have on funding, I think what we're
21 doing is very appropriate.

22 Q. Do you have plans to add those courses?

23 A. No, sir.

24 Q. I take it that if you were to go to your school
25 board's next meeting and suggest that they need

1 to re-allocate some resources and beef up that
2 science and math academic area that you see a need
3 in, and perhaps reconsider the allocation of seven
4 teachers to vocational ag., and the allocation of
5 funds that have been expended over the last few years
6 for those ag. shops and those equipment that supports
7 that program, they wouldn't probably look too
8 favorably on the suggestion that you make that kind
9 of change at this time, would they?

10 A. I would say that the very fact that we have those
11 vocational programs in place is pretty well spoken.
12 They have over time lined out their priorities to
13 address both of those needs as best they feel like
14 they can. I don't know that the needs that we have
15 in math and science would, you know, would jeopardize
16 what we're doing in vocational programs. In other
17 words, I think that that priority has pretty well
18 been determined through the history of how those
19 programs have developed.

20 Q. Did I hear you say that your needs in math and science
21 would not jeopardize the priorities in these other
22 areas?

23 A. I would say that, you know, the district is going
24 about as far in math and science as they feel like
25 they're going in vocational programs. You know,

1 they're trying to meet the needs of their students in
2 both programs as best they can. I don't know that
3 they would, you know -- and I think that through
4 history that that has shown that they feel like that
5 they are giving appropriate emphasis to the best of
6 their ability to both sets of programs.

7 And if your question was leading up to whether,
8 well, we'll beef up the math and science at the
9 expense of the vocational, I think that's been spoken
10 to in saying that they're trying to do the best
11 they can with both.

12 Q. Dr. Christian, what accounts for the fact that you've
13 done such a good job in placing computers at the
14 disposal of your students? Have you emphasized that?

15 A. I'm not proud of the job that I've done with that. I
16 don't know if you'd consider that to be, you know, a
17 good place in the computers. I think that we have
18 made, of course, an effort toward that. I think
19 we've got, you know, extended needs in computer
20 awareness and abilities with our kids, so I think
21 we're marginal in that.

22 I think that as far as at the high school and
23 at the middle school, we have a lab, separate and
24 apart from that lab to teach the computer lit. and
25 computer science. We're out as far as other

1 available uses of the computer for classroom use.

2 At the elementary level, I have managed to get
3 computers for my 3rd, 4th and 5th grade teachers.
4 There's one computer for the students, about 27
5 students in the class. So there's a limited use with
6 that.

7 And then I don't have but, I think, two
8 computers at the primary school. So we're still
9 lacking there.

10 I know one district that I saw that implemented
11 the writing -- what is it, the -- oh, writing to read
12 program, I think it's called, that I'd dearly love to
13 have, but you've got to have, you know, quite a bit
14 of resources to pull something like that off. It's
15 pretty expensive.

16 I don't think that we're doing that good of a
17 job. I think we're just making a stab right now, but
18 we've still got a long way to go with computers. So
19 I do not call what I described as doing a good job in
20 providing computer resources to our students.

21 Q. There are districts, are there not, that have a lot
22 less, though, and have not even provided them down in
23 those elementary grade levels as you have?

24 A. I would hope not, but I'm sure there probably are.

25 I'm also aware that there are a lot of

1 districts that had a whole lot more of that a lot
2 faster than I did.

3 Q. All right. Again, I want to ask you now that we've
4 discussed this vocational courses, if you can recall
5 any of the type of courses that are offered in
6 vocational ag.?

7 A. I've answered that, I thought. I'm sorry, I just
8 don't -- I never have really been an expert in
9 vocational programs. I'm not trying to be evasive.
10 I think that we've got a very good vocational ag.
11 program. I'm just not tuned into what all of those
12 offerings are and my vocational director is. And so
13 I just don't know the answer.

14 MR. TURNER: I'll pass the witness.

15 RECROSS EXAMINATION

16 BY MS. MILFORD:

17 Q. Dr. Christian, in addition to these vocational ag.
18 courses that you've described, are there any other
19 courses that are not required by the state curriculum
20 minimum requirements that you offer in addition to
21 these in the fine arts area, the phys. ed. area,
22 anything like that that you can think of?

23 A. Of course, fine arts is a requirement.

24 Q. But there's a minimum amount of it and you offer in
25 addition. Is something offered -- any courses

1 offered in addition to the minimum state requirements
2 in any of the areas?

3 A. You know, I would have to review that. I don't know
4 that I've reviewed those mandates. I offer band,
5 choir, art, drama as fine arts. Those are my four
6 fine arts offerings at high school. As to the
7 specifics of the mandates in the law on those, I'm not
8 sure if --

9 Q. Are all four of those required?

10 A. That's what I'm saying, I don't know. I haven't
11 reviewed the mandates on that.

12 Q. Could I suggest to you that only one or two of those
13 courses is required and two of them are additional to
14 the state mandated ones?

15 A. You could do that.

16 Q. Does that sound reasonable to you? Does my
17 suggestion sound reasonable to you, Dr. Christian?

18 A. Wouldn't sound reasonable for me to delete any of
19 those fine art courses, however. But as far as the
20 mandates go, that might be true that we're only mandated
21 a couple.

22 Q. Why wouldn't it sound reasonable to delete any of
23 those courses?

24 A. I think all of those courses are a tremendous need to
25 the young people.

1 Well, I'll give you an example. I went to San
2 Saba High School and we didn't have a choir. And I
3 happen to be musically oriented, so I could cry to you
4 today and say that I may have been another Mozart if I
5 would have had an opportunity. Would that be fair
6 enough?

7 Fortunately, my son is now a junior at Abilene
8 Christian. He's going to be a band director, and I'm
9 proud of that.

10 You know, we didn't have a choir. I think
11 that's a shame that a student that would have an
12 aptitude toward that would not have an available
13 means of, you know, pursuing that in a high school
14 education.

15 Q. Would you trade any of these courses that you've just
16 mentioned or your vocational or your agricultural
17 courses for your astronomy course that you've
18 mentioned that's given in Mesquite?

19 A. Well, we would just have to look at that, and I would
20 say probably not.

21 Q. You don't think that you might have a young Galileo
22 out there?

23 A. I probably do.

24 MR. KAUFFMAN: Are you going to give him
25 the planetarium?

1 BY MS. MILFORD:

2 Q. Would it be fair to characterize your school
3 districts and the courses that it offers as offering
4 the state required basic minimum curriculum and then
5 a percentage over and above that, say 15, 20, 25, 30,
6 whatever it turns out to be, of courses that are not
7 required that are above and beyond the state minimum
8 that are tailored solely to the needs of your
9 district? Would that be a characterization of your
10 school district?

11 A. No. They're, in fact, courses that I need -- I'm
12 mandated to offer that I'm not. And I doubt that
13 there's that many courses that I'm offering that are
14 not mandates. So I would have a hesitancy to agree
15 with that.

16 Q. But the courses that you're offering that are not
17 mandates are tailored to the needs of your district
18 in particular, are they not?

19 A. Well, I wouldn't go that far. I would say that
20 obviously, we have valued those courses or we wouldn't
21 have those courses in the curriculum.

22 But to say they're tailored to our needs, I
23 would say that, you know, those needs are more
24 expansive than, you know, all that we're offering,
25 so --

1 Q. But it's what the people in your district want, isn't
2 it?

3 A. Oh, I'd say in every district that pretty well the
4 schools are going to reflect the values of that
5 community.

6 MS. MILFORD: No further questions.

7 MR. GRAY: Just one or two questions, Your
8 Honor.

9 REDIRECT EXAMINATION

10 BY MR. GRAY:

11 Q. Mr. Christian, on this whole area of vocational
12 education, it is part of the state funding formula,
13 right?

14 A. Yes, sir.

15 Q. Do you spend any money for vocational education over
16 and above that which the state provides for Lampasas
17 for vocational education?

18 A. You know, that varies from year to year. It depends
19 on the funding. But in general, no.

20 The year that I was cut in funding, I sought to
21 reassign my vocational counselor into the DE
22 position, and it took me a year to do that. So for
23 that year, I did fund in excess of that. But then I
24 came back under -- when that position was eliminated,
25 then I was back under the funding from the state.

1 Q. So in general then, the funds that you spend on
2 vocational education within your district are funds
3 that are provided for vocational education through
4 the state formula?

5 A. I have not reviewed that lately and so I'm a little
6 hesitate, but I think that we're in line with the
7 state funding that we get on vocational education.

8 MR. GRAY: I have no further questions.

9 THE COURT: All right, sir. May he be
10 excused?

11 MR. O'HANLON: Yes, sir.

12 MR. GRAY: Yes, sir.

13 (Witness excused.)

14 THE COURT: May I be excused until five
15 till?

16 (Short recess)

17 THE COURT: All right, sir.

18 MR. O'HANLON: Judge, while the witness is
19 coming in, I would request that the Court take
20 judicial notice of 19 TAC, Chapter 75. And we'll
21 provide copies tomorrow for counsel and for the
22 Court. And that the Lampasas Independent School
23 District offers more vocational ag. courses than the
24 Highland Park Independent School District.

25 MR. GRAY: I can't say what Highland Park

1 offered recently, but I suspect that's probably true.

2 We were commenting during break that Lampasas
3 offers auto mechanics and Highland Park offers how to
4 choose an auto mechanic.

5 MR. O'HANLON: As well as -- that includes
6 negotiating techniques.

7 MR. GRAY: Your Honor, at this time, we
8 would call Mrs. Libby Lancaster.

9 MRS. LIBBY LANCASTER
10 was called as a witness, and after having been first duly
11 sworn, testified as follows, to-wit:

12 DIRECT EXAMINATION

13 BY MR. GRAY:

14 Q. Would you state your full name, please, ma'am?

15 A. Libby Lancaster.

16 Q. And Mrs. Lancaster, where do you live?

17 A. Lampasas.

18 Q. And how long have you lived in Lampasas?

19 A. Since 1971.

20 Q. And I assume living in Lampasas, that puts you within
21 the borders of the Lampasas Independent School
22 District?

23 A. Right.

24 Q. Are you a mother?

25 A. Yes.

1 Q. How many children do you have?

2 A. I have three children.

3 Q. Can you give me their names and ages, please, ma'am?

4 A. Clint, he's 13; Lyndsay, she is nine; and Britt, he
5 is seven.

6 Q. Are they currently enrolled in the public schools in
7 the Lampasas Independent School District?

8 A. Yes.

9 Q. And if you would, tell me what grade each of your
10 three children currently is involved or enrolled in
11 in Lampasas?

12 A. Okay, Clint goes to the Lampasas Middle School; he's
13 in the 7th grade. Lyndsay is in the West Oaks
14 Elementary School; she's in the 4th grade. And Britt
15 is also in West Oaks; and he's in the 2nd grade.

16 Q. As a parent of children in the Lampasas Independent
17 School District, do you take it upon yourself to
18 involve yourself in any form or fashion in the
19 activities of the schools or in support of the
20 schools in the Lampasas School District?

21 A. Yes, I do.

22 Q. Tell us what activities you involve yourself in and
23 what you do to aid and support the schools?

24 A. We support each one of our children in whatever
25 activity they, you know, tend to pursue. As far as

1 the rest of it, actual with the child in an overall
2 aspect, I'm president of the PTSO in Lampasas, which
3 is a parent/teacher/student organization. And we
4 have fund raisers such as a Halloween carnival in the
5 fall which brings in money that we go and turn it
6 back into the school system. PTSO every year helps
7 to sponsor the honors banquet, which we feel is --

8 Q. I'm going to ask you about the activities of the PTSO
9 in a second.

10 A. Okay.

11 Q. First, tell me, do you feel that you have a -- as far
12 as parents of children, do you have a large number of
13 parents of children who attend the Lampasas School
14 District who involve themselves in the PTSO?

15 A. Yes.

16 Q. Do you feel that the parents of children that live in
17 Lampasas are generally concerned about the education
18 and the educational opportunities that their children
19 receive?

20 A. Yes.

21 Q. Now, tell us about the efforts of the parents of
22 children, like yourself, through the PTSO, to foster
23 to the schools or aid the schools. Just tell us, in
24 general, what the PTSO does in that regard?

25 A. Well, like --

1 Q. You mentioned the Halloween --

2 A. Right. The Halloween carnival. This year, we
3 brought in -- I believe, like \$5,000.00 or \$6,000.00
4 from the Halloween carninal.

5 Q. Tell me about the Halloween carnival, what is it?

6 A. Okay. This is an event that we have in the fall and
7 it's -- it's our main fund raiser, actually, because
8 we have been real fortunate to bring in a lot of
9 money. Each grade has booths that they -- like 1st
10 grade might have a fishing booth, you know, where you
11 go through the line over there and you get a little
12 prize, you pay a ticket. Okay, we sell tickets to
13 the students before and that also generates extra
14 sales because some of those kids aren't going to get
15 to come or they'll get sick or something. Anyway,
16 each class is responsible for an activity. The
17 parents run the booth.

18 Q. Do the parents volunteer their time and energies and
19 whatever to put on this carnival?

20 A. Yes. In calling for representatives at the first of
21 the year, I've had some parents say, "Hey, I cannot
22 be an actual representative," because they work. We
23 have a lot of working mothers, especially in
24 Lampasas. And they say, "I would be glad to help,
25 anything, after school hours and on weekends." And

1 that's where we get a lot of support. And they're
2 there -- we couldn't put on the carnival if it wasn't
3 for the parents.

4 Q. Do you find that even in instances where you have two
5 -- both spouses working so they don't have time during
6 the school day to spend time, does that situation --
7 do they generally show up at nights or weekends to
8 help on the carnival?

9 A. Yes.

10 Q. Tell me how long has this fund raising event,
11 carnival been going on or do you know?

12 A. Since my mother started it in about 1976.

13 Q. I take it, then, that you, too, were a product of the
14 Lampasas schools?

15 A. Uh-huh.

16 Q. The proceeds that the carnival raises, are they
17 dedicated to any particular purpose or how do those
18 -- what do you do with the money the carnival makes?

19 A. Okay. Each year we help to sponsor the honors
20 banquet.

21 Q. What is the honors banquet?

22 A. Oh, in the spring, we have a banquet which honors all
23 of our honor students, those that have made 90
24 average for their whole high school 9th through 12th
25 grades. Really, there's a lot of people that feel

1 really strong about this. This is great. These kids
2 need to be honored, you know. To hold that for four
3 years, that's really great, especially those kids
4 that are taking tougher courses. So we feel that
5 that's something that we need to do.

6 In the middle school last year, we provided
7 \$350.00 for a sesquicentennial pageant, which was
8 excellent and the kids really enjoyed putting it on.
9 It was well attended by the community. It was just
10 real good. We feel like they could not have done
11 that without our support. They came to us for it,
12 and we said, "Sure, you need it, we've got it to
13 give."

14 Q. Who came to you for that support?

15 A. The teacher that was in charge of it in the middle
16 school.

17 Q. And the teacher that was in charge of the project of
18 middle school came to PTSO for the financial
19 assistance to sponsor the pageant?

20 A. Yes.

21 Q. What other activities besides the honors banquet and
22 this sesquicentennial pageant does the PTA or PTSO
23 sponsor through its fund raising activities?

24 A. Each year the 5th grade at West Oaks goes to LBJ on a
25 field trip and we provide the transportation for

1 that.

2 Q. You say goes to LBJ. Is that here in Austin, the
3 library?

4 A. No, sir, to the ranch.

5 Q. Okay.

6 A. I have not actually been on that trip, but I have one
7 child that has been on it and thoroughly enjoyed it.
8 I mean, he took tons of pictures of the same thing,
9 it seemed like. But he really enjoyed it.

10 The kids look forward to it every year. And
11 I've had kids come up and say, "Are we going to LBJ?
12 Are we going to LBJ?" And, you know, I say, "Yes,
13 you're going. The teachers are already making
14 preparations for it." So this is something they look
15 forward to. And I feel that it's important for them
16 to get out of Lampasas to see -- this is a historical
17 place, you know, one of the presidents lived there.
18 I want to go there, myself, and I just haven't gone.

19 This year, we have decided to update our
20 playgrounds. We decided to do this. Usually we
21 would bring in the Zachary Scott Theatre and have
22 several theater productions brought to the children.
23 A lot of these kids, you know, will never see an
24 actual play in their whole life. We don't even have
25 a theater in Lampasas, so they're pretty limited.

1 That was really good, but this year, we said,
2 "Hey, we went to do something for the community, for
3 the kids that will be a lasting thing." And we looked
4 at our playgrounds. Our playgrounds were the
5 absolute pits. They were health hazards. So we had
6 Dr. Frost (Phon.) from Austin come and he looked at
7 our playgrounds and he gave us diagrams of how we
8 could improve, things that we could do, equipment
9 that would stimulate the children, their motor
10 activities and, you know, just make for better
11 playgrounds. So we're looking at \$15,000.00 spent
12 there.

13 Q. Tell me about the plays, the Zachary Scott Theatre
14 plays that have been brought in in the past. And I
15 believe you said Lampasas has no theater, so I take
16 it that without the plays being brought in, there's
17 no -- are there theatrical companies that bring in
18 plays if you don't bring them in?

19 A. No, sir.

20 Q. Does the school bring them in if PTSO doesn't bring
21 them in?

22 A. No, sir.

23 Q. Where are these plays put on? Where do you have
24 them?

25 A. They've been put on in the high school

1 auditorium/campus area type thing.

2 Q. And what was the purpose of -- or what is the purpose
3 of your bringing the plays, the Zachary Scott Theatre
4 to Lampasas to present these plays to the children?

5 A. Well, I feel like the purpose is -- well, first of
6 all, it provides -- it isn't entertainment for them,
7 but this is an entertainment that they won't get to
8 participate in very much. It's a real neat
9 experience to sit down and to see somebody come out
10 and act it live as opposed to sitting down and maybe
11 seeing the same thing on TV. It's a cultural
12 stimulation for them. It's just something that I
13 feel like is a really neat thing to experience for
14 the kids.

15 Q. Now, on the playground, how did you come to make the
16 decision or how did the PTSO come to make the
17 decision to, this year, inject funds into the
18 playground?

19 A. Well, like I said, the equipment was bad. There were
20 swings that were not swings. There was the bar with
21 no swings. There were things that needed to be
22 repaired. The ground was -- when it rained, it was
23 very muddy. It had like pot holes in it so that it
24 just accumulated the water. You couldn't go out for
25 two or three days after it rained because it was just

1 too muddy.

2 So at the primary, what they've done is they've
3 brought in pea gravel to the actual area of where the
4 equipment is and they've put this pea gravel there so
5 the kids can play, when it rains. You know, if it
6 rains that morning and the sun comes out and it's
7 been beautiful all day, they can go out in the
8 afternoon and play. There's no mud and no mess. And
9 I have heard that the teachers and the kids love it.
10 They think it's great.

11 Q. How long have you been president of the PTSO?

12 A. Since -- we elect our officers in April, and the
13 president takes over in May, so it would be May of
14 '86 and I will go out in April.

15 Q. Had you been an officer of the PTSO before you were
16 president?

17 A. Yes.

18 Q. How long have you been active -- I guess, is a better
19 way of putting it -- in the PTSO?

20 A. I would say about the last three years. I really
21 haven't been as active as I should have been, but I'm
22 getting in there, I'm making up for lost ground.

23 Q. Based upon your activities and your involvement in
24 the PTSO, are you in a position to characterize the
25 interest level, so to speak, of the parents of

1 children who attend the Lampasas schools?

2 A. Uh-huh.

3 Q. Do you think that the children or the parents of
4 children that attend the Lampasas schools have any
5 less care or less interest in their children's well
6 being than children who may attend or parents of
7 children who may attend a more affluent school
8 system?

9 A. No.

10 Q. Tell me a little bit about -- and the Judge has
11 probably heard a good bit of this, so I don't want to
12 belabor it -- a little bit about the makeup of the
13 Lampasas community. What kind of people do you have
14 living in Lampasas?

15 A. We have a lot of retired, 65 or older, ranching,
16 farming. We have a lot of welfare-type situations,
17 you know. We have a lot of either one-parent
18 households or situations, you know, like either
19 divorce or situations where there is -- there's the
20 mother and, you know, it's just always been the
21 mother. There's not really any big industry in
22 Lampasas. Those workers that we do have, we have a
23 lot of construction workers, you know, people,
24 air-conditioning, plumbing, you know, house building,
25 that type of thing. We have regular retail

1 merchants, you know, shopkeepers, things like that.

2 Q. On an economic basis, would you characterize Lampasas
3 as a wealthy or not wealthy community?

4 A. Not wealthy.

5 Q. As far as the educational attainment level of the
6 parents, is it generally -- does Lampasas -- is it
7 generally characterized as a community with a large
8 degree of college educated parents or not so?

9 A. Well, I'd say about half and half, probably more on
10 the not so college education, you know. We have a
11 lot of people -- a lot of kids after they graduate
12 Lampasas, you know, they want to get out of Lampasas
13 because it's just a very slow, laid-back town.

14 After they go get their educations, their
15 college educations and all this, and they start to
16 have a family and they've lived in the bigger city,
17 you know, maybe they would come back to Lampasas.
18 And then they bring their education back with them.
19 But I know a lot of people that stay and a lot of
20 people that just go into farming and ranching.

21 Q. As a parent of three children, I take it you have
22 some hopes and aspirations for the educational
23 attainment of your children?

24 A. Yes, I do.

25 Q. Tell us what those are, if you will?

1 A. Well, I want my kids to get the best education they
2 can get, you know, just like any other parent. I'd
3 love to see my kids be, you know, the top student in
4 their class. I realize that every child is
5 different.

6 My oldest son has a talent for art. He loves
7 sports. I would say he's your above-average student.
8 But my son's future, I feel, is going to lie in art.
9 And, you know, maybe it's architecture, drafting or
10 engineering. He has a very acute sense of detail
11 when he draws, just -- I mean it just amazes me.
12 He's had it ever since he was tiny. I would like for
13 him to have courses where he could stimulate this.
14 You know, I would love to see that for him. I want
15 to see him have a, just a great education. I want to
16 see him go somewhere in life.

17 My daughter, you know, I would like the same
18 for her. Nowadays, girls don't go to high school,
19 (sic.) you know. There are a lot of girls that do go
20 to high school and get married, you know, and they
21 have children, they stay at home. But in today's
22 society, girls have to worry about a job because in
23 most households, you have both working parents. She
24 will need something to fall back on. She may not
25 marry. If she doesn't, she needs to have something

1 that she can do to provide an income for herself.

2 And the same for my other son.

3 Q. There's been a lot of talk about the broad array of
4 courses that some schools can offer and do offer
5 compared to other schools. And during break, I asked
6 you to go look at Chapter 75 of the Education Code to
7 see the wide array of courses that some schools
8 indeed are offering. Did you do that?

9 A. Yes, I was amazed.

10 Q. Tell me -- well, one, explain why were you amazed?

11 A. Well, when I looked at that list, I just can't
12 believe that high schools offer that to their kids.
13 I mean, that's great. You know, some of these things
14 I didn't hear about until like, you know, college
15 level. Like your aeronautics, your drafting, your
16 engineering, physiology and anatomy, criminology.
17 You know, to me, that's definitely an advanced study.
18 That's something that I can see if some kids would
19 get ahold of that in high school, that would
20 definitely interest them. You know, that might make
21 a change in their life as to, you know, hey, this is
22 what I'm going to be. This is great stuff. And I'm
23 really amazed at the aeronautics, offering that, and
24 aerospace in high school.

25 Q. On any of the courses that you, when you were

1 reviewing Chapter 75 that struck you as really
2 superb, really stimulating -- attention stimulating
3 to the students and whatever, are you aware of
4 whether or not your school district, Lampasas, does
5 it offer any of those courses that you saw that you
6 thought were particularly stimulating?

7 A. No, it doesn't.

8 Q. You mentioned your eldest son, Clint, being very
9 detailed in his drawing and it was your thinking that
10 his future lies in drafting and engineering or
11 something along those lines. Do you have any feel
12 for whether or not the curriculum that Lampasas
13 School District is able to offer will provide him any
14 assistance in reaching that goal if that, in fact, is
15 a goal he wants to pursue?

16 A. Right now if he wanted to pursue that, there's just
17 nothing there.

18 Q. Do you have a feeling or an opinion as to whether or
19 not the Lampasas School District today is providing
20 the kind of educational opportunities to your
21 children that you, as a parent, would like to see
22 them have?

23 A. No, I don't.

24 Q. And why don't you -- why do you not think so?

25 A. Well, today's society is so much more demanding.

1 When I went to school, I didn't learn the things that
2 my children are learning at their particular grade
3 levels. My 2nd grade son brought home some papers
4 for homework, four pages of math homework, and I was
5 really, you know, amazed that he was learning that
6 much on the 2nd grade level.

7 In the 7th grade level where Clint is, you
8 know, I'm just amazed at the things they're learning.
9 He had a computer literacy class this semester, and,
10 you know, that's computers. I hadn't even heard of
11 computers when I was in school. And, you know, if
12 you were to take -- just have a time warp and bring
13 these people back or, you know, to put me in
14 situations of schools now, it would be tough. You
15 know, it's really demanding for the kids.

16 There are children that need to be stimulated.
17 There are -- and there's, you know, there's other
18 courses that they could take to -- for the
19 stimulation. There's -- oh, it's just on and on and
20 on, you know. A basic education, that's a relative
21 term. You know, Abraham Lincoln got a basic
22 education, but if you were to put him in today's
23 society, he could do anything.

24 Q. Do you have a feeling -- well, first, have you lived
25 outside of Lampasas?

1 A. Yes, I have.

2 Q. You told me last evening when we met that you grew up
3 in a military family and had, because of that,
4 traveled a good bit, correct?

5 A. Uh-huh.

6 Q. And consequently, you either luckily or unluckily, I
7 guess, had your horizons somewhat expanded just
8 because your family was moving from one area to
9 another as your father was transferred in the
10 military, correct?

11 A. Right.

12 Q. Do you feel that your kids, today, as they attend the
13 Lampasas schools, are their horizons being expanded
14 beyond Lampasas?

15 A. No.

16 Q. As a parent, would you hope and desire that their
17 horizons would be expanded beyond Lampasas?

18 A. Yes.

19 Q. I don't mean to put down Lampasas, but --

20 A. Right. Well, I think they need to be expanded.

21 Q. And why do you say that?

22 A. Well, my children aren't going to be in Lampasas
23 probably all of their life. There is so much out
24 there. When they do go to college, you know, they
25 get a quote, "basic education." And when they go to

1 school, like Dr. Christian said, if you put a child
2 with a basic education that just had the bare
3 necessities in school up against somebody that had
4 all of these great courses, that excelled in these
5 courses, you know, that person with a basic education
6 is just not going to quite cut it as compared to the
7 other person. They're going to be so much more
8 ahead.

9 You know, there's kids that have had courses in
10 high school and so many of these courses that were
11 stimulating and they excelled in them, when they went
12 to college, when they do take their entrance exams or
13 whatever, they're not going to have to start down at
14 the bottom. They're already at the top because
15 they've had so much more than kids with a basic
16 education.

17 Q. Do you and your husband, do you own property in
18 Lampasas?

19 A. Yes, we do.

20 Q. Do you pay taxes in Lampasas?

21 A. Yes, we do.

22 Q. I've had occasion to go over with you, have I not,
23 how your tax rate in Lampasas compares to the state
24 as a whole?

25 A. Yes.

1 Q. And I've also had a chance to go over with you, have
2 I not, how the expenditure level on the children that
3 attend Lampasas schools, how that compares with the
4 expenditure level of children on average in the state
5 as a whole, have I not?

6 A. Right.

7 Q. Suffice it to say because it's already in evidence,
8 that your tax rate is higher on average than the
9 state as a whole. Do you believe that the -- you, as
10 a taxpayer and as a parent, are willing to pay a tax
11 rate higher than the state as the state's average?

12 A. We're paying higher than the state's average and, you
13 know, that's -- I'm willing to pay that if that's
14 what it takes.

15 Q. Do you believe that's indicative of the support your
16 community has for education in the Lampasas School
17 District?

18 A. Yes.

19 Q. As a taxpayer, how does -- well, let me ask you two
20 questions in two capacities, one as a parent.

21 As a parent, how do you react to the situation
22 that we're talking about, that you pay higher taxes
23 than the state as a whole and yet that results in
24 less money being spent on your children than on
25 average as the state as a whole. As a parent, how

1 does that make you feel?

2 A. Well, it just doesn't seem fair. You know, you want
3 to get the most for your dollar. And in this
4 situation, you're not, you know, you're doing the
5 best you can. And it's just not quite cutting it.

6 Q. Do you think that knowing as a parent that less money
7 is being spent on your three children, say, for
8 example, than some average parent out there who may
9 have three children who -- they're just getting the
10 state average spent on them? Do you think that is
11 fair to your kids?

12 A. Now, run that by me again, sorry.

13 Q. Sure. That was a convoluted question, I'm sorry.

14 Do you think it's fair to your kids that less
15 money is getting spent on them, given the fact that
16 the community is taxing higher than the state
17 average, than is being spent on the average child in
18 this state?

19 A. It's not fair.

20 Q. As a taxpayer, how do you react when I tell you that
21 the facts are you tax at a higher rate than the state
22 average and yet that results in less money being able
23 to be spent on the children of those taxpayers in
24 Lampasas?

25 A. That just doesn't seem right.

- 1 Q. Do you think that the citizens of Lampasas, if they
2 were given an opportunity to join in a larger
3 district for purposes of leveling off property values
4 -- in other words, to make up some of this property
5 disparity that you have, that we see in the state
6 with some districts being very wealthy and others
7 being very poor -- for revenue raising purposes, do
8 you think the citizens of Lampasas would object to a
9 situation where your tax office or whatever, may not
10 be directly in Lampasas, but may be some place else
11 because you would be in a much larger district, not
12 for operations, but for revenue generating purposes?
- 13 A. You know, I think we would be willing to look at
14 whatever would solve the problem. If that's what it
15 would take, you know, then, you know, we would try to
16 do the best we could.
- 17 Q. Do you --
- 18 A. Excuse me.
- 19 Q. You're free to finish.
- 20 A. Well, you know, I just don't really understand all of
21 that as, you know, as a whole.
- 22 Q. Okay. Let me ask it this way. Do you think that the
23 citizens of Lampasas would support and continue to
24 pay their fair share of the way, so to speak, like,
25 for example, paying higher taxes than the state

1 average, as you do right now? Do you think the
2 citizens of Lampasas would pay their fair share in
3 any equitable system in school finance?

4 A. I'm sure they would.

5 MR. GRAY: I have nothing further, Your
6 Honor.

7 CROSS EXAMINATION

8 BY MR. O'HANLON:

9 Q. Mrs. Lancaster, when you looked through the book, is
10 there any course that just jumped out at you that you
11 want to see implemented in Lampasas Independent
12 School District right now?

13 A. Well, I thought they were all great.

14 Q. All right. Have you expressed any of your concerns
15 to the board of trustees or to the superintendent of
16 the school district with respect to the lack of
17 sufficient course offerings?

18 A. Yes and no. Like I said, my children are -- I don't
19 want to say they're just getting started in school
20 because they have -- I have one in there in the 7th
21 grade. I think there are some other courses that
22 could be offered, I think, that there needs to be.
23 There is Spanish offered in the middle school. I
24 went to a junior high school that had three
25 languages, French, Latin and Spanish. And I think it

1 would be great to have another choice.

2 Q. You didn't answer my question. Have you talked about
3 it to either Dr. Christian or the board of trustees
4 that you want a broader spectrum of course offerings
5 in your district?

6 A. Well, yes and no, because some of my friends are on
7 the school board. In a personal sense, yes; in an
8 actual board meeting, no.

9 Q. Okay. Are you willing to tax yourself as a citizen
10 in the community to increase your taxes in order to
11 provide those course offerings to the students in
12 your district?

13 A. Well, I feel like we're already doing -- we're taxing
14 ourselves a lot right now. I'm willing to put forth
15 some more effort, yes, but I also have other
16 obligations, too.

17 Q. You didn't answer my question. Are you willing to
18 increase your taxes in order to increase the course
19 offerings in your district?

20 A. Well, I thought I said yes.

21 Q. Okay. Do you think your community agrees with you?

22 A. Yes, but there again, raising taxes is kind of
23 relevant because, you know, you're going to raise
24 them a little bit each year as we've seen, but as far
25 as coming out and raising them a whole lot, there is

1 going to be trouble when you do that.

2 Q. Okay. But I mean, if you raise your tax, and I think
3 Dr. Christian said you could raise \$23,000.00 for a
4 penny tax increase.

5 A. Uh-huh.

6 Q. It costs about \$23,000.00 to have a teacher. Are you
7 willing to increase your taxes a couple of cents to
8 hire a couple of these teachers in areas that you
9 don't have?

10 A. Well, if that's what we wanted to do, I think that
11 would, you know, that would be great. But like I
12 said, I think we're, you know, going above right now
13 what we're supposed to be doing.

14 Q. Well, you said "if." Are you willing to raise your
15 taxes to hire those additional people or aren't you?

16 A. Yes.

17 Q. Okay. Do you think that the other citizens in your
18 community are similarly inclined?

19 A. Yes and no. I believe those parents that want this
20 for their children are going to say, "We want to do
21 what we can." Those that are retired and on fixed
22 incomes, they're not going to understand why we want
23 this done. And if it's a large amount of raised tax,
24 they're not going to want to do it.

25 Q. As president of the PTSSO, are you willing to commit

1 your organization to an effort to convince the
2 community that it is in their collective best
3 interest to raise the taxes within the district to
4 increase the level of educational attainment for
5 those children?

6 A. On the best interest of the children, yes. I believe
7 that PTSO was involved in helping Dr. Christian to
8 get the bond issue passed.

9 Q. Okay.

10 A. Now, I'm not for sure, but I know that there was a
11 good effort put out.

12 Q. Is your organization -- you've heard him -- I don't
13 know if you heard him testify, but you kept looking
14 at some other construction needs in the district.
15 Are you willing to work for the passage of another
16 bond issue in your district?

17 A. Well, if that's what we need to do, but I think that
18 we're doing -- well, I'll just stop right there.

19 Q. Well, you said if that's what you need to do.
20 Shouldn't you decide that within your own district
21 before you approach the State Legislature to see
22 whether it's possible or this Court?

23 A. What are you trying to say?

24 Q. Well, you said "if" and things of that nature, do you
25 know what's even -- what the theoretical limits of

1 what your district can do? Have you explored? Have
2 you tried to raise taxes? Have you talked about a
3 new bond issue to increase your facilities? Have you
4 talked over these concerns with either Dr. Christian
5 or the board of trustees of your school district?

6 A. Well, there has been talk about a bond issue because
7 we need to build more buildings. And to tell you the
8 truth, I'm just a mother, and I'm just not really
9 into finances and into the school. I'm sorry. I
10 can't really help you there.

11 Q. Well, you're president of an organization whose
12 principal job has supported the schools within that
13 school district, too, aren't you?

14 A. Yes, sir.

15 Q. And do you think that that organization would be
16 committed to do whatever it takes to improve -- if it
17 takes raising taxes or passing bond issues, that the
18 school -- the schools in your community?

19 A. I think if it's in the best interest of our kids and
20 our schools, that we would be behind it.

21 Q. Do you think that it is in the best interest of the
22 children in your school to make your facilities
23 better and to broaden your course offerings?

24 A. Well, I think that's only fair. I think any school
25 district would want to do the best they could.

1 Q. Okay. So then you would support an increase in taxes
2 and bond issues if that's what it takes?

3 A. Yes.

4 Q. Okay. Have you told that to the board of trustees on
5 behalf of your organization?

6 A. No, sir.

7 Q. Do you think you should ask them first before you ask
8 this Court? In other words, why are you coming here
9 to tell this story rather than go before your board
10 of trustees and say we need these things that you say
11 that your district needs?

12 A. Because as I understand it, there is a way of doing
13 this without raising more taxes.

14 Q. That you want someone else to pay for?

15 A. No, sir. The way I understand it is that there is
16 money that is distributed to the schools and it is
17 not being distributed properly.

18 Now, I can't really get into the details of
19 that. I really don't know. But if that's the case,
20 well then, I'm here to say, "Hey, we need to take a
21 look at this and make sure that all schools get equal
22 opportunities to have this money so that they can
23 provide for their children."

24 Q. Okay. But are you willing to make that effort at
25 your district, to go to your trustees and to use the

1 support -- and to use your organization, the PTSO, to
2 get money out of your own school district to increase
3 the educational opportunities for the children in the
4 Lampasas Independent School District?

5 A. Yes, sir.

6 MR. O'HANLON: No further questions.

7 MR. TURNER: I have no questions of this
8 witness, Your Honor.

9 MS. MILFORD: No questions, Your Honor.

10 MR. GRAY: No questions.

11 THE COURT: All right, ma'am, you may step
12 down.

13 (Witness excused.)

14 MR. ROOS: Plaintiff calls Dr. Gloria
15 Zamora to the stand.

16 DR. GLORIA ZAMORA
17 was called as a witness, and after having been first duly
18 sworn, testified as follows, to-wit:

19 DIRECT EXAMINATION

20 BY MR. ROOS:

21 Q. Dr. Zamora, could you briefly tell us what your
22 educational background is?

23 A. I've been an educator now for 30 years. I grew up in
24 the San Antonio, Texas area. I attended both public
25 schools and catholic schools in the area.

1 I received my Bachelor's degree from Incarnate
2 Word College with a baccalaureate in elementary
3 education, received a Master's degree in
4 administration and supervision from Our Lady of the
5 Lake University, and earned a Doctorate in curriculum
6 and instruction with a focus on early childhood
7 education from the University of Texas in Austin.

8 Q. What year was the latter degree?

9 A. I think that was in about 1974. It's been so long
10 ago, I tend to forget.

11 Q. Dr. Zamora, could you similarly give us a description
12 of your employment background --

13 A. Yes.

14 Q. -- specifically as it relates to the field of
15 education?

16 A. All right. I spent the first approximately 15 years
17 of my career in public schools starting off as an
18 elementary school teacher and spent approximately ten
19 years there.

20 I have had experience also as a supervisor of
21 instruction, a supervisor of teachers. I spent some
22 time as a director of programs for special
23 populations. And I also have experience as an
24 associate superintendent of schools.

25 In the latter part of my career, approximately

1 the last 12 years of my career, I have experience in
2 teacher training at two teacher training
3 universities, Our Lady of the Lake University and the
4 University of Texas at San Antonio.

5 For the last ten years, I have been on the
6 staff of the Intercultural Development Research
7 Association. I have directed two projects there,
8 one, an early childhood curriculum development
9 program that resulted in the development of
10 curriculum materials that are now used in early
11 childhood programs in public schools and Head Start.

12 And for approximately the last eight years, as
13 director of the Desegregation Assistance Center for
14 National Origin, where the primary focus of our work
15 is to provide training and technical assistance to
16 teachers, administrators, school board members,
17 parents and so forth in the schools within our
18 service area.

19 Our service area for that center includes all
20 schools in Texas, Louisiana and Arkansas that serve
21 language minority students.

22 Q. Could you briefly tell us what districts in your days
23 as a teacher and as a principal and as an
24 administrator, what school districts that you worked
25 in?

1 A. I worked in the San Antonio Independent School
2 District, and I also worked in the Edgewood School
3 District. Those are the two public schools that I
4 was employed in. I was never a principal of a
5 school. I was an administrator, but not a principal.

6 Q. Now, with respect to your present role as the
7 director of the National Origin Desegregation Center,
8 could you sort of expand a little bit upon what that
9 center does, what school districts it goes into, how
10 it gets into those districts, and indeed, what your
11 role is as a director?

12 A. We are eligible to serve all school districts, as I
13 said, in the three states, but I will limit myself to
14 Texas.

15 We are invited by superintendents. That is a
16 requirement. We must have a letter of invitation
17 from a superintendent of a district to come in and
18 provide services to teachers, administrators, and any
19 other staff that they may identify, and that includes
20 also parents.

21 There are a number of areas that we are allowed
22 to work in, but the primary focus of this is to help
23 school -- these school districts resolve any issues
24 related to the education of language minority
25 children.

1 Specifically, the funds are from the federal
2 government from a Title 4 -- from the Title 4 project
3 and those monies are dedicated to the desegregation
4 of public education. And that is the focus of the
5 work that we do.

6 Q. You might inform the Court of what a language
7 minority child is.

8 A. It's a child of any identifiable ethnic minority who
9 enters the public schools and who -- it may be a
10 limited English proficiency. This would include any
11 of the Hispanic groups that we serve in Texas, as
12 well as Vietnamese, Japanese, and any other language
13 groups.

14 Q. Now, are there children of these various language
15 groups in high wealth as well as low wealth school
16 districts?

17 A. Yes, very much so, yes.

18 Q. Does that give you occasion to visit a mixture of
19 school systems?

20 A. Oh, yes. We work in both high wealth and low wealth
21 districts, wherever we're invited.

22 Q. Okay. Finally, you mentioned that you are affiliated
23 with some teacher training institutions. Could you
24 amplify upon that a little bit?

25 A. Yes. I have had experience in teacher preparation

1 programs, in departments of education in two
2 universities, Our Lady of the Lake University and the
3 University of Texas in San Antonio.

4 I was a full-time professor at U.T. San
5 Antonio prior to joining the staff full-time of the
6 organization that I'm currently with, the one I've
7 been with for ten years. But I have been invited
8 back by U.T. and, say, to teach and I continue to
9 teach one course in the evenings in the graduate
10 division.

11 Q. Now, in the course of being the director of the
12 National Origin Desegregation Center, are you
13 involved with teacher training and the like?

14 A. Very much so. Once we receive an invitation from a
15 superintendent, then the next step is to meet with
16 the superintendent and any staff that the
17 superintendent may designate in order to draw up a
18 training plan that meets their needs.

19 And of course, given the characteristics of
20 different districts, and given the varying
21 characteristics of children, and given varying levels
22 of teacher competency, plans are always different.

23 Our goal, of course, is to draw up what I would
24 call a comprehensive staff development goal --
25 program that has some continuity to it because when

1 we can draw up a comprehensive long-term goal --
2 plan, excuse me, a staff development plan -- that
3 seems to have more positive effects on instructional
4 change within a district. But we do also provide
5 services on a more limited basis, let's say, coming
6 in for one day and doing a training session one day.
7 But we do prefer to work in that comprehensive mold.

8 Q. And you might have told us at the outset, but
9 approximately how many years have you been involved
10 in various phases of education?

11 A. I've been an educator for 30 years.

12 Q. Now, during the course of that 30 years, have you
13 developed any views as to what are the crucial
14 factors in assuring that children get equal
15 educational opportunity?

16 A. I think I can speak to that after 30 years.
17 Certainly that the teacher -- I see the teacher as
18 critical. I heard mention of the essential
19 curriculum elements a while ago and I'm very fond of
20 saying that teachers are the essential element. So
21 teachers are primary as far as I'm concerned. And
22 having served as a teacher in the public schools of
23 this state for at least a dozen years, I think I can
24 attest to that.

25 Of course, principals are tremendously

1 important because they give leadership and direction
2 to schools. And I think that even the current
3 research on effective schools speaks to the primary
4 role of instruction or leadership that a principal
5 plays in the school.

6 And then, of course, there are support
7 personnel, the librarians, the counselors, the
8 teacher aides, the physical education teachers, the
9 nurses, the vice principals and so forth. They all
10 play a very critical role. Now, that's personnel.

11 But beyond, you know, beyond personnel, there
12 are other factors. Beyond personnel, I think we need
13 to look at materials, the adequacy of materials, the
14 adequacy of curriculum, the adequacy of not only the
15 instructional material, such as the books, but also
16 the supplies.

17 I can remember in my own career having to
18 assess parents a fee because the particular school
19 district that I was working in then couldn't provide
20 enough supplies, enough crayons or paints or
21 whatever. And this is in my elementary education
22 years.

23 I can remember having to assess parents a fee,
24 a monthly fee, so that we could collect enough money
25 in order to supply children with those essentials,

1 those things that are very essential.

2 So when we look at the things that are
3 important for the delivery of instruction, of course,
4 primarily we're looking at the key personnel first,
5 as I mentioned. But then, we're also looking at the
6 quality of the curriculum. We're looking at the
7 adequacy of the equipment and supplies.

8 I think we also have to look very seriously at
9 the adequacy of the facilities because in my more
10 recent experience as Texas has entered into this
11 educational reform and as Texas has ear-marked early
12 childhood education as one of the goals, I have to
13 tell you that I have come in -- that I have seen
14 classrooms where the facilities are less than
15 adequate, very small classrooms, no running water,
16 four and five-year-old children need lots of water
17 because they're very active children. Running water
18 is just an essential. Inadequate playgrounds.

19 Motor development is something that's
20 tremendously essential to the complete development
21 -- to the early development of children. Many of our
22 schools don't have adequate playgrounds.

23 And then, I think finally when you look at what
24 makes the delivery of instruction work, you pull all
25 of those things together, and I guess you would call

1 that like a positive school climate. And I think
2 that's substantiated in the research as well. That
3 the attitudes that people have about children, the
4 care and nurturance that they give them, the degree
5 of parent involvement in the schools, all of those
6 compliment all of the other things that I've
7 mentioned to bring about adequacy of instruction.

8 Q. So are you saying that they're all very interrelated?

9 A. Yes, very much so.

10 Q. Dr. Zamora, I would like to sort of go through these
11 various factors that you've listed and discuss why
12 you think they're important and certain other aspects
13 of them.

14 And the first thing that you listed as -- and I
15 think probably is the paramount thing is the teaching
16 staff, the quality of the teaching staff.

17 Could you tell us a little bit about why you
18 listed that first?

19 A. In day-to-day interactions, the teacher is the one
20 that sees the individual child most. Whenever I do
21 teacher training, I always remind teachers that
22 sometimes children spend more time in their
23 classrooms with them than they do waking hours at
24 home. And therefore, a teacher has a tremendous
25 responsibility to be a role model, to provide the

1 most adequate instruction, to be the most up-to-date,
2 in other words, to be as competent as possible.

3 Q. Dr. Zamora, in your experience as a teacher trainer
4 at universities and at, indeed, in school districts
5 over the course of a long period of time, do you have
6 any opinion as to whether teachers come in different
7 qualities?

8 A. Oh, of course, just as doctors come in different
9 qualities, and lawyers come in different qualities, I
10 think teachers do, too. We're all individuals and
11 there are many variables there.

12 Q. We've heard some discussion about competitiveness
13 between school districts --

14 A. Uh-huh.

15 Q. -- for candidates --

16 A. Yes.

17 Q. -- for teaching jobs.

18 Could you tell us what sorts of factors are
19 primarily responsible for attracting high quality
20 teachers?

21 A. When we look at those variables, I think we have to
22 look at salary first of all. A young college student
23 graduating from school probably is burdened with a
24 heavy debt load, given the increasing costs of
25 education. So I think first of all, they look at

1 salaries as one issue. Everybody has to earn a
2 living.

3 I think after salaries, they probably look at
4 fringe benefit packages, which vary from
5 district-to-district according to the ability of the
6 district to offer a fringe benefit package.

7 I think they have to look at school climate,
8 that kind of nebulous, that indefinable thing that
9 maybe we might call the image of the school.

10 I certainly -- in the San Antonio area, I have
11 to note that real estate people tend, when I see the
12 ads for real estate in the newspaper, they consider
13 certain districts an asset that will enable them to
14 sell their homes. So I think that new teachers or
15 teachers, in general, look at the image that a school
16 district has. Is it a very positive image? Is it a
17 successful image?

18 I think they also look at the kind of support
19 that they're going to get. Very often I've heard
20 from teachers, given as I've been training, that they
21 have to try to be all things to all children because
22 they don't have sufficient support staff to assist
23 them. So I think that that's one of the factors, you
24 know, what kinds of support staff are available, or
25 am I going to have to stretch myself to the limit.

1 I think those are some of the factors that
2 enter into this.

3 Q. Dr. Zamora, you told me before you testified that
4 teachers also look to other teachers and the quality
5 of the administrative staff in making determinations.

6 A. Absolutely. The word gets around quite easily. The
7 grapevine is very active in terms of pinpointing
8 capable leadership. And it's just -- it's better to
9 work in a school where the principal can give the
10 kind of instructional leadership where you know that
11 that principal is going to stand behind you, find
12 materials, support you, just in general provide that
13 kind of leadership that's going to -- that's going to
14 motivate you.

15 Q. Does the quality of facilities and the maintenance
16 and upkeep have any role in -- as an attractive -- as
17 an attraction for attracting the highest quality
18 younger teachers?

19 A. I think that if you have a choice, certainly you
20 would look to the more attractive facility. If I
21 have a choice of teaching in an air-conditioned
22 classroom that's spacious versus teaching in a
23 classroom that is smaller and is non-air-conditioned,
24 and particularly if I'm teaching in the San Antonio
25 area, as is often the case, or in the Valley, where

1 the temperatures in September and October and in
2 April and May in the classroom hit a hundred degrees,
3 if I have a choice, yes, I think that would be a
4 factor.

5 Q. Uh-huh.

6 A. Facilities would indeed be a factor.

7 Q. I would like to go through each of these factors that
8 you've listed essentially as attractions for
9 attracting the higher quality teacher and discuss
10 with you whether there are financial implications for
11 the school districts being able to offer those as an
12 enticement for the young, high qualified teacher.

13 A. Okay.

14 Q. Salaries and fringe benefits, I suppose, sort of
15 speak for themselves. But maybe you would want to
16 add something?

17 A. Well, just to add that some districts are able to
18 offer very nice fringe benefit packages that include
19 like, we'll pay all of your insurance, whereas other
20 districts can't offer that. Maybe they can only
21 offer a percentage of the insurance package.

22 Young people coming out of college or older
23 people, for that matter, especially those who have
24 families, and given the high cost of hospitalization
25 and so forth, that has to be a factor.

1 I know that there are some districts that are
2 able to offer other kinds of fringe benefits, such as
3 paying for advanced courses. And as the teachers
4 take advanced courses in working towards Master's
5 degrees, the salary -- there are salary increments.
6 Some districts are able to offer that and others are
7 not. I mean, I can remember when I was teaching in a
8 low wealth district and would hear stories, you know,
9 from my other friends, "Oh, they're paying for my
10 Master's degree program," and, you know, I had to pay
11 for my own Master's degree program.

12 Q. Maybe somewhat not quite so apparent, but which I
13 think you've explained to me outside the courtroom is
14 the interrelationship between money and having a high
15 qualified administrative staff and other teachers who
16 are already on board and how that all interrelates to
17 attracting and retaining the high quality teacher
18 that everyone is after.

19 A. I think I spoke earlier to the role that I play as
20 the director of the National Origin Desegregation
21 Assistance Center, and that from our experience, we
22 feel that the greatest positive educational change is
23 brought about whenever we can design with school
24 districts' comprehensive staff development plans.

25 The upgrading of teachers, of in-service

1 teachers is tremendously important, but it costs
2 money.

3 In my particular case, because of the funding
4 that I have through the Title 4, we can offer
5 training packages to schools at no cost, but this is
6 rapidly diminishing, rapidly diminishing. And there
7 is not enough of that kind of money to go around to
8 fully meet the staff development needs of all of the
9 schools and of all of the teachers.

10 Whenever you can provide adequate staff
11 development, you can focus in on specific
12 competencies that you want to help teachers develop.
13 When you focus in on those specific skills, then that
14 payoff is going to be reflected in the kind of
15 instructional delivery to the student. And the
16 ultimate payoff, of course, is the achievement of the
17 student.

18 You can do this same thing with administrative
19 staff. Again, if I may use an example, I'm very fond
20 of saying to teachers and/or administrators, "Just
21 because you have that certificate doesn't mean that
22 you know it all." There are continuous changes.

23 Just the House Bill 72 reforms triggered a
24 barrage of requests in our office to come out and do
25 training and help districts explain, help

1 administrators understand the changes, and help
2 teachers understand the requirements of the House
3 Bill 72 changes. So that we had to, you know, gear
4 our staff up to go out and to do that. So
5 administrators also need upgrading of skills.

6 When we can upgrade the skills of all of the
7 key people that are impacting on children, the payoff
8 is to children, and that's what we're all about.

9 Q. I would like to again go back to sort of the
10 attraction of the competitiveness between school
11 districts of the better teachers, if you will.

12 A. Uh-huh.

13 Q. And you observed to me at one time that the
14 administrator and the principal, in wooing teachers,
15 is an important piece of the pie.

16 The question I have for you is, is where does a
17 school district get its administrative staff? Where
18 do the principals come from?

19 A. Very often, the principals come from right within the
20 school district. They very often come from the ranks
21 of outstanding teachers and who are recognized, who
22 are promoted to, let's say, vice principals for
23 instruction. And then from once having demonstrated
24 skills as people who are responsible for instruction,
25 then become the principals who then give leadership

1 to the entire program.

2 Q. So, the general pool of your administrative staff,
3 especially your school level administrative staff,
4 are the teachers that you are able to recruit into
5 the system, is that generally --

6 A. Yes, that's my observation, uh-huh.

7 Q. And is it further your testimony that to recruit
8 those teachers initially, money and salary and fringe
9 benefits play a role in that?

10 A. Yes. And in addition, there are recruitment costs,
11 too. You've got to budget monies to go out and
12 recruit people.

13 Q. Now Dr. Zamora, what does it mean in terms of equal
14 educational opportunity to be able to compete for the
15 best teachers?

16 A. First of all, I guess I would want to say that equal
17 treatment does not mean equal educational
18 opportunity. That because we deal with children of
19 differing characteristics, we always have to be alert
20 to the fact that our programs have to differ.

21 So when we go out and compete for the best
22 teachers, we're looking for those teachers who bring
23 with them good records from college, but also who
24 have the necessary certifications to meet the special
25 needs of perhaps children with special -- in special

1 populations or in special needs. I think I heard
2 about special education, I heard about gifted and
3 talented, we certainly heard about early childhood
4 education.

5 If I might add something to that, good teachers
6 are the ones who can deliver the instruction. When
7 you deliver the instruction that meets the needs of
8 children, and children are different, then you are
9 opening the doors to equal educational opportunity.

10 Q. Is there a level of competitiveness for teachers even
11 beyond those sort of hard to staff positions, in your
12 experience?

13 A. Yes. My experience is that even in the basic areas,
14 the basic mandated curriculum areas, that there is
15 competition for teachers.

16 Q. Now, in the course of your years of working in
17 teacher training institutions and the like, have you
18 been able to observe whether low wealth districts, in
19 general, are able to attract the teachers that --
20 coming out of education schools who are the most
21 attractive, who are the most -- that people are
22 competing for the most?

23 A. Sometimes they do and sometimes they don't.

24 My observation is that generally, the students
25 coming out -- the young teachers coming out of

1 teacher training institutions are going to go to the
2 places that can offer them the best.

3 Unfortunately, it is still my observation that
4 in the low wealth districts, we still have many
5 teachers who are on waivers, either who do not have
6 their certificates or who do not -- excuse me, who do
7 not have their degree and who are on that particular
8 emergency certificate, and those who also have
9 waivers because they don't have the appropriate
10 certificate, such as in early childhood or special
11 education.

12 Q. Wouldn't you say on the whole, poorer school
13 districts are unable to compete with the rich
14 districts? I assume you're not saying that this is
15 so in every last case. I mean --

16 A. No, of course not. I mean, there's much variability
17 there. But let me draw out a scenario for you that I
18 think is happening, as I do a good bit of work in the
19 Valley of Texas.

20 The Valley is experiencing a great deal of
21 population growth. They have to hire between 200 and
22 300 new teachers every year. They haven't been able
23 to fill the jobs with Texas teachers -- with
24 graduates from Texas schools.

25 They have had to incur the recruitment costs of

1 going out of state and going north. Sometimes people
2 in the north enjoy the kind of climate that we have
3 in the south, so they come, and they come for a
4 while.

5 And this is the difficulty that here we have a
6 low wealth school district who can't fill the
7 teaching vacancy with Texas products, who have to
8 incur the costs of going out of state to recruit,
9 knowing full well that the teachers who come from the
10 north will stay for two or three years, very often
11 they are not sensitive to the cultural and language
12 characteristics of the children that they're going to
13 work with in the Valley; therefore, that means extra
14 cost in terms of staff development for those teachers
15 to put them into special programs.

16 And then, I am told that they stay two or three
17 years, and then they leave. So, the cycle is
18 repeated again, you know, we've got to go back and
19 recruit and with all of those attendant costs, yeah.

20 Q. You've told me at times about other problems with
21 respect to retaining teachers who move on to other
22 school districts within the same area.

23 A. Yes.

24 Q. Could you share some of your thoughts with the Court.

25 A. Oh, yes. Let me just, again -- I guess after 30

1 years, you do have a lot of experiences.

2 But when I was directing a program for special
3 populations in a low wealth school district, our
4 experience was that we would recruit the teacher, we
5 would train the teacher, and because we were not
6 paying the salaries, we were -- our salaries were not
7 competitive, they would move on, and then, again, we
8 would -- to another district within the same
9 metropolitan area, but a district that could offer
10 higher salaries and better fringe benefits, better
11 incentive packages. And so there was a continuous
12 effort again to recruit, retrain and try to retain
13 the teachers. And that continues to be an issue.

14 Q. All right. Are there any educational implications
15 for this --

16 A. Absolutely.

17 Q. -- taking younger teachers and then seeing them go on
18 to other places?

19 A. Yes, absolutely. There's the continuity of the
20 training.

21 In addition to the cost factors that I've
22 already discussed, there's the continuity of the
23 programmatic efforts. It's a real drain on the
24 support staff of any school to have to continuously
25 be retraining new staff, to understand the uniqueness

1 of certain programs, or the uniqueness of certain
2 instructional delivery systems.

3 And of course, what happens then is that in the
4 interim, between the time that you begin training the
5 teacher and you feel that the teacher has developed
6 the competency, remember, you've got the children
7 sitting in the classroom who may not be receiving the
8 best education simply because the teacher has not yet
9 been fully trained.

10 If I might add to that just another thought.

11 Again, reading in the -- what makes for
12 successful schools, the effectiveness, I came across
13 some information that says that children are
14 successful learners when they know what is expected
15 of them and how it is that they are to achieve it.
16 This is in a classroom setting.

17 And I turn that around to teachers when I do
18 teacher training and I say, "Teachers, too, are
19 successful teachers when they understand what the
20 task is and how it is that they are to deliver that
21 instruction." And with all of the new requirements
22 coming down in terms of the essential elements and
23 developing your lesson plans so that it meets the
24 -- so that you're documenting student progress and so
25 forth, teachers are having to undergo a great deal of

1 training.

2 Q. Let's talk a little bit about training. Are there
3 monetary implications for a school district that has
4 to engage in substantial degrees of training?

5 A. Oh absolutely. Training costs. You know, if you're
6 lucky enough to get a few services -- a few days of
7 services from my center, that's good. But there
8 aren't very many of my centers around. In fact, I'm
9 the only entity in this state that is focused in that
10 area that can provide services at no cost.

11 And because of the level of funding given --
12 the reduction in the level of federal funding, I am
13 now reduced to being only able to provide only about
14 700 person days throughout this entire tri-state
15 region, which leaves Texas with probably only about
16 500 person days -- between 400 and 500 person days
17 that I can give them. That's a drop in the bucket.

18 Q. Uh-huh.

19 A. In developing comprehensive staff development plans
20 for a school district, let's say that you want to do
21 some comprehensive training for -- let me -- for
22 early childhood teachers because these are the newest
23 kids on the block. You want to upgrade their skills
24 in a number of areas to help them understand the role
25 of language, to help them understand the role of

1 cognitive development, motor development,
2 socioemotional development, the role of parents, all
3 of the -- the role of culture and language, all of
4 those things are tremendously important.

5 The parent who preceded me on the stand talked
6 about playgrounds and bringing in a playground
7 consultant. Absolutely. Motor development is
8 critical for young children.

9 So when we develop a comprehensive staff
10 development plan for early childhood teachers in the
11 district, and we really want to gear them up so
12 they're delivering excellent quality instruction to
13 children, we're probably looking at 15 or 20 days
14 throughout the course of the year of in-service.
15 That costs. If you're buying it, if you're buying
16 that service, that's very costly.

17 Q. Have you been able to note in your experience
18 disparities in terms of offering this sort of quality
19 in-service training between property poor and
20 property rich districts in Texas?

21 A. Oh, yes, yes. I was in a high wealth district just
22 Friday and was speaking to the director of a program
23 for special populations, and we talked about staff
24 development. And he said to me, "We've got plenty of
25 money. Staff development is no problem. I've got

1 plenty of money to handle anything that we need." And
2 that's wonderful, that's great. That's not the case
3 all over.

4 Q. You talked about those poor districts down in the Rio
5 Grande Valley. Have you ever heard anyone down there
6 give the same sort of an opinion?

7 A. No. On the contrary, they're always asking me how
8 many more days can you give me at no cost.

9 Q. The second thing, at the outset, you listed teachers,
10 quality teachers, trained teachers as being an
11 essential element, if you will --

12 A. Yes.

13 Q. -- of a quality educational program.

14 The second thing you talked about were support
15 staff. Could you tell us a little bit about that.

16 A. Okay. Support staff takes in a variety of other key
17 personnel, nurses, librarians, counselors, teacher
18 aides, so forth. One of my observations, one of my
19 sad observations about -- in low wealth districts is
20 that many of them don't have sufficient counselors,
21 that the student-to-counselor ratio is tremendously
22 high.

23 In one low wealth district where I am doing
24 some work now in the Valley, they have -- they are
25 trying to set some priorities with the money that

1 they have, and they have identified elementary
2 counselors as a priority.

3 When we look at the whole drop out issue and
4 the horrendous drop out rates, we have to recognize
5 that while children may not drop out of school
6 physically at the elementary grades, many of them
7 drop out academically at the elementary grades.

8 We also have to recognize that there are many
9 areas where elementary school children need
10 counseling and guidance.

11 In this particular low wealth district, the
12 ratio of elementary counselors to students is 2,000
13 students to one counselor. Now, the counselors say,
14 "What can we do with that kind of ratio," but that's
15 all that that school district can do now.

16 Q. What are likely to be the life consequences in the
17 children in that system of such a ratio?

18 A. You know, one of the phenomenon that I observe -- and
19 this is just from reading -- from looking at the
20 newspaper -- is that when economic conditions get
21 tough, unfortunately we tend to see more child abuse.
22 Children who are physically or psychologically abused
23 have to have somebody that they can turn to. The
24 counselor is very often that person. Counselors and
25 teachers are very often those people. If you're

1 doing 2,000 to one, I don't know that you can give
2 much attention to children who come in with cigarette
3 burns on their arms or who are traumatized in any
4 number of ways.

5 Q. I assume from your allusions to the kids that
6 mentally drop out before they physically drop out,
7 that there are even maybe less dramatic, immediately
8 dramatic uses for counselors. Could you maybe
9 amplify a little bit.

10 A. The counselors perform a tremendous role or could
11 perform a tremendous role in terms of listening to
12 kids.

13 You asked about life consequences, you know, I
14 guess I'm as qualified as anybody to make a
15 prediction about life consequences. And that is that
16 if we don't take care of the little ones, if we
17 cannot give -- if we cannot set some priorities in
18 terms of the very youngest of our children, we lose
19 them by the time they're in middle school or in high
20 school.

21 But low wealth districts just cannot afford to
22 have counselors in the appropriate ratio that they
23 need to have them.

24 Q. Have you seen a different scenario in some of the
25 wealthier districts that you've been able to visit?

1 A. Yes. There are -- of course, the ratios are not as
2 disastrous as I've just described them. They tend to
3 be like 500 to one, 250 to one, and so forth. So
4 they tend to be able to hire more counselors.

5 Q. Uh-huh. Are there other sorts of support staff that
6 you consider important --

7 A. Yes.

8 Q. -- to deliver an effective educational --

9 A. Yes. I had gone on about counselors so long, I had
10 forgotten about all of the other support staff.

11 It's also my observation in the low wealth
12 districts, they can't hire certified librarians. So
13 many of them simply resort to library aides. The
14 library is a very important part of the instructional
15 delivery system. And library aides can do a good job
16 of circulating books. But certified librarians can
17 help to order books, to select books based on needs,
18 can help children to do research, can help them with
19 the research projects. Those research projects that
20 the children engage in are going to tap those
21 cognitive skills that are going to result in
22 increased learning and excitement and motivation and
23 so forth. So that's the difference between a library
24 aide and a librarian.

25 It's also my observation that in many low

1 wealth districts that I work in, the nurses have to
2 rotate schools. There are several schools that they
3 have to deal with. There's not a nurse to a school.
4 We can't overlook the physical needs of children.
5 Very often, a learning need is tied to a physical
6 need. We have children who -- especially, again, in
7 low wealth districts, and this I have experienced
8 personally -- children who have dental problems that
9 went undetected until a nurse came and did the
10 checkup. And that child went undetected for a good
11 while. Meantime, the pain and so forth was such that
12 it was impeding learning. So we must give attention
13 to the physical aspects.

14 You know, there are basic needs, and before
15 learning can take place, one must address basic
16 needs. And I think nurses help to address those
17 basic needs.

18 Q. Have you seen different patterns in terms of
19 allocation of nurses in the wealthier districts?

20 A. Oh sure, yeah, one nurse per school.

21 Q. That's a fairly common pattern that you've observed?

22 A. It's my observation, yes.

23 Q. Uh-huh. Are there other people that help at the
24 school level to provide an effective educational
25 service?

1 A. Sure, the teacher aides. Any early childhood teacher
2 or elementary teacher will tell you how much they
3 value having a teacher aide. Some districts are able
4 to provide one aide per teacher or one aide per every
5 two teachers. In other districts, it's one aide
6 comes in for two mornings a week or something like
7 that.

8 Again, there is some disparities in the ability
9 of districts to provide that kind of support
10 personnel for schools.

11 Q. With respect to some of those districts you've seen
12 down in the Valley, do the teachers typically have an
13 aide in their classroom?

14 A. Part-time aides.

15 Q. So they'll often share an aide?

16 A. Oh, yes.

17 Q. Will you see different sorts of patterns in some of
18 the wealthier districts that you've been in?

19 A. Yes. Some do have part time aides because they
20 choose to put their money in other places. But many
21 of them do have full-time aides for -- especially for
22 the younger children in the early -- in the
23 pre-kindergarten and kindergarten programs.

24 Q. The third area that you listed as a crucial factor in
25 delivering an effective educational program dealt

1 with materials and curricular resources. Could you
2 tell us a little bit about why that is so important?

3 A. I think as we all know, the State of Texas provides
4 basic textbooks through their state textbook adoption
5 programs so that every classroom is provided basic
6 sets of materials through the state plan.

7 But over and above that, if there's any need
8 for any additional materials, that falls upon the
9 local district to provide.

10 Example, if an upper elementary teacher has
11 children who are reading at different grade levels
12 and would like to have a set of the 3rd grade
13 readers, this school has to buy that material. That
14 is not provided by the state. Okay. So extra
15 classroom sets of materials that are at a lower or
16 higher grade level that may be needed in order to
17 meet children whose needs are at a lower or higher
18 level, those are not provided. Those have to be
19 purchased by the state.

20 Then, of course, there are materials over and
21 above textbooks. I think I've told you already about
22 my experience with just basic crayons and drawing
23 paper and so forth. But there are books, there are
24 classroom library collections that are recommended in
25 order to encourage reading, the development of

1 reading skills. Again, that comes out of local
2 monies.

3 Additional materials, the computers that
4 someone talked about earlier come out of local
5 monies. The software packages come out of local
6 monies. Materials for special populations come out
7 of local monies. You know, so that there are many
8 things.

9 Again, going back to my early childhood
10 experience, I was in a high wealth district and a low
11 wealth district recently, both within the San Antonio
12 area visiting early childhood classrooms. And I was
13 struck by the abundance of manipulative materials
14 that were available for the children in the early
15 childhood programs in that high wealth district.

16 And so I asked the teachers, you know, "How
17 about materials, can you get what you need?" "Oh,
18 yes, no problem there."

19 I spoke to the early childhood director in that
20 district. I said, you know, "Can you get materials?"
21 "We have no problem. We have a very good healthy
22 budget. All the teachers have to do is ask for it
23 and they get it."

24 And indeed, I saw learning centers set up as we
25 do in early childhood classrooms. I saw sand and

1 water tables, and I saw all kinds of blocks and
2 puzzles and books and puppets, all of the things that
3 are part of a high quality early childhood program.

4 And I went over into the low wealth district.
5 And in addition to the fact that the classrooms were
6 smaller, and many of them not air-conditioned, I
7 looked at the quality of the materials. They also
8 want to have the same kind of learning centers and
9 they're working to deliver the same kind of quality
10 instruction, but they don't have the materials. They
11 have make-shift materials. They have teacher-made
12 materials. This is not to put down teacher-made
13 materials because I've made many teacher-made
14 materials in my day, but they don't last as long.
15 And there are many, many things -- I mean, teachers
16 can't make blocks and paint them and, you know.
17 There are just many things that the low wealth kids
18 don't have by way of manipulative materials that are
19 considered essential for young learners that they do
20 have in the higher wealth district.

21 The final thing that I notice is playgrounds.
22 Again, I've said before, and I don't want to
23 elaborate unnecessarily, but the motor development of
24 children is essential in early childhood. Children
25 learn a great deal, not only language development,

1 but cognitive development through motor experiences.
2 That's how children learn.

3 My observation is that the playgrounds in low
4 wealth districts are horrendous, or as the parents
5 said, "the pits." And the money has to come out of
6 local funds in order to build playgrounds. All you
7 have to do is drive around the districts and look at
8 playgrounds and you can note the difference. It's
9 easy to see.

10 THE COURT: We're going to stop there,
11 counselor. I'll invite you all back tomorrow morning
12 at 9:00.

13
14 (Proceedings were recessed until
15 February 11, 1987, at 9:00 a.m.)
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25

3-87-190-ev

CAUSE NO. 362,516

EDGEWOOD INDEPENDENT SCHOOL
DISTRICT, ET AL

VS.

WILLIAM KIRBY, ET AL

C 8353

IN THE 250TH JUDICIAL

DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

FILED
IN SUPREME COURT
OF TEXAS

JUN 21 1989

STATEMENT OF FACTS JOHN T. ADAMS, Clerk

VOLUME XIV OF XLVI Deputy



TAKEN FEBRUARY 11, 1987

MONICA ROSS WEIDMANN

Official Court Reporter
250th Judicial District Court

Travis County Courthouse • Austin, Texas 78701

CAUSE NO. 362,516

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

STATEMENT OF FACTS

BEFORE THE HONORABLE HARLEY CLARK, JUDGE PRESIDING

APPEARANCES:

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-and-

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94110

-and-

MR. CAMILO PEREZ-BUSTILLO and MR. ROGER RICE,
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-and-

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5 -and-

6 MR. DAVID R. RICHARDS, with the law firm
7 of RICHARDS & DURST, Attorneys at Law, 600 West
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10 MR. KEVIN THOMAS O'HANLON, Assistant
11 Attorney General, P. O. Box 12548, Austin, Texas,
78711-2548

12 -and-

13 MR. DAVID THOMPSON, Office of Legal Services,
14 Texas Education Agency, General Counsel, 1701 N.
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16
17 MR. JIM TURNER and MR. TIMOTHY L. HALL,
18 with the law firm of HUGHES & LUCE, Attorneys
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19 78701

20 -and-

21 MR. ROBERT E. LUNA, MR. EARL LUNA, and
22 MS. MARY MILFORD, with the Law Office of EARL
LUNA, P.C., 2416 LTV Tower, Dallas, Texas 75201

23 -and-

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

25 -and-

1 APPEARANCES CONT'D

2
3 MR. KENNETH C. DIPPEL, MR. JOHN BOYLE, and
4 MR. RAY HUTCHISON, and MR. ROBERT F. BROWN, with
the law firm of HUTCHISON, PRICE, BOYLE & BROOKS,
Attorneys at Law, 3900 First City Center,
Dallas, Texas, 75201-4622

5
6 ATTORNEYS FOR THE DEFENDANT-INTERVENORS
7
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16

17 BE IT REMEMBERED that on this the 11th day of
18 February, 1987, the foregoing entitled and numbered
19 cause came on for trial before the said Honorable Court,
20 Honorable Harley Clark, Judge Presiding, whereupon the
21 following proceedings were had, to-wit:
22
23
24
25

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DR. FRANK W. LUTZ

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MR. LYNN MOAK

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MR. ROBBY V. COLLINS

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DR. HERBERT WALBERG

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1 FEBRUARY 11, 1987

2 MR. O'HANLON: Your Honor, before we get
3 started, I would like to introduce the curriculum
4 rules that we said we would produce yesterday.

5 (Defendants' Exhibit No. 23 marked.)

6 MR. O'HANLON: For the record, Your Honor,
7 we would introduce at this time Defendants' Exhibit
8 No. 23, which are the State Board of Education rules
9 for curriculum. These are promulgated and they're
10 issued under Chapter 75, and we went into them
11 yesterday. We offer them as an official public
12 document under seal.

13 MR. KAUFFMAN: No objection.

14 MR. RICHARDS: No objection.

15 THE COURT: It will be admitted, 23.

16 (Defendants' Exhibit No. 23 admitted.)

17 MR. RICHARDS: Are those current for this
18 year?

19 MR. O'HANLON: Yes, those are current ones,
20 23.

21 MR. ROOS: May I approach the witness, Your
22 Honor?

23 THE COURT: Yes, sir.
24
25

1 DR. GLORIA ZAMORA
2 was called as a witness, and after having been previously
3 sworn, testified as follows, to-wit:

4 DIRECT EXAMINATION (RESUMED)

5 BY MR. ROOS:

6 Q. Dr. Zamora, I just handed you a document. Is that
7 the most up to date vita -- and I'll wait to until
8 you get your glasses on so you can identify it.

9 MR. ROSS: This has been provided to
10 counsel on the other side. We would like to
11 introduce Plaintiffs' 92 in evidence.

12 MR. O'HANLON: No objection.

13 THE COURT: All right. It will be
14 admitted.

15 (Plaintiffs' Exhibit No. 92 admitted.)

16 BY MR. ROOS:

17 Q. Dr. Zamora, you told me this morning that you had a
18 sleepless night because there was something that you
19 felt needed to be clarified from your testimony of
20 yesterday. Could you tell us what that was and could
21 you make the clarification for us?

22 A. Yes. I did spend a good bit of time thinking about
23 the response to one of your questions. I think we
24 had been discussing support staff and nurses in
25 particular. And I believe that you asked the

1 question something to the effect of was there a
2 disparity between the number of nurses in high wealth
3 districts and low wealth districts. And I indicated
4 that there was.

5 I wanted to clarify that when we look at
6 nurses, they are but one of a constellation of health
7 care givers, and that children in high wealth
8 districts have access to a constellation of health
9 care givers that include nurses, that include also
10 speech therapists and school psychologists, and
11 nutritional diagnosticians, and that there are
12 disparities between the high wealth and low wealth
13 districts within this framework.

14 Q. So it's too narrow to just speak of nurses?

15 A. Yes. I think we need to look at the -- well, the
16 bottom line is that there is a constellation of
17 health care givers and children in high wealth
18 districts have access to those.

19 Q. Turning from that, Dr. Zamora, I would like you to
20 -- you spent a lot of time in low wealth districts in
21 the State of Texas. Do you have any observations
22 about the characteristics and the educational needs
23 of the typical child that one finds in the low wealth
24 districts that you've been associated with?

25 A. I work extensively with children in low wealth

1 districts, and one observes their characteristics
2 -- excuse me, I should clarify -- with teachers of
3 children in the low wealth districts, and as one
4 observes the characteristics of the children, it's
5 quite obvious that they are economically
6 disadvantaged and a great number of them are limited
7 English proficient, and it is to those children that
8 my organization and my particular project directs the
9 majority of their services.

10 Q. What do the characteristics that you've just
11 described mean in terms of their educational needs?

12 A. It means very often that teachers who have gone
13 through typical educational programs in the colleges
14 come in and are not prepared to meet the atypical
15 characteristics of these learners or the unique
16 characteristics of these learners.

17 This would include such things as cultural
18 sensitivity, how to incorporate cultural
19 characteristics within the curriculum framework.

20 It very definitely would include skills and
21 competency in learning to deliver the instruction
22 vis-a-vis the native language of children as is
23 required under current state policy. Those are the
24 two of the major areas.

25 Q. Do the children -- we've generally talked about low

1 wealth districts.

2 A. Uh-huh.

3 Q. Do the children in these districts that you're
4 familiar with tend to be low wealth, themselves?

5 A. Oh, yes, very much so.

6 Q. And do those pose special needs and needs for special
7 resources in order to provide them with an equal
8 educational opportunity?

9 A. I think some of the latest research that we're
10 uncovering is that -- and this is Texas research --
11 is that children in low wealth districts have higher
12 drop out rates, which means that we have to try to
13 address these issues very early on.

14 House Bill 72 is making a -- places certain
15 requirements on teachers to document that children
16 are achieving the essential curriculum elements. If
17 the children are not achieving the essential
18 elements, then the districts are required to provide
19 either tutorials or to make some kind of alternative
20 programs for them so that the teachers, then, in the
21 districts must address these needs, the
22 administrators in the districts must address these
23 particular needs.

24 In certain districts, it means creating
25 tutorial classes; in other districts or in those same

1 districts, it may mean summer school programs. It
2 may mean in meeting the alternatives to social
3 promotion mandates, it may mean creating -- I think
4 what are called developmental classes.

5 And school districts all over the state are
6 addressing the issue of what to do with children who
7 are not meeting the required essential elements. In
8 some districts, this means developing new classes.

9 Let's say that there is a group of 1st graders
10 or 2nd graders that don't meet the required essential
11 elements. Rather than retaining them, they are
12 placed in what are called developmental 1st grade,
13 which is an alternative to a social promotion. What
14 that means to school districts is that you have to
15 create another class of students, you have to find
16 another teacher. That teacher has to be trained.
17 After all, what does developmental 1st grade mean?
18 And what are we going to teach? How will we teach
19 those children in a way that is different from the
20 instruction that they received in the 1st grade, in
21 the quote, "regular" 1st grade so that then they can
22 move on into 2nd grade.

23 So these are some of the issues that districts
24 all over are facing.

25 Q. From your experience, are there fiscal implications

1 that are attached to these issues?

2 A. Yeah. I think I just mentioned some of those.

3 Classroom space is a fiscal implication, new
4 teachers, the training of those teachers to
5 understand how it is that I'm going to differentiate
6 the instruction for these children who are, in
7 essence, having to repeat the instruction, but
8 without actually making it a repetition of
9 instruction, because any time you go back and try to
10 repeat instruction, you're really boring kids, so we
11 can't do that. It has to be something different.

12 Q. Assume if you will that there are teacher/student
13 ratio differences between some school districts of,
14 say -- take a small number, say, two students per
15 teacher difference between given classrooms. Does
16 that mean anything to you as a former teacher?

17 A. Yes. Of course, when I was teaching in the San
18 Antonio Independent School District and in the
19 Edgewood School District, the then ratio was 25-to-1.
20 I can recall many years -- I was fortunate to have
21 25-to-1. When I had 27 students or 28 students, it
22 made a difference. It made a difference in grouping
23 for instruction. Remember that the responsibility of
24 teachers is still to try to individualize instruction
25 to the extent possible. That's the way we deliver

1 curriculum.

2 So when you add two or three additional
3 students on the surface in terms of numbers, it
4 doesn't appear to be a great deal. But in terms of
5 individualizing the instruction and having to add two
6 or three additional students, it can mean a great
7 deal.

8 Q. Dr. Zamora, if somebody told you that dollars didn't
9 make a difference in providing an educational program
10 for children, what would you say to that?

11 A. I think that if dollars didn't make a difference,
12 that we wouldn't have the wealthy school districts in
13 this Court fighting to keep their funds and fighting
14 to keep from sharing their funds with a low wealth
15 district. To me, that's the bottom line. I think
16 there would be no need for anything like this if
17 dollars didn't make a difference.

18 Q. And you've seen the difference that dollars make at
19 the school house level?

20 A. Absolutely.

21 My -- if I may, two years ago I was in an
22 elementary class in a school, in a low wealth school.
23 It was in winter. It was cold in San Antonio. We
24 had a very cold winter. The classrooms were cold.
25 How any teacher can teach and how any child can learn

1 without basic needs being met. And I said to the
2 principal, "Why can't you provide heat for this" --
3 the corridors were cold, the classrooms were cold,
4 kids were wearing coats in their classrooms. This
5 year that school, for the first time, has insulated
6 windows.

7 Do dollars make a difference? You bet they
8 make a difference.

9 MR. ROOS: Pass the witness.

10 MR. RICHARDS: I have one question, Your
11 Honor.

12 CROSS EXAMINATION

13 BY MR. RICHARDS:

14 Q. Just as a matter of curiosity, what school district
15 was that classroom just described?

16 A. Edgewood.

17 MR. RICHARDS: Thank you.

18 MR. O'HANLON: May I approach the witness?

19 THE COURT: Yes, sir.

20 CROSS EXAMINATION

21 BY MR. O'HANLON:

22 Q. Dr. Zamora, are you familiar with a document known as
23 Bench Marks?

24 A. No.

25 Q. Okay. It's been entered into evidence as Plaintiffs'

1 Exhibit No. 205, and I'm going to ask you to read me
2 some numbers out of that.

3 Before we do, Edgewood is a poor district, is
4 that correct?

5 A. Yes.

6 Q. It's one of the poorer districts in the state?

7 A. My understanding is that it is, yes.

8 Q. Would you expect that they can -- that what Edgewood
9 is able to provide for their kids defines kind of
10 what the minimum that anybody can provide because of
11 their wealth?

12 A. I think that's not a question that is best directed
13 to me since I am not in a day-to-day relationship
14 with Edgewood. I work to train some teachers with
15 Edgewood, but I would hesitate. I don't think I'm
16 the person to direct that kind of question to.

17 Q. Okay. Well, let's look at some numbers out of Bench
18 Marks if you don't mind.

19 Would you turn to the last page of that
20 document?

21 A. Uh-huh. These numbers are small.

22 Q. Do you need a ruler so you can read across?

23 A. No, I think I can read across. You may need to help
24 me, though.

25 Q. Okay. What I want to do is I want to compare

1 Edgewood with the districts in San Antonio, and I
2 want to compare it with Austin -- I mean, with Dallas
3 and Houston.

4 A. Where do you want me to look in this page?

5 Q. Okay. I'll show you in just a second. Let me see if
6 I can write this up.

7 THE COURT: Let me make a suggestion. Why
8 don't you just go on and put your figures up there.
9 We'll spend 40 minutes just getting it from her to
10 you.

11 MR. O'HANLON: All right.

12 THE COURT: Just put your figures up there.
13 If you all don't like it, you can say so. Tell them
14 where you are getting it from so they can double
15 check you if they want to.

16 MR. O'HANLON: All right, sir.

17 THE COURT: Then you, instead of asking her
18 this and this, just tell her that the numbers show
19 this, and ask her whatever it is that you want to ask
20 her about.

21 MR. O'HANLON: Okay.

22 THE COURT: From now on, let's do it that
23 way. I know it's a little unusual, but I think given
24 the amount of preparation on both sides, the
25 familiarity with what's going on, I think it's all

1 right to do it that way. It probably wouldn't hurt
2 anything if you know you're going to be putting stuff
3 up on the board, you can come in the morning and be
4 putting it up on the board, during break time or
5 lunch time, you can go on and get them on the board,
6 the numbers and everything and we'll be through with
7 that.

8 BY MR. O'HANLON:

9 Q. Dr. Zamora, have you ever looked at a study with
10 respect to where people hire aides and where people
11 hire more support staff or anything of that nature?

12 A. No.

13 Q. Okay. What I've just written on the board and I
14 suppose --

15 MR. O'HANLON: Could I have that marked?

16 (Defendants' Exhibit No. 24 marked.)

17 Q. What I've written on the board on Defendants' Exhibit
18 No. 24 are figures taken from Plaintiffs' Exhibit
19 205. And what those are are various variables that
20 are taken from the Bench Marks that we referred to a
21 little while ago.

22 A. Uh-huh.

23 Q. As you can see, Edgewood has substantially less
24 wealth than the state average.

25 A. Where does that -- okay, in terms, yes.

1 Q. This is the property value per ADA.

2 A. All right.

3 Q. You've got \$38,000.00 versus \$251,000.00 --

4 A. State average.

5 Q. -- state average property wealth.

6 A. Uh-huh.

7 Q. And that they're twelfth out of the 12 districts --

8 A. In Bexar.

9 Q. -- in Bexar County.

10 Now, they don't have a particularly high tax
11 rate. They're ninth out of the districts in Bexar
12 County --

13 A. Uh-huh.

14 Q. -- at .563.

15 But let's look at what they've been able to do
16 in that district. Does it surprise you that they've
17 got a higher budget for instructional service than
18 Dallas?

19 A. No.

20 Q. Why not?

21 A. Because they have creative leadership.

22 Q. Okay.

23 MR. KAUFFMAN: Your Honor, before the next
24 question, we would object to the use of this again
25 for our federal funds. This objection we made along

1 the way. The figures for the current operating
2 expenditures includes federal funds among that. All
3 of the other figures do as well.

4 THE COURT: Okay. So in this instructional
5 service category out of Bench Marks, we've got
6 federal funds, right?

7 MR. KAUFFMAN: That's right. As well as
8 the pupil/teacher ratios includes teachers that are
9 just federal funded teachers in whatever school --

10 THE COURT: All right. I've been letting
11 charts and things in evidence that has federal funds
12 in it as well as witnesses testifying about federal
13 funds, but I'm going to tell everybody that I'm not
14 very interested in knowing about federal funds. So I
15 want it pointed out to me, both sides, when you're
16 using figures that have federal funds in it.

17 MR. O'HANLON: All right, Your Honor.
18 These have federal funds in it.

19 THE COURT: Okay.

20 MR. O'HANLON: They also have cafeteria
21 receipts and all the other sources of revenue that
22 are available to the district.

23 THE COURT: Okay.

24 BY MR. O'HANLON:

25 Q. Now, given -- despite they're twelfth in the

1 district, they're third in Bexar County in the amount
2 of money they spend for instructional service. Does
3 that surprise you?

4 A. I think I already answered that.

5 Q. Okay. Now, let's look at -- you said that the poorer
6 districts don't have a whole lot of aides. Edgewood
7 has got twice what the state average is.

8 A. Federal monies.

9 Q. Okay. But they have twice as many aides that are
10 available. Do you dispute that?

11 A. I won't dispute your figures.

12 Q. Okay.

13 A. Or Bench Marks figures, wherever you --

14 Q. Okay. And they've done this without sacrificing
15 their pupil/teacher ratio either, have they?

16 A. Apparently.

17 Q. In fact, they've got a little bit better
18 pupil/teacher ratio than the state as a whole?

19 A. Apparently.

20 Q. Okay. And you said that they didn't -- that poor
21 districts can't afford support staff, but that the
22 Edgewood Independent School District is second in
23 Bexar County in the number of support staffs that are
24 available per thousand for their students?

25 A. I would have to say to you again, sir, that federal

1 monies or categorical monies may play a large role in
2 this. I can't, of course, attest to that because I'm
3 not an expert in this particular area. I am not here
4 as a school finance expert. I think you have had
5 those, and I think that you will have some more later
6 on. I am here as a person who understands curriculum
7 and instruction.

8 Q. But you testified at some length that poor districts
9 simply don't have any aides. They don't have the
10 same number of aides that other school districts
11 have.

12 A. That's been my observation. You're holding Edgewood
13 up as one example as a poor school district. There
14 are many other poor school districts. Edgewood is
15 not the only one.

16 Q. Uh-huh.

17 A. It's not the only one that I work in.

18 Q. I understand that. But does it surprise you that
19 -- if Edgewood can afford it with a lower than average
20 tax rate and their property wealth, then virtually
21 any other school district could afford it if they had
22 what you called good leadership.

23 A. I don't think that that's a correct assumption. I
24 think that we have to look again at the source of
25 monies or how they are setting their priorities --

1 Q. Okay.

2 A. -- because you can -- you know, there are differing
3 needs in different areas. You have to set
4 priorities. When you don't have enough money, you
5 just set those priorities. And apparently, Edgewood
6 has set instructional priorities.

7 Q. Okay.

8 A. Other school districts might have to set building of
9 buildings -- you know, classroom space as a priority,
10 in which case the instructional needs would have to
11 suffer. I mean, this is a lay person telling you.
12 As I said, I'm not an expert in school finance, but
13 just being a, I think, a logical thinking person, I
14 would have to answer in that way.

15 Q. Okay. So, when you're saying that school districts
16 -- certain property poor school districts don't have a
17 number of -- don't have the aides that they should or
18 something of that nature, you're not saying that they
19 can't, are you? You're saying that they have
20 arranged their priorities in such a way as they're
21 spending their money somewhere else?

22 A. I don't think that that is always the case. I think
23 that in some instances, they can't.

24 Q. Have you ever examined -- have you ever gone in and
25 looked to see how they are -- as part and parcel of

1 what you do, have you looked at their budgets at all?

2 A. No, that is not my function.

3 Q. Okay. So when you said they can't, it's not a
4 question of examining their priorities within the
5 district. That's just your opinion from working out
6 there in the field without knowing anything about the
7 finances of that particular district?

8 A. And sometimes with discussion with people who are in
9 charge of curriculum.

10 Q. Okay. Have you ever talked to superintendents about
11 money?

12 A. Not superintendents.

13 Q. Okay. Have you ever talked to boards of trustees --

14 A. No.

15 Q. -- about allocating of priorities?

16 A. No. Again, that's not my function.

17 Q. Okay. Your function is to do the best job that you
18 can with what you've got to work with?

19 A. My function is to go in and train teachers and
20 administrators to deliver the best quality
21 instruction that they can to children under the
22 circumstances that they have to work in.

23 Q. Okay.

24 A. As I do that, information comes to me from -- you
25 know, you inquire, you do needs assessments, how many

1 teacher aides do you have access to. Sometimes we
2 train teacher aides as well. So that's how the
3 information comes to me.

4 Q. Okay.

5 A. But again, my function is not to go in and work on
6 these particular issues with boards nor with
7 superintendents.

8 Q. Okay. So when you're talking about that they just
9 simply can't do it, you don't really know that they
10 can't do it because you haven't examined their
11 priorities in that district?

12 A. Not in the way that you have described them.

13 Q. Okay. And the same thing I assume would go for
14 instructional materials and things of that nature.
15 You haven't really gone in and examined their budgets
16 and made a determination of whether or not they can
17 afford it or not?

18 A. That is not my function.

19 Q. Okay. So the answer is that you haven't done that,
20 is that correct?

21 A. That's right. That is not my function.

22 Q. Okay. So all of your testimony is based upon simply
23 your observations in the field?

24 A. It's based on my experience as a trainer of teachers.

25 Q. Okay. Now, you said you taught at Edgewood?

1 A. Yes, my very first year.

2 Q. Okay. And you said that your pupil ratio was 25-to-1
3 back then?

4 A. No. Back then, the situation was so bad that I
5 taught a half-day session. The lack of classroom
6 space was so atrocious in the district that I taught
7 a half-day session. I shared a classroom with
8 another teacher. She came in in the morning and
9 taught from 7:00 until 12:00 noon, the children
10 picked up their books and everything and they vacated
11 the classroom, and I came in at 12:30 and taught from
12 12:30 to 5:30. That's the condition that I taught in
13 in Edgewood in that very first year.

14 Q. That's not going on down there any more, is it?

15 A. No. I think that they were able to resolve the
16 half-day sessions --

17 Q. Okay.

18 A. -- so that every one is in full-day session now.

19 Q. Okay. Did you have at that time a pupil/teacher
20 ratio of 16.2?

21 A. No.

22 Q. Okay. So things have substantially improved in that
23 district.

24 A. Oh, of course. We now have the House Bill 72
25 mandate, the 22-to-1 ratio. So that's changed all

1 over the state --

2 Q. Okay.

3 A. -- for wealthy and poor alike.

4 Q. Did you have those kinds of support ratios back then?

5 A. What kind of support ratios?

6 Q. It's 6.3 -- in Edgewood, it's 6.3 support personnel
7 per 1,000 students.

8 A. What do the 6.3 include? Can you tell me what that
9 might be?

10 Q. We can look at the definition.

11 A. Okay.

12 Q. That includes instructional-related personnel who are
13 not classroom teachers or aides. It includes
14 supervisors, counselors, librarians, nurses,
15 physicians and special service personnel.

16 A. Yes, we had some of those.

17 Q. Okay. So, did you have that kind of ratio?

18 A. It was probably pretty close, uh-huh.

19 Q. Okay. Does it surprise you that Edgewood has got
20 more supervisors, counselors, librarians, nurses,
21 physicians and special service personnel than the
22 state as a whole?

23 A. No. As I said before -- well, let me make an
24 addition. I think two things have happened.

25 Obviously, they have been the recipients of some

1 money, okay, with the -- given the new House Bill 72
2 and so forth. So obviously that has helped from the
3 time that I was there until the current date.

4 I have mentioned creative leadership also. And
5 I think that's an important thing. They have set
6 some priorities obviously -- apparently, they have
7 set some priorities and that's how the priorities
8 work out.

9 I would like to point out, though, that they
10 have a long way to go. I mean, after all, they've
11 been neglected for decades. They've been starving
12 for decades, so they still have a long way to go in
13 terms of updating facilities, in terms of teacher
14 salaries, in terms of instructional supplies and so
15 forth.

16 Q. Okay.

17 A. And when I say the "they," I'm speaking broadly not
18 only in terms of Edgewood, but the other low wealth
19 school districts.

20 Q. Okay.

21 A. Remember, I'm not the expert in Edgewood. I think
22 you're going to have the Edgewood expert a little bit
23 later on.

24 Q. Okay. But once again, it's a question of good
25 leadership and priorities. You can do an awful lot

1 by prioritizing your situation even in a district as
2 low as Edgewood.

3 A. I think that's one variable, yes.

4 Q. Okay.

5 A. I think that the other variables, as I think I
6 indicated before, is that one has to look at the
7 changing demographics of an area. It could be in
8 this case, it may be that Edgewood can put more into
9 instruction because they don't have to build
10 classrooms. They may be losing population. Okay.
11 That makes a difference. If you have to build
12 classrooms, as they have to do from the information
13 that I get from Brownsville, if they have to build
14 classrooms, then that money has to come from
15 someplace else and that someplace else may be -- and
16 I'm saying may be, I'm holding that up as an example
17 -- it may come from instruction.

18 Q. Okay.

19 A. You only have so much money, so it has to go one way
20 or the other.

21 Q. Okay. So even if we're doing it purely on kind of
22 wealth, that you've got variations among the
23 districts that cause all kinds of problems.

24 A. Uh-huh.

25 Q. It's hard to do any kind of hard and fast rule, isn't

1 it?

2 A. What do you mean by that?

3 Q. It's hard to say that poor -- property poor districts
4 simply aren't putting the number of teachers out
5 there and support people out there, isn't it?

6 A. Ask me that again.

7 Q. Okay. Isn't it hard to generalize that property poor
8 districts are simply not putting teachers out there,
9 and support personnel out there, and aides out there?

10 A. No. I don't think it's difficult to generalize if
11 you're out there working with them.

12 Q. Okay. Now, you're in a program that is funded by
13 Chapter 4?

14 A. Title 4.

15 Q. Title 4?

16 A. Uh-huh.

17 Q. Okay. There are other programs similar to yours that
18 are funded by various agencies that provide
19 assistance to school districts.

20 A. Not many.

21 Q. Okay. Do you know --

22 A. In fact, I can't think of any other one.

23 Q. Okay. Do you know what the Regional Service Center
24 does?

25 A. Yes.

1 Q. Could you kind of tell the Court what those are and
2 what their funds --

3 A. Okay. My understanding of the Regional Service
4 Centers is they are an extension or an arm, we might
5 say, of the state education agency. And as such,
6 they have a limited number of staff people who can
7 provide a limited number of services to school
8 districts.

9 Q. Okay. And those services are in the way of teacher
10 training --

11 A. Yes.

12 Q. -- and kind of working with budgets and computer
13 modeling and a whole range of services.

14 A. I don't know about the working with budgets. You
15 know, I can't speak to that. My familiarity with the
16 work of the Education Service Centers is that on a
17 limited basis, they provide services to districts.

18 However, it's also my understanding that school
19 districts have to pay into Service Centers on a per
20 pupil basis in order to receive some of those
21 services.

22 Q. Okay. But there are services available -- after that
23 being done, you're paying on a per ADA basis, but you
24 can draw services if you can convince the Service
25 Center to come out and work with you.

1 A. On a limited basis.

2 Q. Okay. There's a number of those kinds of things out
3 there, aren't there, besides your agency or your
4 organization and the Service Centers, there's other
5 ones around. Universities provide instructional
6 leadership, don't they?

7 A. Universities provide leadership and they provide
8 consulting to school districts, but that's on a cost
9 basis. Remember, I was at a university and I did a
10 lot of consulting with school districts to supplement
11 my meager income as a university professor.

12 Q. Okay. And you say that you are able to spend -- to
13 allocate how much in the State of Texas?

14 A. Approximately 400 person days of services at no cost
15 to school districts in the State of Texas.

16 Q. I think you lost a hundred since yesterday.

17 A. No, no. I think that -- if I recall yesterday, I
18 said that I have a number of days that I can provide
19 to Texas, Louisiana and Arkansas, and I withdrew -- I
20 specifically remember that I withdrew a hundred
21 because I had not given enough to Arkansas and
22 Louisiana --

23 Q. Okay.

24 A. -- in my original estimate.

25 Q. Okay. 400 person days translates to how many visits

1 to how many districts?

2 A. Oh, that's variable. Since our work focuses on
3 language minority children, we are eligible to serve
4 possibly 300 school districts in this state.
5 Remember, they -- those who request our services. If
6 I were to take -- if I were to serve all 300
7 districts or even if I were to serve 200 districts,
8 which is not unusual, that would mean two person days
9 per district. That's not a lot.

10 Q. Okay. I mean, I'm not asking you theoretically. I'm
11 asking you as a practical matter, how many do you
12 work with in a year?

13 A. We've been in existence for eight years, okay --

14 Q. Uh-huh.

15 A. -- our service, our particular project. Within the
16 eight years that we've been in existence, our monies
17 have continued to decline so that the numbers of days
18 that I can provide are continuing to decline.

19 Q. Okay.

20 A. Within this year of operation, I will provide about
21 400 person days to about 150 school districts. What
22 does that break out to, about two and a half days,
23 something like that.

24 Q. Okay. So you --

25 A. That's about all I can do.

1 Q. So you're managing to help, though, about 150 school
2 districts a year?

3 A. Yes --

4 Q. Okay.

5 A. -- with that limited number of -- that limited amount
6 of service, I should say.

7 Q. Okay.

8 MR. O'HANLON: I'll pass the witness.

9 CROSS EXAMINATION

10 BY MR. TURNER:

11 Q. Dr. Zamora, I'm Jim Turner, and I represent a group
12 of 22 school districts that have intervened as
13 Defendants in this lawsuit. I don't know if we have
14 met before or not. I notice you worked in 19 -- I
15 believe -- '81 for the late representative Matt
16 Garcia.

17 A. I didn't work for him. I worked with him.

18 Q. Worked with him?

19 A. Yes, uh-huh. I provided some information to him.

20 Q. And I may have met you at sometime because I think
21 you were working on the bilingual bill at that time --

22 A. Uh-huh.

23 Q. -- and I was a member of the Legislature at that
24 time.

25 A. Yes.

1 Q. I noticed you testified before numerous committees --

2 A. Right.

3 Q. -- during that period of time.

4 A. Yes.

5 Q. I also notice that you have been active in the
6 legislative process around the time that House Bill
7 72 was under consideration?

8 A. Uh-huh.

9 Q. And did I understand it correctly, you offered some
10 testimony at that time?

11 A. Yes, at the request of Ross Perot.

12 Q. And the kind of testimony you offered at that time,
13 was it similar to the kind of testimony that you're
14 offering here today?

15 A. No.

16 Q. What subject area were you in at that time?

17 A. I was asked specifically to speak to the issues
18 surrounding the implementation of quality bilingual
19 education programs, which is a little bit narrower
20 focus than that which we're discussing today.

21 Q. I notice that subject of bilingual education seems to
22 be a subject that you have a high degree of specialty
23 in based on the number of papers and speeches that
24 you've given over the last several years.

25 A. Yes.

1 Q. I noticed in your resume there are some other court
2 cases that you've been involved in. One mentioned in
3 your resume is United States versus Texas.

4 A. Uh-huh.

5 Q. Your resume said you did extensive research for
6 MALDEF and the Harvard Center for Law and Education.

7 A. Right.

8 Q. What kind of testimony did you offer in that case?

9 A. I was not a witness. I think it says research. That
10 means that I did a little bit of background -- I did
11 a good deal -- a lot of background investigation,
12 again, in terms of curriculum and instruction, since
13 that's the area that I know best.

14 Q. So you were employed by MALDEF to do research at that
15 time?

16 A. No, no. I think it's important to clarify that I was
17 not employed by MALDEF nor was I employed by Matt
18 Garcia. That in these instances, I am employed by
19 the same organization that I'm employed for now. I
20 am simply doing research at the request of these
21 entities.

22 Q. When you say the organization you're employed by now,
23 we're talking about IDRA?

24 A. That's right.

25 Q. And I suppose, then, it's common for IDRA to render

1 services to other organizations of like interest?

2 A. That's our -- yes, that's our mission, to provide
3 services to school districts, to universities, to the
4 State Legislature, to MALDEF, but always in terms of
5 research information.

6 Q. Tell me a little bit about IDRA. I'm not sure I
7 understand the nature of it. I understand it's a
8 nonprofit organization --

9 A. Yes.

10 Q. -- but when was it founded and who is involved in it?

11 A. Oh, dear, it was founded, what, about -- I think
12 about 15 years ago. Its executive director is Dr.
13 Jose Cardenas. It is a nonprofit organization. We
14 are -- our primary focus is bringing about
15 educational equity. We focus particularly on
16 services to disadvantaged children, to limited
17 English proficient children.

18 Q. And how is IDRA funded?

19 A. A variety of ways. We have contracts with school
20 districts, we have contracts with the state. We just
21 finished the drop out research study. That was a
22 TDCA project. We have some Foundation funding, we
23 have some federal funding, so a variety of sources.

24 Q. Now, you mentioned a few moments ago, Dr. Zamora, in
25 response to a question by Mr. O'Hanlon about the

1 Edgewood School District --

2 A. Uh-huh.

3 Q. -- that we would have the Edgewood expert later. Who
4 were you referring to?

5 A. I believe that the superintendent is going to be
6 called.

7 Q. All right. Now, Dr. Cardenas, who is the executive
8 director of IDRA --

9 A. Uh-huh.

10 Q. -- and I suppose has been executive director since it
11 began?

12 A. Yes, sir.

13 Q. Was he a former superintendent at the Edgewood
14 Independent School District?

15 A. Yes.

16 Q. And how many years was he superintendent?

17 A. I don't know.

18 Q. Was he superintendent during that time when you were
19 a teacher?

20 A. No.

21 Q. He was not?

22 A. No.

23 Q. The other case that's -- a couple of others that are
24 mentioned in your resume where you did serve, I
25 believe it says here as an expert witness --

1 A. Whatever that may mean.

2 Q. -- Castaneda versus Pickard?

3 A. Yes.

4 Q. What kind of testimony did you offer in that case?

5 A. Specifically, I was asked to look at the staff
6 development program that had been developed for the
7 teachers of language minority children in the
8 Raymondville School District, and then to offer my
9 expertise in terms of assessing its potential for
10 developing teacher competencies to meet the needs of
11 those students.

12 Q. And the other case you have served as an expert in,
13 In Re: Alien Children?

14 A. Yes.

15 Q. What kind of testimony did you offer there?

16 A. You're asking me to go back a little ways, but again,
17 if I recall, it was in the area of staff development.

18 Q. Were you an expert witness in both of those cases as
19 an employee of IDRA?

20 A. I was employed by IDRA, yes.

21 Q. Were you -- the services rendered, were they paid to
22 you directly --

23 A. No.

24 Q. -- or were you just rendering those --

25 A. No.

1 Q. -- services as an employee of IDRA?

2 A. Yes. I have never been paid directly for any of
3 those services.

4 Q. Are you here today in the same capacity --

5 A. In the same capacity.

6 Q. -- rendering service without pay or compensation, but
7 merely as an employee --

8 A. That's right.

9 Q. -- of IDRA?

10 A. Yes.

11 COURT REPORTER: Excuse me.

12 MR. RICHARDS: You two -- you've got to let
13 him finish his question before you answer.

14 THE COURT: When two people are talking,
15 it's very difficult for her.

16 BY MR. TURNER:

17 Q. I would ask the question, Dr. Zamora, if -- I believe
18 I just -- you just told me that you had served as an
19 expert witness in these other two cases, Castaneda
20 versus Pickard and In re: Alien Children, and that no
21 compensation, other than the fact that you were an
22 employee of IDRA at the time and IDRA was furnishing
23 you as an expert in those cases. And I asked you if
24 you were here today in the same capacity serving as
25 an expert without compensation to you directly, but

1 merely being furnished by IDRA as an expert in this
2 case?

3 A. That's correct.

4 Q. Mr. O'Hanlon was asking a question of you, Dr.
5 Zamora, about the Regional Service Centers. As I
6 understand it, our state is divided into 20 regional
7 service regions. Are you familiar with that division
8 of the state?

9 A. Yes.

10 Q. And as I looked at the map of the state, I noticed
11 that San Antonio is the headquarters or the center or
12 the location of the Regional Service Center for
13 Region 20.

14 A. Yes.

15 Q. Are you familiar with the facility there and the
16 offerings that are available to school districts out
17 of San Antonio Regional Service Center?

18 A. Yes. I'm familiar with the facility. In fact, I was
19 there just two weeks ago during the training session.

20 Q. I had read that every Regional Service Center has a
21 media center which makes available certain materials,
22 as I understand it, to all school districts within
23 the Region. Are you familiar with that?

24 A. That each Service Center, as I understand it, has a
25 media center. They make materials available to

1 school districts on a loan basis, but only to those
2 school districts that pay a per capita fee to
3 participate in the services of the Education Service
4 Center. In fact, when I was in Edgewood, we couldn't
5 afford to pay the per capita, the per person, the per
6 pupil fee, and so we didn't participate in any of the
7 educational service center services.

8 Q. As I understand it, the fee that we're talking about
9 only pays for a portion of the cost of the Service
10 Center, and the state actually makes the lion's share
11 of the contribution. Is that the way you understand
12 it?

13 A. I'm not aware of that, no.

14 Q. Having visited that Regional Service Center, did you
15 have the opportunity or have you in the past to go
16 through the media library in the Regional Service
17 Center?

18 A. I went through the media library prior to their
19 building this magnificent new facility. I haven't
20 seen the media center in the new facility.

21 Q. From your experience in working out in the field, can
22 you tell if districts in the San Antonio area are
23 utilizing the resources available in the Regional
24 Service Center and, in particular, in the media
25 center as far as instructional materials?

1 A. My experience is that they are utilizing some
2 services from the Service Center. I am not -- I
3 can't speak to their use of the media center.

4 Q. I'm not too clear when I asked the question as to
5 what all is in the media center. Can you tell me
6 what is in the media center?

7 A. No, I can't.

8 Q. The teacher training -- in-service training programs
9 that are run by and sponsored by the Regional Service
10 Centers in the state Mr. O'Hanlon referred to, are
11 you familiar with how those work?

12 A. No.

13 Q. Have you had occasion to be employed or contracted
14 with by Regional Service Center to render some of
15 these kind of in-service training?

16 A. I seem to recall that quite a number of years ago I
17 may have done some work for a Service Center. In
18 recent history, no, simply because I have -- an
19 entity. I'm director of a project that provides
20 services to school districts and I cannot receive
21 compensation from a state entity, you see.

22 I would like to volunteer the information that
23 -- in terms of staffing, since we're speaking of a
24 Region 20 Service Center in particular, let me speak
25 to an area that I am very familiar with, as you

1 suggested, the whole area of bilingual education.
2 Region 20 Service Center has one bilingual education
3 consultant to serve all of the districts and all of
4 the bilingual teachers who serve all of the bilingual
5 children within the Region 20 Service Center, and
6 that's not very much staff to serve that many. This
7 is why we continue to get so many requests for
8 services.

9 Q. Who is the head of the Regional Service Center in San
10 Antonio?

11 A. I believe it's Dr. Joyce Castleberry (Phon.). I
12 think that's her name. I'm not quite sure. Judy
13 Castleberry. Well, I was close.

14 Q. Dr. Zamora, has your contact with or information
15 about the Regional Service Center in the San Antonio
16 area, in particular, caused you to have any view or
17 opinion regarding the assistance or the effectiveness
18 of the Regional Service Center concept in Texas or,
19 in particular, the Regional Service Center as it has
20 contributed to education and education quality in the
21 San Antonio area in Region 20?

22 A. That's a long question. Could you ask that again so
23 I can make sure I understand what you're asking?

24 Q. All right. Based on your experience in your work --

25 A. Uh-huh.

1 Q. -- and your acquaintance with the type of services
2 rendered by the Regional Service Center in San
3 Antonio to the school districts in Region 20, have
4 you been able to form any opinion regarding the
5 effectiveness or lack thereof of the Regional Service
6 Center concept in rendering services and enhancing
7 educational quality to those school districts in that
8 Region 20?

9 A. I think that the Regional Service Center certainly
10 plays a role. In San Antonio, the one I'm the most
11 familiar with, has a beautiful facility. Because
12 they are an arm of the Texas Education Agency, the
13 staff of TEA come in often and they hold regional
14 meetings to which administrators and sometimes
15 teachers attend. I think that's a very fine thing, I
16 think, for that to exist.

17 However, the other thing that we have to
18 recognize is that they have a limited staff and
19 therefore, even though they may wish to provide more
20 services, they simply cannot provide the kinds of
21 services or the level of services that teachers
22 currently need.

23 Q. In the area of staff training, which you primarily
24 engage in --

25 A. Uh-huh.

1 Q. -- you, in essence, supplement the kind of thing that
2 is intended to be and is provided to some limited
3 degree by the Regional Service Center, is that
4 correct?

5 A. No, that's not correct. Sometimes we're the -- we
6 don't supplement. Sometimes we are the only group
7 that does the training, that provides the training
8 for a school district.

9 Q. In other words, a school district could ask you to
10 come in and provide that kind of staff training.
11 They could have also -- also be calling upon the
12 Regional Service Center.

13 A. Yes.

14 Q. They might choose you out of choice or they might not
15 be able to get the services from the Service Center,
16 and you're available, and so you would come provide
17 it?

18 A. My experience is that the school districts try to
19 secure as many services as they can at no cost. So
20 they try to use up everything that we can offer and,
21 of course, they try to use as much as the Education
22 Service Center can offer. Sometimes that just isn't
23 enough. And that's why staff development, again, in
24 school districts can become a very costly issue.

25 Q. You've mentioned that limited -- what you view to be

1 a limited ability of the Regional Service Center to
2 assist in the bilingual area.

3 A. Uh-huh.

4 Q. Do you also provide assistance in to districts in
5 that bilingual area?

6 A. Yes, we do. Remember that services to language
7 minority children is the particular focus of the
8 project that I direct.

9 Q. And do you have other staff members that work under
10 you that assist in this?

11 A. Yes, a limited number of staff. I'm funded for four
12 people this year. I used to be funded for 20 eight
13 years ago.

14 MR. TURNER: I'll pass the witness.

15 CROSS EXAMINATION

16 BY MS. MILFORD:

17 Q. Dr. Zamora, I believe that you testified that in the
18 low wealth school districts, the drop out rate is a
19 little higher than in the property rich school
20 districts, is that correct?

21 A. I'm trying to search my mind for that recent
22 research. I wish I had brought the document with me
23 and then I could be more sure. I think it's safe to
24 say that yes, that that is indeed the case.

25 Q. Students who drop out in the low wealth districts, do

1 many of them drop out for economic reasons such as
2 having to get a job and help support the family
3 rather than educational reasons?

4 A. I believe --

5 Q. Do you find this prevalent in low wealth school
6 districts?

7 A. I believe that the research, again, indicates that
8 the primary reason for drop outs is lack of academic
9 achievement. The lack of academic success is the
10 primary reason for dropping out. Economic factors
11 come in as do things like teenage pregnancy for
12 females.

13 Q. You're referring to the research you've read. Is
14 this true in your personal experience of what you've
15 seen in the low wealth school districts?

16 A. The research that I'm referring to is the research
17 study that IDRA recently conducted. This is research
18 that was done with the support of the Texas
19 Department of Community Affairs and has been endorsed
20 by the Texas Education Agency and Commissioner Kirby,
21 so that's what I'm basing my information on.

22 You see, we don't have -- we know -- from my
23 experience, we know that there are drop outs. Okay.
24 From my own experience, I can tell you that I'm
25 called the 20 percenter because Mexican-American

1 people of my generation, only 20 percent of us
2 finished high school, so I'm called a 20 percenter.
3 So we've had a drop out rate, yes, in my experience,
4 absolutely. But in terms of the cold facts, the hard
5 facts, the research that I'm alluding to is the study
6 that was just conducted and just released.

7 Q. And that research does indicate that some of the
8 students do drop out for the economic reasons?

9 A. Large numbers of students drop out, but primarily for
10 academic -- because of the lack of academic
11 achievement or lack of success in academics.

12 MS. MILFORD: I have no further questions,
13 Your Honor. Pass the witness.

14 THE COURT: I've got a few questions.

15 EXAMINATION

16 BY THE COURT:

17 Q. Ma'am, I'm just slightly confused. Who do you work
18 for? It may not make a lot of difference, but --

19 A. For ten years I have worked for Intercultural
20 Development Research Association.

21 Q. Okay. And they pay you? They give you a paycheck?

22 A. They give me a paycheck every month.

23 Q. But does that organization or do you get money from
24 the federal government to do that?

25 A. Within -- this is an umbrella organization and within

1 that organization, we have several components.

2 Q. Okay.

3 A. One of those components or one of the divisions is a
4 training division. I'm a part of that training
5 division. Within the training division, my project
6 is one of those, and that project receives federal
7 monies.

8 Q. And that's that Title 4?

9 A. That's the Title 4 project, yes.

10 Q. Okay. I'm getting it. And you said once upon a time
11 you had 20 people --

12 A. Yes.

13 Q. -- in your division --

14 A. In my project.

15 Q. In your project that got money from Title 4 to pay
16 their paychecks?

17 A. That's right.

18 Q. And now you're down to eight?

19 A. Four.

20 Q. Four. Okay. Why is that?

21 A. The declining federal monies.

22 Q. Okay. So, all of your work is done in connection
23 with this Title 4?

24 A. Yes.

25 Q. Okay. And that has to do with the bilingual

1 education?

2 A. It has to do with the desegregation of public
3 education primarily servicing national origin
4 minority students. Bilingual education isn't always
5 a part of that, you see. It's one of those discrete
6 elements that we may address. We also do a lot of
7 training in English as a second language.

8 Q. Okay. Do you know -- now see, these schools across
9 Texas get the federal money --

10 A. Uh-huh.

11 Q. -- for specific purposes --

12 A. Yes.

13 Q. -- and projects.

14 At the time that your money has been going
15 down, do you know if the money going to these various
16 school districts around Texas have been going down
17 for special projects; do you know?

18 A. Yes. I'm particularly familiar with the Title 7
19 monies. Again, because I deal with language minority
20 children and because I deal with a lot of bilingual
21 education programs, we used to have quite a bit of
22 federal bilingual education dollars coming into the
23 state a few years ago.

24 Q. That went to school districts?

25 A. That went to school districts. We don't have that

1 now. We have very limited federal dollars coming in
2 to support bilingual educational efforts; that I
3 know.

4 Q. Uh-huh.

5 A. Edgewood is one of those. Edgewood doesn't receive
6 any bilingual education dollars.

7 THE COURT: Okay. Thank you, ma'am.

8 MR. KAUFFMAN: Your Honor, if we may, our
9 next witness is literally on his way here.

10 THE COURT: Okay.

11 MR. KAUFFMAN: I wanted to draw a small
12 chart, so if we could take a break a little bit
13 early, that would mean we'll be back and we'll have
14 our chart up and --

15 THE COURT: Okay. Are you all letting Dr.
16 Zamora go now?

17 MR. O'HANLON: Yes.

18 MR. KAUFFMAN: We might have one question
19 for her on redirect on this chart, but we'll --

20 THE COURT: Okay.

21 MR. O'HANLON: Your Honor, before we break
22 and before I forget it, I would like to offer
23 Defendants' Exhibit No. 24.

24 THE COURT: Okay. With the understanding
25 it's got federal money in the figures up there, is

1 there any other objection?

2 MR. KAUFFMAN: No, Your Honor.

3 MR. ROOS: No, Your Honor.

4 (Defendant's Exhibit No. 24 admitted.)

5 MR. O'HANLON: If I can explain briefly,
6 Your Honor, this is not part of some plot or anything
7 to roll federal monies in. The way that school
8 districts do their accounting, it is -- and the way
9 that the information is received by the Texas
10 Education Agency with respect to budgetary figures,
11 we don't have the ability except to look at the
12 district as a whole. And so we're operating --
13 because of the way the accounting is done, we're
14 operating -- this is the best information that we
15 have available to us by which we can compare
16 districts.

17 MR. RICHARDS: That's, of course, the
18 beauty of Mr. Foster's testimony because he took the
19 federal money out and you could make a comparison
20 without having federal money to obscure the picture.

21 THE COURT: Doctor, remember, there's two
22 steps down.

23 All right. Now how will we know when to come
24 back in here?

25 MR. KAUFFMAN: He's here, actually, Your

1 Honor. The witness just stepped in. But if we could
2 have the break so we can put the chart up and if you
3 don't mind, it's a little early. It's the Court's
4 discretion.

5 THE COURT: We'll get started up again at
6 20 after.

7 (Short recess.)

8 THE COURT: All right, sir.

9 MR. ROOS: Your Honor, we were able to
10 convince Mr. Kauffman not to put up his counter
11 chart. We don't have another chart. We have no
12 redirect of Dr. Zamora. Can she be excused, please,
13 Your Honor?

14 MR. O'HANLON: No objection.

15 THE COURT: She may be excused. Thank you,
16 ma'am.

17 (Witness excused.)

18 MR. O'HANLON: As a housekeeping matter,
19 Your Honor, Monica just told me that we don't show
20 Defendants' Exhibit No. 22 as being admitted.

21 MR. RICHARDS: We have no objection to it,
22 Your Honor.

23 MR. KAUFFMAN: None, Your Honor.

24 THE COURT: Okay. That's right. It will
25 be admitted.

1 (Defendants' Exhibit No. 22 admitted.)

2 MR. ROOS: Plaintiffs call Dr. Valverde to
3 the witness stand.

4 DR. LEONARD VALVERDE

5 was called as a witness, and after having been first duly
6 sworn, testified as follows, to-wit:

7 DIRECT EXAMINATION

8 BY MR. ROOS:

9 Q. Dr. Valverde, could you state your full name for the
10 record?

11 A. Leonard Valverde.

12 Q. And where do you live, Dr. Valverde?

13 A. In Austin.

14 Q. Could you briefly inform the Court of your
15 educational background?

16 A. I did my doctoral work in California, Claremont
17 Graduate School, professional career as a -- doctoral
18 work at Claremont Graduate School in Southern
19 California; professional career as a classroom
20 teacher at all grade levels, elementary, second,
21 junior high, senior high, community college, and now
22 at the university; also been a supervisor of
23 classroom teachers and administrator at the public
24 school level; and am now a chairman and professor of
25 the Department of Educational Administration here at

1 the University of Texas at Austin.

2 Q. What year did you get your doctorate, sir?

3 A. '74.

4 Q. What was that in?

5 A. Educational administration.

6 Q. Could you tell us what years you were a classroom
7 teacher and what sorts of schools?

8 A. I started my teaching career in 1967 and went until
9 1973.

10 Q. And what sorts of schools were those?

11 A. They were in the Los Angeles school district, and
12 they were in the eastern quadrant of the Los Angeles
13 school districts, and you might typify those as low
14 wealth school districts.

15 Q. Low wealth schools?

16 A. Low wealth schools, I'm sorry.

17 Q. And your Master's degree, what year did you get your
18 Master's degree?

19 A. Didn't receive a Master's; that is, I did a year of
20 Master's work and then continued on for a doctoral,
21 so it didn't apply for a Master's. But I did a year
22 of work in 1970.

23 Q. Uh-huh. Okay. And your doctorate was granted in
24 1974?

25 A. That's correct.

1 Q. Okay. And could you give us a somewhat fuller
2 picture of what you've been doing since 1974 at your
3 doctorate?

4 A. I've been here at the University of Texas. This is
5 my 13th year, I believe. And that entails classroom
6 teaching, research, publication, services to the
7 field primarily.

8 Q. And what department is that at the University of
9 Texas?

10 A. The Department of Educational Administration. It
11 prepares principals, superintendents, administrators
12 for community colleges, and higher education
13 institutions, as well as support staff which we call
14 instructional supervisors.

15 Q. What is your present position there?

16 A. Chairman and professor.

17 Q. Chairman of what?

18 A. The department.

19 Q. Department of Educational Administration?

20 A. Administration.

21 Q. Thank you. And how long have you held that position?

22 A. This is my third year.

23 Q. Now, you also mentioned that in addition to your work
24 at the University of Texas, do you have -- do you do
25 work in school districts around the state?

1 A. Yes, I do. I do two types of -- I have two main
2 types of involvement in the school districts. One is
3 providing counsel advice and assistance on a request
4 basis. The other is that we have a program which
5 prepares administrators and part of that is having
6 them do an internship which is on-site clinical
7 experience practicing to become administrators. And
8 so it requires me to go out and spend time with them
9 supervising them, counseling them, speaking with
10 administrators. So I have two primary modes of
11 getting into school districts.

12 Q. I would like to discuss both modes briefly, but first
13 of all, I would like to talk a little bit about the
14 way you train administrators at the University of
15 Texas with particular focus on the intern program.

16 Could you tell us a little bit about that?

17 A. Well, we have basically -- I think, to sketch it out
18 for you, we have a small operation. We've always
19 held the philosophy that if we're going to do a good
20 job, that we need to get good talent, small numbers,
21 concentrate effort and time with them, and then give
22 them a relevant curriculum, not only in the
23 classroom, but in the field, so that a major
24 component which separates our program from, I think,
25 most of the others in the State of Texas, as well as

1 across the country, is to put interns or put
2 students, who are preparing to be administrators, for
3 one full semester in a school district with a
4 practicing administrator or administrators and have
5 them actually get hands-on experiences of
6 decision-making and problem solving and working with
7 instructional personnel.

8 Q. Approximately how many students do you have in a
9 given year that go through this program?

10 A. We try, as I said, to keep it small, so we try to
11 focus in on between 20 and 30 students a year.

12 Q. And are each one of those students placed in a school
13 district for this intern program?

14 A. That is our requirement. That is, if a student
15 cannot make a commitment to take a leave of absence
16 from their present place of employment and do an
17 internship, then they are not admitted into the
18 program or they are not -- if they do get admitted,
19 say, they can't do one, but then when time comes to
20 do it, if they can't, they don't exit the program
21 until they do an internship. So it is a requirement
22 that we hold fast to.

23 Q. As I understand it, there are more than a thousand
24 school districts in the State of Texas in which you
25 could possibly place your interns. How do you choose

1 the particular districts that you, in fact, do place
2 the interns in?

3 A. Well, as I said, we concentrate on a small number of
4 people. And again, we believe in identifying talent
5 and giving them the best kind of experience. So what
6 we try to do is to identify school districts that
7 have excellent administrators and have good to
8 excellent operations so that our students will be
9 able to see what a good operation is, and therefore,
10 be able to emulate that when, in fact, they get into
11 that role. So, in essence, we try to what we
12 identify as the best school districts in the state to
13 put our people.

14 Q. Just to give a flavor, could you tell us what some of
15 the districts are or representative group of
16 districts that are currently being utilized?

17 A. We have done work with El Paso, with Dallas, with
18 Richardson, with Houston, with Austin, with San
19 Antonio, with Brownsville, with Corpus Christi.
20 Those are the school districts that we normally put
21 our interns in. Part of the reason as well is that
22 school districts need to provide a salary to these
23 individuals, so it's a paid internship. And
24 therefore, we also need to get school districts that
25 have resources that can do so.

1 Q. Some of those districts that you listed are low
2 wealth and some are high wealth. Do they tend to be
3 one or the other in your view?

4 A. Well, most of them are mid to high wealth, and we do
5 have one school district right now that we have had
6 for the past couple of years that is what we would
7 consider low wealth, and that's Edgewood ISD.

8 Q. Why is that?

9 A. Well, Edgewood ISD has an exceptional superintendent,
10 and we think that our students can benefit from his
11 experience and his guidance.

12 Q. But if one had to generally categorize the districts
13 on the whole, they would tend to be higher wealth
14 districts?

15 A. Yes, that's right.

16 Q. Dr. Valverde, I would like to turn a little bit to a
17 different subject, and that is after these students
18 have gone through your program, what sorts of factors
19 tend to influence where they go?

20 A. Well, I would say primarily two factors. One is our
21 students are looking for exceptional school districts
22 or environments that will allow them to do the kind
23 of job that we've prepared them for. And secondly,
24 since we think we do a good job, they are a good
25 commodity, and therefore, they're looking for good

1 salaries. So they're looking for districts that can
2 support their job well, as well as can support them
3 financially.

4 Q. Is there a competitiveness among school districts for
5 your graduates?

6 A. Oh, very much so. We always get calls from school
7 districts when they have vacancies occurring for
8 nominations. I, in particular, get a number of calls
9 because I'm chairman of the department and school
10 districts know that we have a good category of
11 high-trained prepared persons to do a job for them.

12 Q. Uh-huh. Could you characterize between high and low
13 wealth where the bulk of your student candidates tend
14 to end up?

15 A. They tend to end up with school districts that can
16 pay them better salaries.

17 Q. Uh-huh.

18 A. We have had our people go into Alamo Heights, North
19 East in San Antonio, Richardson, the Dallas, the
20 Houston.

21 Q. Uh-huh. I assume there are exceptions to that?

22 A. Oh, yes, of course.

23 Some of our students will go into small school
24 districts whose salaries are not very competitive,
25 but they'll do so mainly with the intent to gain some

1 experience there and then to be able to move to
2 another school district that can pay them better.

3 Q. Turning to something else, you mentioned that your
4 current duties really involve two things, one, being
5 the Dean, if you will, of the Department of
6 Educational Administration; and secondly, working
7 with school districts in some sort of a role. Could
8 you tell us a little bit about that?

9 A. Well, as you know, school districts are in need of
10 counsel and advice as to how they can help improve
11 their instructional service and delivery so that we
12 are always getting calls trying to provide that kind
13 of assistance. I, in particular, get a number of
14 calls from border school districts, low wealth school
15 districts. They seem to be in more need of guidance
16 and updating about what can be done administratively
17 to support their classroom instruction. So I do a
18 lot of administrator staff development for these
19 districts.

20 Q. So you obviously spent time in both wealthy and low
21 wealth and high wealth districts, is that fair to
22 say?

23 A. That's correct.

24 Q. How many years have you been in the Department of
25 Educational Administration?

1 A. 13 years here.

2 Q. Could you briefly tell us what the major functions of
3 the major educational administrators are and what
4 they do and why we need to have these sorts of
5 people?

6 A. Well, there are two general areas of responsibility.
7 One is what we would call management, primarily
8 reporting information, collecting information,
9 forwarding information to the state department,
10 managing school budgets, scheduling of classroom
11 teachers. So those are all what we would call again
12 management and administrative kinds of
13 responsibilities.

14 The other and most important and what we try to
15 stress in our department as well as, I think, other
16 departments of educational administration is
17 instructional assistance to classroom teachers. The
18 administrator is supposed to be the instructional
19 leader of the school; that is, provide assistance,
20 direction, support, information, training to
21 classroom teachers about how they can do a better job
22 with children to learn.

23 Q. Are there other support staff in the school of 1987
24 that you interact with in relations with schools and
25 that play a role in assisting the teacher deliver

1 service?

2 A. The school administrator is the key individual; that
3 is, he's the person who facilitates, coordinates and
4 arranges for the services, the various services that
5 are supposed to be provided to a school, so that some
6 schools have more specialized service than others.
7 But, for example, an administrator, if he has
8 counselors in his school, then he's responsible for
9 assigning them and guiding them and evaluating them.
10 If the school has a librarian, then the administrator
11 is responsible for librarians. If the school has
12 teacher aides, then the administrator is responsible
13 for them. If the school has services of a
14 diagnostician for student examination, then the
15 administrator is responsible for them. So that when
16 I go out to school districts to talk to
17 administrators or to provide them with some kind of
18 instructional service, it leads me to be involved and
19 to understand what the nature of these other
20 specialized personnel are doing and can do for the
21 school.

22 Q. Would you tell us a little bit -- there's been some
23 discussion about counselors and the -- substantial
24 discussion about counselors in this courtroom at
25 various times. Could you tell us a little bit about

1 what the role of the counselor is in today's school?

2 A. Well, again, the counselor's role, sort of to divide
3 it into two areas, is also somewhat like the
4 administrator; that is, one is administration. By
5 that, I mean that counselors are responsible for
6 organizing a student's -- what do I want to say,
7 course -- courses for each semester. They're
8 supposed to keep track of making sure that each
9 student gets the required courses in order for them
10 to graduate from the public school system. And that
11 takes a lot of paper work as well as a lot of
12 scheduling.

13 The other half comparable to the administrator
14 is that they're supposed to provide personalized and
15 individualized kind of assistance and guidance to
16 students; that is, they're supposed to help them to
17 ascertain what their specialties are, what their
18 interests may be, what career opportunities they
19 have, and also to provide some counsel about if
20 they're having any academic problems in the school,
21 as well as some social problems with their peers, so
22 I think it's divided into those two categories.

23 Q. From your experience, do you find that the absence or
24 existence of counselors has any particular importance
25 to the well being and educational success of the

1 students that are in a given school?

2 A. Oh, very much so. Counselors are extremely important
3 in the sense that -- it varies from school district,
4 but I think it's fair to say that counselors are
5 individuals that are supposed to have a longer view
6 about the child or the student; that is, a counselor
7 takes a child, let's say, from the 9th grade to 10th
8 grade to 11th grade to 12th grade, and therefore,
9 they have a much more latitudinal view about the
10 student's development and future capability.

11 So that counselors are important in that they
12 get to know the student more as an individual and
13 have a better picture of them. So that if schools
14 have these kinds of personnel, then you're likely to
15 have students that will stay in school, will succeed,
16 will overcome problems. Whereas, if a school
17 district or a school does not have sufficient amount
18 of counselors, then that kind of service is lacking
19 and you generally see just the opposite. You see
20 kids that need support, don't get support, and
21 therefore, withdraw from school or do less
22 competitive work in school.

23 Q. What about -- I think you alluded to librarians as
24 being one of the people that one sometimes finds and
25 sometimes doesn't find in schools. What is the role

1 of librarian in the school?

2 A. Well, the role of the librarian -- I guess I should
3 put it in context. Librarians, counselors, aides,
4 specialized instructors have all sort of evolved in
5 the sense that education has evolved. We have the
6 old notion that education takes place in the
7 self-contained classroom with teacher and students,
8 that all you need is a good teacher, the proper
9 materials and the students and instruction and
10 learning will take place.

11 The reality is that, as I said, education has
12 evolved and we find that we are much more diversified
13 and specialized in the kind of services that we can
14 render, so that librarians play the role of providing
15 a service that the classroom teacher cannot provide,
16 in essence; that is, the librarian has a wealth of
17 stored knowledge in various kinds of resources, but
18 primarily in books, so that a teacher can send
19 children to the library to do specialized projects in
20 a sense, and the librarian can assist these students
21 by knowing what resources are available and directing
22 students to get to these kinds of resources. So the
23 teacher doesn't have all of these resources in her
24 classroom to augment or to assist her in the
25 instruction of the children. So the librarian is, in

1 a sense, a support staff, but very much involved in
2 the learning of children.

3 Q. Have you seen schools in which rather than a
4 librarian, there's a library aide, for example?

5 A. Oh, yes. I've seen schools that, one, don't have
6 libraries; two, that do have libraries; three, that
7 have varying size of libraries and currency of
8 publications. I've seen libraries that have
9 part-time librarians, that have people who are just
10 manning the library, but don't know anything about
11 it, persons who have a degree in library science and
12 who are staffing the library. And you have some
13 schools that have two or three libraries in the
14 school. So you have a wide range of that kind of
15 service.

16 Q. In your view, recognizing that there's always some
17 asterisks to be put on any generality, can a library
18 aide perform the same sorts of functions as a
19 certified librarian or a trained librarian?

20 A. I would think if you talked to anyone in the library
21 science, they would say no. Absolutely, there is a
22 difference in quality, a difference in training, a
23 difference in understanding, so that you're not going
24 to get the same kind of service or the quality of
25 service if you have two different kinds of persons,

1 one trained and one not trained.

2 Q. Does that have any effect on the students' learning?

3 A. Very much so. I think that that's our whole society,
4 I think. Their whole premise is that the more
5 capable, the more able, the more well qualified, the
6 more trained an individual is, the better service one
7 is going to receive.

8 Q. Uh-huh. Let's talk a little bit about teacher's
9 aides and what their role is in today's school.

10 A. Well, teacher's aides primarily have been and are
11 used to release teachers from non-instructional
12 tasks. By that, I mean that teachers have to do a
13 lot of reporting, a lot of grading, a lot of
14 administrative kinds of things, used to be collecting
15 the money, and organizing materials for lessons,
16 securing those materials for their lessons. What
17 teacher aides have done is to release the teacher
18 from all of that kind of, again, non-instructional
19 work. So teacher aides have really not done anything
20 that relates to instruction for the most part.

21 Q. Talking for a second about teacher's aides. We
22 sometimes see fairly high relationships of -- high
23 ratios of teacher's aides to students in low wealth
24 districts with high degrees of Chapter 1 or Title 7
25 federal funds. Are those aides available to all of

1 the students within a given school?

2 A. Well, my understanding is that they're not. And my
3 experience is that they're not. Federal dollars do
4 buy additional personnel. But what I have seen when
5 I go out to school districts that have like, for
6 example, Title 1 dollars or Chapter 1 dollars that
7 purchase aides, they generally have split the aides;
8 that is, one aide for two teachers or one aide for
9 three teachers, so that a teacher does not get the
10 full measure of the teacher's aide.

11 Q. Uh-huh. But it's your understanding that those aides
12 are specifically for the Chapter 1 or the Title 7?

13 A. Right. They're identified for those aides, but they
14 have not always been used as -- for those designated
15 purposes as well.

16 Q. In schools and districts that receive degrees of
17 Chapter 1 or other federal sort of categorical money,
18 do they usually come with administrators that are
19 specifically -- that have specific purposes?

20 A. My experience is that when federal dollars or any
21 kind of non-state dollars, in essence, come, that
22 they generally purchase an administrator, and that
23 the nature of that administrator is more management
24 than it is instructional assistance to classroom
25 teachers because of the number of reporting that

1 needs to occur, the regulations and restrictions
2 placed on the utilization of those funds.

3 Q. So often, there's more than one person whose involved
4 in this reporting, is that true?

5 A. Well, there is more than one person, but the
6 individual is the one that is primarily responsible
7 for doing that.

8 Q. Now, Dr. Valverde, having -- well, approximately how
9 frequently in, say, a given month do you visit -- do
10 these consultancies in given schools?

11 A. I would say roughly about four to five days a month.

12 Q. Approximately a day a week?

13 A. I would think so, yes.

14 Q. Based upon -- and for how long have you been going
15 out to visit schools?

16 A. Since my arrival here in Texas in '73.

17 Q. Based upon that experience in both high wealth and
18 low wealth districts, have you been able to observe
19 generally a difference in terms of the numbers of the
20 sorts of people you've just discussed, counselors,
21 librarians, aides, available in low wealth and high
22 wealth districts?

23 A. Oh, yes. I think it's readily apparent whenever you
24 go out into school districts to see the difference
25 between low wealth and high wealth. In low wealth

1 school districts, primarily when I go down to the
2 border school districts, I've seen that they have the
3 bare essential kinds of personnel; that is, they have
4 one administrator for a school. Whereas, if I go to
5 a high wealth school district, I can go to a high
6 school where there is three to four administrators.
7 I'll go to a high school in a low wealth school
8 district and there may be one counselor for 1,700
9 children. I'll go to a high wealth school district
10 and there will be one counselor for 400 students.

11 And I've already given you the gambit of range
12 of librarians and aides. So you can tell the
13 difference when you go out there just to see how many
14 people are there and also see how they're arranged to
15 provide service.

16 Q. We sort of went through the counselors and librarians
17 and aides, but didn't spend too much time on the
18 other administrators. Principals and vice
19 principals, I would gather are the primary ones in a
20 given school house, is that correct?

21 A. Right.

22 Q. What does it mean, assuming two schools of
23 approximately equal student enrollment, is there any
24 effect on the delivery of educational services
25 between schools in which you may have a principal and

1 two vice principals or three vice principals on the
2 one hand, and a school in which you've got a
3 principal and say one vice principal?

4 A. Yes --

5 MR. O'HANLON: Your Honor, I need to object
6 here on relevance. We've let this go on a fairly
7 lengthy period of time, but the issue is not how
8 school districts allocate their man-power and what
9 the consequences of that are. The issue in this
10 case, I thought, was to determine whether or not the
11 relative ability of the districts to spend money has
12 been substantially equalized in the state.

13 We have now gone afield into making decisions
14 about how they allocate those particular resources.
15 And to that extent, we've gone rather far afield.

16 Once again, I didn't think -- and if we do,
17 we'll never finish this case, is trying how we need
18 to educate the kids in this state. I don't think
19 that's a question that's properly brought before the
20 Court, that in terms of how many librarians we need
21 and things of that nature is not a question that has
22 been raised by the pleadings or should be addressed
23 by this particular Court in this proceeding.

24 MR. ROOS: Your Honor, this argument about
25 allocation is an argument. That's all it is. I

1 think that the testimony is and what we've been
2 trying to convey is that indeed, when you have scarce
3 resources, your opportunities to allocate are a whole
4 lot less than Mr. O'Hanlon has suggested. What we're
5 trying to suggest is that indeed, poor school
6 districts have fewer people because they have less
7 money and what this question is designed to do is to
8 show that that means something in terms of
9 educational outcomes and what gets delivered to a
10 child. And that means something in this case. It's
11 relevant.

12 MR. O'HANLON: I think what we're talking
13 about here, and if we're challenging the system of
14 school finance, it's the relative ability to allocate
15 resources, not how the individual districts choose to
16 make those allocations.

17 THE COURT: I'll overrule.

18 BY MR. ROOS:

19 Q. I'm having a short train of thought. I've forgotten
20 the question. Let me see if I can reconstruct it.

21 The question, as I recollect, Dr. Valverde, was
22 are there any differential effects on the educational
23 programming of students, assuming schools of equal
24 size where you've got differential numbers of school
25 administrators?

1 A. Yeah, I think so. The concept is similar to, I
2 guess, the teacher/pupil ratio. The less number of
3 students you have -- a teacher has, the more
4 attention and the more understanding a teacher can
5 have about those students.

6 The concept applies also to educational
7 administrators with teachers. The smaller number of
8 teachers an administrator is responsible for, the
9 more time and more understanding an administrator can
10 have for those teachers. So that if you have an
11 administrator who, let's say, has 70 teachers and he
12 or she is responsible for providing staff development
13 for those teachers to help them solve classroom
14 problems, then that individual in that circumstances
15 will not have as much time or understanding to spend
16 on those teachers than a situation where you have an
17 administrator for assistance, therefore you have five
18 administrators, the same amount of classroom
19 teachers, let's say 70, the general principal can say
20 to each administrator, "You take 20 teachers or so,
21 those are your responsibility, you give them the
22 attention and support and instruction that they
23 need." So that you do see a difference in the kind of
24 service that teachers receive, and therefore, in
25 turn, the kind of service they can render to

1 children.

2 MR. ROOS: Pass the witness.

3 CROSS EXAMINATION

4 BY MR. TURNER:

5 Q. Dr. Valverde, I'm Jim Turner. We met in your office --

6 A. Yes.

7 Q. -- a few evenings ago in the presence of Mr. Kauffman
8 to talk about the nature of your testimony today.

9 And I want to start by asking you if you would
10 tell us what your opinion is regarding the impact on
11 education in Texas as a result of the passage of
12 House Bill 72 and the accompanying funds that went
13 along with House Bill 72.

14 A. Well, I think as I expressed then, two -- a couple of
15 thoughts come to mind. One is I think it's a little
16 early to ascertain the impact to my own view is that
17 it's mixed; that is, I think there's some good and I
18 also think there's some bad occurring as a result of
19 House Bill 72.

20 Q. Dr. Valverde, when you stated earlier that you try to
21 train administrators, do many of these administrators
22 end up going out into smaller school districts in the
23 state?

24 A. I wouldn't say many. I would say some of them do,
25 that's correct. As I said, again our reputation is

1 to put out well qualified capable people and so we
2 get a lot of requests from school districts that have
3 the ability to compete for and acquire their
4 services, but there's simply not a sufficient amount
5 of vacancies for all of our individuals, so some of
6 them do go out into small school districts or low
7 wealth school districts.

8 Q. When you talk about a small school district, what
9 kind of staffing would you recommend for a small
10 school district of around 200 or 225 or 50 students?

11 A. That's a school district and not a school?

12 Q. That's a school district.

13 A. Well, basically -- what I would recommend?

14 Q. (Lawyer nodded head to the affirmative.)

15 A. I would recommend that clearly you would have to have
16 an administrator. We're talking a school district
17 now, we're not talking a school.

18 Q. That's right.

19 A. Okay. Then I would -- you necessarily need a
20 superintendent. You would also need a -- for that
21 size, probably just a school, so you would need an
22 administrator. I would also recommend that you get
23 an an assistant administrator that would play a role
24 of -- a dual role possibly of an
25 administrator/counselor, and then your classroom

1 teachers, and then some kind of individual that is
2 responsible for providing instructional assistance to
3 classroom teachers other than the school building
4 administrator.

5 Q. So you would recommend a superintendent, an assistant
6 superintendent --

7 A. No, assistant to the principal.

8 Q. A principal and an assistant to the principal?

9 A. (Witness nodded head to the affirmative.)

10 Q. And an instructional coordinator --

11 A. Right.

12 Q. -- which would serve the entire school?

13 A. (Witness nodded head to the affirmative.)

14 Q. And would there be other staffing that you should
15 have in a school district of that size to operate in
16 a manner that you think is appropriate other than
17 these that you've named?

18 A. Well, clearly I think that you need some -- I would
19 -- as I said earlier, librarian would be of great value.
20 I would think teacher aides would also be worthwhile
21 individuals. I'm resisting, I guess, giving the
22 ideal because when you say 250 kids, you're not going
23 to be able to buy an array of support personnel. If
24 you want my ideal of what a school district should be
25 for 250 kids, I can do that.

1 Q. But the listing you've given me wouldn't be the
2 ideal, but it would be things that you, based on your
3 training, would think a district ought to have if
4 they can afford to have it?

5 A. That's right.

6 Q. Dr. Valverde, in terms of where your graduates go,
7 you mentioned that they look for exceptional school
8 districts and that they look for good salaries --

9 A. (Witness nodded head to the affirmative.)

10 Q. -- by and large --

11 A. That's correct.

12 Q. -- a few exceptions.

13 A smaller school district, would that be
14 typically an attractive place for an administrator to
15 go or would they choose to go to a larger district?

16 A. I think the preference is for larger school districts
17 rather than a small school district.

18 Q. And would the general environment of the community be
19 a factor that would affect where a teacher or an
20 administrator might go?

21 A. That's correct, yes.

22 Q. I just happen to have with us today one of the
23 superintendents from one of my districts that I
24 represent. Mr. Dinsmore, who is sitting there on the
25 second row in the beige coat, suit, he's from Miami,

1 which is a district way up north in the Panhandle.
2 And he has a little over 250 students -- or excuse
3 me, a little over 200 students. And I was reviewing
4 your recommendations to try to weigh that in light of
5 what Mr. Dinsmore has in the Miami district up in the
6 Panhandle. And he advises me that he is, as far as
7 administrative staff, he serves as the
8 superintendent, and he has one principal that serves
9 K through 12, and he has one librarian, one counselor
10 serving K through 12. He doesn't have any of these
11 other things that you've mentioned, the assistant to
12 the principal or the instructional --

13 A. Supervisor.

14 Q. -- supervisor, and the positions that you mentioned
15 there that would be helpful.

16 Do you think those positions are essential to
17 running a quality education program or is this the
18 way Mr. Dinsmore operates up in Miami in a high
19 wealth district, is that sufficient to provide
20 quality education?

21 A. You're asking me if that's essential for a quality
22 operation and I would say yes, based on the notion
23 that education is a time on task affair. The more
24 time children spend on tasks, the more learning is
25 likely to occur. The more time teachers spend on

1 instruction, the more likely instruction is going to
2 take place.

3 So that when I talk about instructional
4 supervisors, and classroom aides, and counselors,
5 these are services that the teacher does not need
6 necessarily to spend time on, and therefore, can
7 spend more time with instruction. Their children can
8 spend more time on classroom learning. So I would
9 say yes, these are things that are necessary for a
10 quality education.

11 Now, if you do away with some of those, then
12 you get less of an education.

13 Q. So I take it, if you were to go out and view Mr.
14 Dinsmore's district and find it to be staffed the way
15 I've described it, that you would consider that to be
16 less than adequate in terms of providing quality
17 education?

18 A. In -- well, in my view, I would say to him, this
19 would be less than adequate if he wanted more
20 learning and instruction to take place in his class
21 in his school district.

22 Q. Dr. Valverde, in your experience, have you found it
23 difficult for smaller school districts to provide the
24 kind of instructional staffing that you would deem,
25 in your judgment, to be appropriate?

1 A. Yes and no. It depends on, again, their tax base and
2 what they're able to generate on a local basis.

3 For the most part, I would say that yes, small
4 school districts do not have the diversity and the
5 additional support staff that other school districts,
6 larger school districts would have.

7 But you do have some school districts, because
8 of their taxing capability, can generate a sufficient
9 amount of funds to purchase additional personnel.

10 Q. You recognize, of course, that many of these small
11 districts exist out of what I might refer to as
12 necessity in that, for example, in Mr. Dinsmore's
13 case, that school wasn't there, some of his students
14 would have to travel 80 miles to go to school. So I
15 -- basically, you don't support abolishing small schools
16 because of any inherent disadvantage, do you?

17 A. Well, I don't -- I'm not in the position of
18 abolishing services to students who need it, but I
19 think I am more prone to trying to structure so that
20 education can be delivered in a better fashion, i.e.,
21 I guess what I'm saying is consolidation would be
22 more of what I would recommend rather than the
23 elimination of a school district.

24 Q. And you recognize the limitations on that suggestion
25 as well based on travel distances such as I referred

1 to in the case of Miami Independent School District?

2 A. Right.

3 Q. Dr. Valverde, in your judgment, a district like the
4 Miami District, which is way up in the Panhandle,
5 what has your experience been regarding what it would
6 take to attract instructional staff of either
7 administrators or teachers to a location like the
8 Texas Panhandle?

9 A. As I said, I think there are two major categories
10 that individuals -- educators or administrators think
11 of when they're making a selection about where they
12 want to be employed. One is the kind of personal
13 reward that they can get monetarily. The other is
14 what kind of conditions are there that they will be
15 working in, so that I think you need to be
16 competitive in both areas. You need to provide a
17 working environment that will facilitate an
18 individual to do their job, and also individuals want
19 to be rewarded to the degree that they can
20 commensurate to their ability to provide service.

21 Q. Dr. Valverde, in terms of providing training to
22 administrators and to teachers, have you, in your
23 experience, found the Regional Service Centers around
24 the state to have made a contribution toward that
25 kind of training?

1 A. The Service Centers have been organized and are
2 organized to provide services to small school
3 districts who do not have the staff to render support
4 to classroom teachers. That's their major function.

5 Q. Have you worked at all with any of these Service
6 Centers to --

7 A. Yes, I have.

8 Q. And have you been able to form an opinion regarding
9 the effectiveness of that structure to render that
10 kind of service?

11 A. It varies from Regional Service Center to Regional
12 Service Center, and the dependence is on the number
13 of staff they have to the ratio of school districts
14 that they have to serve, to the quality of the
15 individuals they have. But basically, to have staff
16 in the district is better than to have a district to
17 rely on a Service Center personnel who is far removed
18 and not knowledgeable of the school district as an
19 employee would be, so that, for example, someone from
20 Region 13 -- let's just take this Service Center up
21 on Lamar -- they will not -- they are not as
22 knowledgeable and cannot provide the kind of service
23 as to -- let's say, Austin -- let's pick another
24 school district -- Round Rock ISD, that if Round Rock
25 ISD had a full-time person on staff that knew the

1 district, knew the particular problems, could spend
2 time with teachers in developing, or I should say,
3 identify what the real causes of certain problems are
4 so that they can provide a service, but in my mind,
5 don't provide nearly the kind of service or quality
6 of service that a district could if they could employ
7 their own personnel to do that job.

8 Q. I take it then that the function of the Regional
9 Service Centers in terms of teacher training
10 programs, administrative training, instructional
11 curriculum advice and counseling is perhaps one that
12 is designed to provide that kind of service to a
13 district on a perhaps more cost effective manner and
14 a more cost effective way than if they were able --
15 if they hired those individuals within the district?

16 A. I don't know if it's cost effective. I would restate
17 it. I think the reasons the state went to developing
18 Regional Service Centers was because school districts
19 were in need of services. The state could not
20 generate sufficient amount of funds to provide those
21 services to each school district that each school
22 district could employ people, so they had to come up
23 with a system where they could provide service. And
24 I think that this is their best answer to it.

25 So, I'm not -- I don't know if it's cost

1 effective, as it's out of necessity and out of what
2 the state can support.

3 Q. So, it's clear, I guess, to all of us that if you had
4 the personnel on board, or in the case of Mr.
5 Dinsmore's district, if he had these people you
6 recommended on his staff, it would be more cost
7 effective in the sense that they had rendered the
8 service on the ground than it would be if he was
9 utilizing some of this out of the Service Center?

10 A. I think it's more cost effective, and my premise is
11 it's more effective, period. That it would provide
12 him with better services and allow the school
13 district to render better education.

14 Q. When we're talking about Service Centers, we hear a
15 lot of times people refer to a co-op program of one
16 kind or another. Are you familiar with those kinds
17 of --

18 A. Yes.

19 Q. What kind of programs or co-op programs out of
20 Service Centers to school districts?

21 A. Well, basically what that is that the district
22 provides -- puts up some kind of resource. It could
23 be human resource, it could be providing some kind of
24 time by a staff member, it could be putting up some
25 financial dollars with a Regional Service Center as

1 well as maybe another school district, so that the
2 co-op, as I understand it, the basis of that is that
3 all persons partaking of the service are partners and
4 they render some kind of resource to make this
5 operation go.

6 Q. And in essence, is that basically among the districts
7 that co-op a sharing of some instructional personnel,
8 or some counselor, or some individual who is
9 rendering a service to all of those districts in that
10 particular grouping of co-op districts?

11 A. Right. What happens is that there are, let's say,
12 maybe three entities, two school districts and a
13 Regional Service Center who identify a common need
14 and know one individual can provide the service, but
15 if they pooled their resources, then they can attend
16 to that need.

17 Q. What type of services do we find co-oped in our
18 state?

19 A. It varies. But the ones that I've seen, the most
20 prevalent is for providing assistance to special
21 education students. These are students that have
22 some kind of identified educational or physical
23 handicap.

24 Q. And what kind of things would fall under that
25 category of special education?

1 A. There are, as I said, the physical handicapped, as
2 well as the educationally handicapped. There's
3 learning disability, there's mentally retarded,
4 there's educable retardedness. There's a number of
5 categories that special education has to identify
6 students that have particular needs that need to be
7 addressed in a specified fashion.

8 Q. Speech therapy, is that another example that falls
9 under that category?

10 A. Speech therapy would be one.

11 Q. And would it be common for a school district to co-op
12 in an area where they may not have enough students of
13 that category to really justify employing a full-time
14 person --

15 A. Right.

16 Q. -- locally?

17 A. Yes, that's correct.

18 Q. In your experience, have you found that to be an
19 effective mechanism for rendering these kinds of
20 services across Texas, considering the shortage, as
21 you mentioned earlier, of funds available?

22 A. I would say it's a response, but I'm not sure that I
23 can say it's an effective response.

24 Q. And the more effective response, in your judgment,
25 would be if that school district were able to afford

1 to have that particular category of teacher or
2 counselor or therapist actually on the ground
3 full-time in the district?

4 A. Yes, that's right. Because for the most part, what I
5 guess I haven't mentioned is that co-ops and Service
6 Centers only provide a certain amount of service
7 where they only give a certain time allocation to
8 these needs; whereas if you have a full-time paid
9 individual with the district, these individuals could
10 receive attention throughout the day.

11 If a district, for example, has a special
12 education program, those children will receive that
13 service all day, every day; whereas if a district has
14 to contract out or co-op out or go to a Service
15 Center, then those children will only receive a
16 portion or part of that service because the service
17 is not on the premise. It can't be there all the
18 time.

19 Q. So if three districts worked through their Regional
20 Service Center to co-op a speech therapist --

21 A. Right.

22 Q. -- that speech therapist cost would be shared by the
23 three districts, and the speech therapist, he or she,
24 would travel to the three districts and divide her
25 time or his time among those three districts?

1 A. Right.

2 Q. What other kinds of services, Dr. Valverde, in your
3 experience, are rendered to the school districts of
4 our state through the Regional Service Centers?

5 A. Well, one of them is clearly the scheduling of
6 classes for students. The Service Centers have
7 computers that now take that away. That's more of an
8 administrative assistance to school districts.

9 But primarily their curriculum development,
10 curriculum dissemination and instructional assistance
11 to school personnel. Those are, I think, three major
12 responsibilities and the kind of service they render
13 to school districts.

14 Q. Curriculum development was the first one?

15 A. Curriculum dissemination and instructional service,
16 which we call staff development.

17 Q. I've been told -- and correct me if this is not right
18 -- that there is also some advice that's available to
19 districts regarding the structure of their budgets?

20 A. Yes, that's correct.

21 Q. Does that fall within one of these categories?

22 A. That would be more of the, as I said, scheduling of
23 classes for a high school, for example. That's more
24 managerial and more administrative service rather
25 than an instructional support.

1 Q. I've read somewhere in the statutes that a Regional
2 Service Center shall establish a media center?

3 A. That's correct.

4 Q. Are you familiar with what a media center is?

5 A. Yes.

6 Q. Describe that for us.

7 A. Well, for example, Region 13, a media center would be
8 instructional -- what we call instructional aides,
9 not personnel, but things like films, slide films,
10 books, the instructional games or packets or kits,
11 anything that can be used by a classroom teacher to
12 facilitate the instruction, bulletin board displays,
13 things along those sorts.

14 Q. Is that the place where a school district, if they
15 wanted to get a computer program to run on their
16 computers, the media center has available computer
17 programs that can be checked out by the school
18 districts?

19 A. Yes, I think that's a -- that would be another part
20 of the media.

21 Q. Do you recall how long we've had Regional Service
22 Centers in place in Texas?

23 A. No, I don't. I know that they were in place before I
24 came, but I'm not sure to what -- how much before
25 that.

1 Q. Have you been able to have an opinion regarding
2 whether or not there has been increased emphasis on
3 the activities of Regional Service Centers through
4 the years as you've observed it?

5 A. There is an increased demand on Service Centers, and
6 there's been a decrease in their ability to provide
7 services.

8 Q. And when you say there's been a decrease in their
9 ability to provide service, is that because the
10 demand is up as more districts become acquainted with
11 the utilization of the Service Centers?

12 A. Yes. That's a two part answer. Yes, the demand is
13 more, but also they are losing staff. They don't
14 have the budgets that they used to. And a lot of the
15 Service Centers augmented their state budgets through
16 federal grants.

17 And in 1980, when federal dollars became less
18 and less, there were less opportunities by the
19 Service Centers to compete for those dollars. So
20 there were a number of personnel in the Service
21 Centers that were being funded by federal dollars.

22 So that's what I'm saying, their ability to
23 render service became less as a result of that.

24 Q. Dr. Valverde, let's take a typical teacher, say, in
25 the 3rd grade class in any school district in Texas.

1 If she is fortunate enough to have available to her
2 in the classroom a computer, as some districts, I
3 understand -- in fact, we had a superintendent or a
4 witness here the other day talk about computers in
5 their elementary grades.

6 A. Uh-huh.

7 Q. Could that teacher make contact with the Regional
8 Service Center and secure a program and check it out
9 much like you would check a book out of the library
10 to run on her computer?

11 A. Certainly could, if they had programs that were what
12 she or he needed.

13 Q. And I suppose, in a like manner, if she needed
14 instructional material or felt like that there wasn't
15 enough material available to her there locally, that
16 she could find out through a telephone call to the
17 librarian at the media center of her region what
18 might be available for her to bring in locally to use
19 for the instruction of her class?

20 A. That's the concept, yes.

21 Q. Do you think that concept, assuming as you've told me
22 earlier, the funding is increased to meet the demand,
23 do you think that concept of rendering those kind of
24 services through the regional centers is an
25 appropriate and effective one from an administrative

1 viewpoint?

2 A. I would say so, yeah.

3 Q. Dr. Valverde, I was looking through your vita and
4 there are -- there's one activity I noted here that
5 you are engaged in currently in addition to being
6 chairman of the Department of Educational
7 Administration, which is within the College of
8 Education at the University of Texas, and that is
9 that you serve as director for the Office for
10 Advanced Research in Hispanic Education at the
11 University. And it says it's an NIE funded project
12 with a \$270,000.00 budget.

13 What is that?

14 A. It's a -- first of all, it was initiated through the
15 National Institute of Education, which is the
16 research arm of the Department of Education, U.S.
17 Department of Education. It is no longer receiving
18 federal dollars, but primarily the office is to
19 conduct research that is directed primarily at a
20 particular population in the United States,
21 Hispanics, to explore, examine issues and concerns
22 and problems related to the education of that
23 population. And it's also to try to assist and
24 promote and cultivate researchers to attend more
25 attention to that area.

1 Q. So that is a continuing activity that you've been
2 engaged in since 1979?

3 A. Yes. I failed to mention that the National Institute
4 funding has withdrawn, but the University of Texas
5 has picked it up, or I should say, institutionalized
6 the office. It has now become a legitimate unit of
7 the University.

8 MR. TURNER: I'll pass the witness.

9 MS. MILFORD: No questions, Your Honor.

10 MR. O'HANLON: I've got a couple.

11 CROSS EXAMINATION

12 BY MR. O'HANLON:

13 Q. Dr. Valverde, the great triad of academia or judging
14 professors in academia is, as I understand it,
15 scholarship, teaching and community services, is that
16 correct?

17 A. That's correct.

18 Q. When we talk about community service, we don't
19 necessarily mean compensated public service, do we?

20 A. That's correct.

21 Q. In fact, it's important as a -- I assume, as a
22 department chairman, you're sensitive to the
23 obligation of university professors to get out there
24 and participate in community service on a
25 non-compensated basis?

1 A. That's correct.

2 Q. With respect to education departments, would you
3 expect that community service to, by and large,
4 manifest itself in helping school districts with
5 respect to educational issues?

6 A. Yes.

7 Q. Okay. Were you aware that there are 66 teacher
8 education schools in the State of Texas?

9 A. I am aware of that.

10 Q. And we've been around, with some tolerance, I
11 suppose, they all take that responsibility fairly
12 seriously, do they not?

13 A. I would hope so.

14 Q. Okay. So that in addition to Regional Service
15 Centers and things of that nature, the staffs of the
16 66 teacher education schools in the state are a
17 resource that are available for school districts in
18 this state to call on for advice and assistance?

19 A. Yes.

20 MR. O'HANLON: No further questions.

21 MR. ROOS: Just a housekeeping chore, Your
22 Honor.

23 REDIRECT EXAMINATION

24 BY MR. ROOS:

25 Q. You have your vita in front of you, Dr. Valverde?

1 A. Yes, I do.

2 Q. That's an up to date vita?

3 A. It is.

4 MR. ROSS: We would introduce that as
5 Plaintiffs' --

6 MR. KAUFFMAN: 93.

7 MR. ROOS: 93.

8 THE COURT: All right. It will be
9 admitted.

10 (Plaintiffs' Exhibit No. 93 admitted.)

11 MR. ROOS: I don't have anything further,
12 Your Honor.

13 THE COURT: All right, sir. You may step
14 down. You may be excused.

15 (Witness excused.)

16 MR. KAUFFMAN: Your Honor, the Plaintiffs
17 call Mr. John Sawyer.

18 MR. JOHN SAWYER, III

19 was called as a witness, and after having been first duly
20 sworn, testified as follows, to-wit:

21 DIRECT EXAMINATION

22 BY MR. KAUFFMAN:

23 Q. Good morning, Mr. Sawyer. How are you?

24 A. Good morning.

25 Q. Mr. Sawyer, what's your full name now?

1 A. John Sawyer, the III.

2 Q. And you presently reside in Houston?

3 A. I live in -- yes, Kingwood, which is in Houston, yes.

4 Q. And what's your present position?

5 A. I am General Superintendent of Schools of the North
6 Forest Independent School District.

7 Q. Would you give us something about your personal
8 background? Tell us where you grew up and where you
9 went to school.

10 A. Grew up in Alabama in a small town called Greensboro,
11 finished high school there. I moved to Chicago,
12 1959, attended Chicago Teachers College, graduated,
13 taught in the Chicago public schools, worked in the
14 central office in curriculum one year after teaching
15 for five years, returned in 1968 to the University of
16 Chicago for graduate work, worked at the University
17 of Chicago for four years, including some graduate
18 assistant work, earned a Master's degree in 1970 and
19 worked on the Doctorate. I left the University of
20 Chicago, went to the Chicago City Colleges, served as
21 a Director of Research and a Director of Student
22 Financial Aid Programs for two years. In 1973, I
23 returned to the public schools in the West Harvey
24 Dixmoor Public Schools, a suburb of Chicago, as an
25 Assistant Superintendent. Became the General

1 Superintendent of Schools there in 1974 -- I'm sorry,
2 in June of 73, and remained until February of 1983,
3 when I became Superintendent of Schools in the North
4 Forest Independent School District. I have served
5 there for four years.

6 Q. What did you do your work on in your Master's and
7 Ph.D.? What area was that in?

8 A. Educational administration.

9 Q. And you are now enrolled, about to get your Ph.D from --

10 A. Yes. I'm working at Texas Southern University in
11 Houston to complete that work.

12 Q. Are you one of those people that's all but
13 dissertation, pretty much?

14 A. Yes.

15 Q. When you said you worked with the Chicago Board of
16 Education, what area was that in?

17 A. I taught high school social studies, history. The
18 gambit, of course, is in that contact field. And
19 then I served as a curriculum consultant in the same
20 area during my last year with the Chicago public
21 schools.

22 Q. So how long were you a teacher?

23 A. Five full years.

24 Q. How long were you involved in the administration of
25 the Chicago public schools?

1 A. One year as a curriculum person.

2 Q. Okay. You said you also worked in Chicago City
3 College. Tell us what work you did there?

4 A. I worked at one of the City College campuses,
5 Olive-Harvey, as a Director of Research. My
6 responsibilities there dealt with institutional
7 research in which I looked at problems related to the
8 functioning of the college, itself. We did faculty
9 evaluation, we did evaluation of programs, and sought
10 to ascertain the impact of those programs on the
11 marketplace vis-a-vis students who graduated and went
12 into the work place to see if we were on target with
13 the kind of training. It was a technical two-year
14 college.

15 Q. Okay. And during your time at West Harvey/Dixmoor,
16 what was your position there?

17 A. General Superintendent of Schools.

18 Q. Okay. That's the top person in the district?

19 A. Yes.

20 Q. And that was for ten years?

21 A. Yes.

22 Q. Okay. And now you've been four years in Texas at the
23 North Forest District?

24 A. Yes.

25 Q. How many years, then, have you spent in the area of

1 education in your life?

2 A. I have spent now 24 and a half years.

3 Q. Okay. During your time in the area of education,
4 have you worked at any time in the area of school
5 finance, in particular?

6 A. Yes. I had, during my tenure at the University of
7 Chicago, the responsibility of working with a
8 committee of the General Assembly of the State of
9 Illinois, which is the state legislative body, as a
10 consultant in the development of a program to reform
11 urban school financing for the State of Illinois.

12 My principal interest as a researcher at that
13 time was in the problems of differentiated student
14 costs because of the related attendant conditions
15 that exist against cities. Example, things that now,
16 some 15 years later, are accepted as gospel, such as
17 the added cost of educating bilingual students, the
18 added cost of educating disadvantaged students, the
19 added cost of salary schedules based on the
20 socioeconomic indexes of urban versus rural areas,
21 the added cost of municipal things that commonly are
22 referred to municipal overburden in terms of the
23 kinds of city services which cities have to provide
24 for not only the residents of the city, but also to
25 the suburbanites who come in.

1 So consequently, all of those things affect and
2 impact the tax rate in urban areas and consequently
3 affect their ability to deliver services.

4 There is a fairly consistent body of knowledge
5 that suggested that problem is one that can be
6 stratified between what we might refer to as the old
7 cities and the new cities, because property values
8 and wealth in the new cities, which are typical of
9 the Texas cities, Houston, Dallas, et cetera, are
10 different from the northeast corridor partly because
11 in that context, most of the wealth property values
12 are located in the suburban rings. And you find
13 extremely wealthy districts and the city systems have
14 the problems which are attendant to low wealth. So
15 we kind of are in the reverse position with respect
16 to size here.

17 Q. Here in Texas?

18 A. Yes, Texas.

19 Q. Since you've been in Texas, have you been appointed
20 to any statewide committees in the area of education?

21 A. Yes. I have had the pleasure of serving on the
22 committee that grew out of House Bill 72 to develop
23 standards to train school board members. That
24 committee consisted of board members,
25 superintendents, teachers, and other staff members to

1 develop the standards, which are now a part of the
2 requirement that those who would serve on school
3 boards undergo training.

4 I also just completed -- that was the two year
5 process.

6 I just completed a year serving as a member of
7 the committee that developed the ExCET examination
8 for future superintendent -- candidates for the
9 superintendent endorsement.

10 And thirdly, I am currently a member of the
11 Teacher Professional Practices Commission, which is,
12 again, duly constituted statutory body which hears
13 ethics cases involving members of our profession.

14 Q. Now, as the -- working on the committee on standards
15 for school board members, then, you're working on a
16 group of people who is, in effect, telling school
17 board members or suggesting to school board members
18 the things they need to know and they need to work
19 with in their districts?

20 A. Well, our role was to develop standards which were
21 recommendations to the State Board of Education.

22 Q. Okay.

23 A. The State Board adopted those standards and now there
24 is a specific program requiring 20 hours training for
25 school board members.

1 Q. Who appointed you to that committee?

2 A. The Governor.

3 Q. Okay.

4 A. Former Governor White.

5 Q. What about the ExCET test for supervisors? Who
6 appointed you to that committee?

7 A. God only knows. I suppose it was the Commissioner of
8 Education.

9 Q. Okay.

10 A. I think it was, but it was handled by an outside
11 contractor.

12 Q. The ExCET test is going to be a standardized test
13 that superintendents are going to have to pass to get
14 their superintendent certificate?

15 A. Yes.

16 Q. And you were involved in looking at questions to make
17 sure the superintendents knew what they had to know
18 to be superintendents in Texas?

19 A. Our responsibility was to develop an examination
20 which tested the areas which an entering
21 superintendent should be competent in in order to
22 function in the job.

23 Q. And that -- in Texas?

24 A. Yes.

25 Q. Okay. And I think one other committee you're on, I

1 think is very interesting, is the post office thing.
2 Could you tell us about the Post Master?

3 A. Well, that's an -- it has, I guess, an adjunct to
4 education, but I am a member of the United States
5 Post Master General's Advisory Committee responsible
6 for selecting postage stamp subjects. And if there
7 are any philanthropists here, please forgive us for
8 those that you don't like. But that is a singular
9 honor in that we do get to attempt to impact our
10 culture, our nation's image by virtue of the subjects
11 that we select for particularly the commemorative
12 stamp program.

13 Q. Okay. As superintendent of North Forest District,
14 tell us a little bit about your district. I mean,
15 you said Houston. Where is it in relation to
16 Houston?

17 A. North Forest is located on the northeast side of the
18 City of Houston. We are 34 square miles. About 65
19 percent of that territory is inside the city limits.
20 Houston has grown as a city by extending its
21 tentacles out and annexing areas of my school
22 district, Aldine, Alief, many of the related
23 districts there in Harris County.

24 We are classified in the top 50 in terms of
25 size in the State of Texas. We are -- currently we

1 have 14,150 ADA's at the last report.

2 The district's makeup, in terms of its student
3 population, is approximately 88 percent Black, 7
4 percent Hispanic and 5 percent Anglo. The makeup of
5 the community is primarily in Bedford residential
6 extension of the northeast side of Houston. For a
7 long time, the district was known as the Northeast
8 Houston Independent School District.

9 So we have a tax base which is primarily based
10 on single-family residences. There is very little
11 industry, although there is some, not in comparison
12 to our neighbors.

13 Our property values are \$940 million, which
14 averages out to about \$66,000.00 per student. The
15 state average, of course, is around 255,000 per
16 student.

17 Q. What about the population there? You said it's
18 obviously mainly a minority population, 88 percent
19 Black and 7 percent Hispanic in your schools?

20 A. The school population, yes.

21 Q. What about the socioeconomic level in the area?

22 A. I would say it is lower middle class. As I
23 indicated, primarily single-family residential, a
24 number of professionals, and also a number of labor
25 union wage earners, a very stable community for the

1 most part. A community that has some segments that
2 are aging and other segments that are fairly stable.

3 We are not at the moment because of probably
4 the housing turn down that Houston experienced in any
5 growth, although we have quite a bit of vacant land
6 that could and I'm certain will be developed as
7 things turn around in the Houston economy.

8 Q. I think you said that some of your residents are
9 people who have sort of left the -- was it the Fifth
10 Ward in Houston and moved into your area?

11 A. Yes. We followed the general concentric patterns or
12 theories of the growth of cities as individuals
13 out-migrate from the inner circle to the nearest
14 contiguous area.

15 The school district North Forest underwent
16 significant racial transition with respect to its
17 student population in the late '60s and early '70s.
18 And most of the residents of my school district came
19 out of the area of the City of Houston that is
20 commonly known as Fifth Ward, which includes the
21 northeast side of the city. The "Wheatleyites" is
22 the term that we use frequently because of the
23 prominence and preeminence of Wheatley High School in
24 Chicago -- I'm sorry, please strike that -- in
25 Houston, which we are now educating the children of

1 many of the individuals who are and were a part of
2 that rich legacy in the '50s and, I guess, early '60s
3 as children, themselves.

4 Q. So you're educating the children of the parents who
5 went to segregated schools in the Houston area?

6 A. I think that would be a fair assumption if we were
7 talking about some of our older children. I think we
8 should also recognize that we are now some -- at
9 least in the case of North Forest -- we are some 15
10 years into desegregation.

11 Q. Your district is?

12 A. Yes.

13 Q. Okay.

14 A. My district.

15 Q. Well, I mean, if you're 88 percent, you're fairly
16 well, I guess, desegregated.

17 A. Yes, yes.

18 MR. RICHARDS: Or segregated.

19 THE WITNESS: Yes.

20 BY MR. KAUFFMAN:

21 Q. Okay. I'm sorry.

22 In terms of the kids who are coming to your
23 school, though, to be educated and your experience in
24 working with special problems of children in schools
25 or you talk about the special costs, how would you

1 describe your population in terms of their needs from
2 the educational system?

3 A. We have a student population that is 50 percent
4 qualified for compensatory education. That means
5 almost seven plus thousand of my students, half of
6 them, fall into the low income category.

7 We have a number of other students who are on
8 the other end of the spectrum in terms of high
9 academic ability and achievement.

10 So we have the full gamut, except that we do
11 have a large segment, almost half of our student
12 population falls into that category with respect to
13 low income.

14 We also have a growing bilingual population,
15 including recently the introduction of -- although
16 the numbers are very small now, we don't know in
17 which direction it's going to go -- the introduction
18 of Vietnamese, which also attends, again, for costs
19 with respect to educational issues.

20 Q. Well, now, you said you had 50 percent --

21 A. Low income.

22 Q. -- low income?

23 A. Yes.

24 Q. That's sort of below the poverty level is the way
25 you've described it?

1 A. Yes, yes.

2 Q. Okay. What comes out of that in terms of cost of
3 running your school district?

4 A. The purpose of schooling is to maximize the
5 achievement and the opportunity of every child such
6 that future generations of families will have the
7 opportunity to participate in the full processes of
8 what we think as the American way of life, which
9 means that one's opportunities are only limited by
10 one's own ability. We believe that. We believe that
11 it is important to not only the children in North
12 Forest, but to all of the children in Texas, and to
13 all of the children in the United States.

14 So in order to do that, we face tremendous
15 challenges. We face the challenges related to the
16 poverty, which I described. With this attendant
17 language -- and I look or we look at language
18 deficiencies in North Forest in more than from the
19 perspective -- and I'm not talking from the bilingual
20 perspective now -- but from the perspective of the
21 introduction and utilization of effective standard
22 English that allows students to achieve in school, to
23 achieve on standardized tests. So consequently, all
24 of the challenges which our complex urban school
25 district faces are there.

1 Staff development must, of necessity, take
2 place. Perhaps we'll get more into that when we talk
3 about the composition of faculty and the things that
4 we have to do to make our programs effective,
5 utilizing staff.

6 A support system for children in school and the
7 linkages of schools, homes, churches, community
8 organizations, so that there's a total community
9 support system. So we're active in all of those
10 areas.

11 At the same time, we're faced with the
12 necessity of attempting to improve deteriorating
13 facilities, to upgrade them to bring them into some
14 -- up to some standard that would meet the test of what
15 the child ought to have.

16 Most of you are familiar with Houston and its
17 climate. Up until two years ago of the 16 school
18 facilities that we operated, 13 lacked
19 air-conditioning. And that can be a significant
20 variable in student achievement at certain times of
21 the year.

22 And along with that lack of air-conditioning,
23 because of the way in which facilities were
24 structured, lack of sufficient heating systems,
25 because if you don't have air-conditioning, you tend

1 to build with as much natural ventilation, so
2 consequently, there is no insulation, since the
3 theory was that if you can't do it one way, you do it
4 the other.

5 So all of those problems were there. They had
6 to be attacked through bond indebtedness and other
7 ways which all affected our ability to deliver school
8 services, because in solving the air-conditioning
9 problem, we had to pass bond issues, and
10 consequently, a significant portion of our tax rate
11 is spent paying off bonded indebtedness, although it
12 is clear that we have a very significant local tax
13 effort as witnessed by our rate.

14 Q. Okay. In terms of the buildings in your district,
15 North Forest is now a -- what is commonly called a
16 poor district, low wealth district, is that --

17 A. Yes.

18 Q. Okay.

19 A. Yes.

20 Q. Now, is that a new phenomenon or has that been around
21 for a while?

22 A. I think it has existed perhaps as long as there has
23 been a North Forest Independent School District.

24 Q. Okay. And has that had any long term effects on
25 these things, like facilities you're talking about,

1 or later on we'll talk about teachers and programs
2 and things like that?

3 A. It has. When one has to make a choice in budgeting
4 and in spending funds in the school system, you first
5 must provide for your basic essentials, and then you
6 begin to look at alternatives with respect to a
7 building that has significant leaks. Do I put a roof
8 on the building or do I cover some places with tar?
9 Do I air-condition or do I pass that up? Do I build
10 a new library and a learning media center or do I use
11 a classroom?

12 As the population explosion -- by the way, my
13 school district in 1980, I believe, topped out at
14 about 17,500 students. So there was a period of
15 rapid escalation in growth. And we have 50 portable
16 buildings which represent about a hundred portable
17 classrooms scattered at various sites.

18 Q. Let's talk a little bit about the neighborhood around
19 North Forest. What districts do you border on?

20 A. The Houston Independent School District is due west
21 and south of us. The Sheldon Independent School
22 District is east of us. The Humble and Aldine
23 Districts are north and northwest.

24 Q. Are those districts generally richer or poorer than
25 your district?

1 A. They are all by far at least three and a half to four
2 times as wealthy as we are on the part of the poorest
3 -- how can I use that term -- the poorest of those
4 districts.

5 Q. Okay. So the poorest of the four is --

6 A. Is three and a half times as wealthy as we are. The
7 richest, which would be Sheldon, is about seven times
8 as wealthy as we are in terms of -- and I'm using the
9 measure assessed evaluation per pupil.

10 Q. Okay. Fine.

11 THE COURT: Let's stop there, counselor.
12 It's a good place to stop. See you all again at 2:00
13 o'clock.

14

15

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18

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20

(Lunch recess.)

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25

1 THE COURT: All right, sir.

2 DIRECT EXAMINATION (RESUMED)

3 BY MR. KAUFFMAN:

4 Q. Mr. Sawyer, before lunch we were talking about the
5 demographics of your district and you described those
6 were your percentage of minority students and
7 percentage of poor students and sort of the history
8 of how those students got to your district and what
9 they bring with you.

10 One of the issues that has been talked about
11 some in this case is tax rates, what are people
12 willing to pay to support their schools.

13 What is the tax rate in North Forest ISD in the
14 '86-'87 school year?

15 A. \$1.17 per hundred dollars.

16 Q. And I think that other parts of the record shows the
17 average to be about 66 cents, so you're almost twice
18 the average of the state.

19 A. Yes.

20 Q. Okay. Now, I think I asked you to go back and look
21 in your book of statistics about your district. And
22 let's talk about what the tax rate in North Forest
23 has been through the years. Can you find that for
24 me?

25 A. Well, I have a copy of our district audit, which I

1 think has been provided. And in looking at the tax
2 rate over the last ten years, starting with 1978 or
3 '77 tax rate was \$1.80.

4 Q. Okay.

5 A. In 1978, it was \$1.80; in 1979, it was \$1.80; in
6 1980, \$1.75; in 1981, \$1.75; 1982, \$1.26; 1983,
7 \$1.36; 1984, \$1.11; 1985, \$1.12; and in 1986, \$1.12.

8 And the current '86-'87 year the rate was
9 raised five cents this past year back to \$1.17.

10 Q. So the '85-'86 year, it was \$1.12; and the '86-'87,
11 it's \$1.17?

12 A. Yes.

13 Q. Okay. Let's talk for a moment about how much of that
14 is what they call interest and sinking and how much
15 is maintenance and operations. And we can go back
16 over that, and you tell us what each one of those
17 were each one of those years.

18 A. Well, the debt service, of course, is here, and we
19 can calculate quickly, the remainder was M&O. In
20 1978, the debt service was 42 cents, which gives us
21 96 cents for operating. In 1979, the debt service
22 was 38 cents, which gives us a \$1.04 for operating
23 M&O. In 1980 --

24 Q. Excuse me a second, Mr. Sawyer. These aren't adding
25 up. I'm sorry. I think that they're separated.

1 MR. O'HANLON: We can add them if he'll
2 just read them.

3 THE WITNESS: I'm sorry. They are
4 separate. My apologies. I added them before, didn't
5 I?

6 MR. KAUFFMAN: Sure.

7 THE WITNESS: Okay. My apologies.

8 BY MR. KAUFFMAN:

9 Q. Let's start with 1977-'78.

10 A. Maintenance, \$1.38; debt service, 42.

11 Q. Okay.

12 A. 1979, maintenance, \$1.42; debt service, 38. 1980,
13 maintenance, \$1.39; debt service, 36. In 1981,
14 maintenance, \$1.38; debt service, 37 cents. 1982,
15 maintenance, 98 cents; debt service, 28. 1984 --
16 1983, maintenance, 88; debt service, 48. 1984,
17 maintenance, 75; debt service, 36. 1985,
18 maintenance, 69; debt service, 43. 1986,
19 maintenance, 75; debt service, 37. Current year, our
20 maintenance rate is 89 cents, and our debt service is
21 28.

22 And I might explain that in this current budget
23 year, because we had accumulated some surplus monies
24 in debt service, we could service our bonded
25 indebtedness, keep our bond ratings and transfer

1 \$750,000.00 out of that bonded indebtedness because
2 it was surplus to pay this year's -- to service this
3 year's bonds. So we could move or keep the \$1.17
4 rate and move approximately 10 cents of that rate
5 from debt service to M&O.

6 So consequently, that's a one time fix because
7 of the budgetary constraints that the school system
8 -- and pressures that it faced this year.

9 So next year, we will need 38 cents to service
10 the debt, which could impact either the requirement
11 of an additional tax increase or a reduction in our
12 maintenance.

13 One cents of our tax rate yields \$85,000.00 in
14 revenue. So you get a picture there of the relative
15 wealth of our school district as compared to some of
16 our neighbors, where you take a district, as I
17 indicated, nearby -- I'll use Houston as an example
18 -- where the wealth is approximately what, seven --
19 six -- five times as great as ours, that same one cents
20 increase on that tax rate would yield five times as
21 much in terms of value. So they would be looking --
22 we're looking at 85,000 for one cents. They're
23 probably looking at something like closer to half a
24 million dollars to a penny.

25 Q. All right. Now, that \$85,000.00 for your 14,000

1 kids, if my math is right, that means you raise about
2 \$6.00 per kid?

3 A. Per child for the one cents tax increase.

4 Q. Okay.

5 A. Yes.

6 Q. Now, let's talk a little bit about that rate. You
7 said you had \$1.17 rate in '86-'87, and you're going
8 to be required to spend 10 more cents on debt next
9 year?

10 A. Yes.

11 Q. So I guess you have two options next year, then. You
12 can either stay at \$1.17 and reduce your amount spent
13 on maintenance and operations, or you can raise your
14 total tax rate to \$1.27 and keep your maintenance and
15 operations the same rate, is that right?

16 A. Those are two alternatives.

17 Q. Yeah, sure.

18 A. I can think of a third one or fourth one --

19 Q. Sure.

20 A. -- from other sources of revenue.

21 Q. Okay.

22 A. But in terms of what the district will have to do,
23 barring everything else being equal, we would have to
24 do one of those two things, reduce by \$700,000.00 or
25 approximately 750,000 our operating --

1 Q. Uh-huh.

2 A. -- because of that 10 cents or raise the tax rate.

3 Q. Okay. Now, I notice that your debt service rate
4 seems to be averaging up there around 30, 40 cents
5 year after year. Are you spending that on new
6 buildings because of growth, or what is all of that
7 service going to?

8 A. The major portion of that debt service, the district
9 has approximately \$27 million in bonded indebtedness.
10 The major portion of that stem from an authorization
11 by referendum in 1980 after the loss of the M. B.
12 Smiley High School (Phon.). One of our high schools
13 burned. And it was significantly under insured. I
14 think the settlement was in the range of a million
15 dollars.

16 In order to replace that school, the district
17 spent \$12 million for a new high school. There are
18 high schools that cost \$40 million. We built a \$12
19 million school, a modest one. That was approved
20 through referrendum. And an additional four million
21 eleven came from the bond and one from the insurance
22 company for the 12 for the high school. The other \$4
23 million was spent by authorization on the
24 air-conditioning program, which I mentioned earlier.

25 We were, at that time, a school district with

1 13 buildings without air-conditioning. So that's why
2 the high bond rate -- I'm sorry -- the high bonded
3 I&S rate because we are paying off the bonds that had
4 been accumulated over the years. And our bonded
5 indebtedness is pretty much pegged at this level
6 through the year 2003.

7 Q. So, even if you don't incur new bond expenses by
8 floating a new bond issue, you're going to have to be
9 paying off the same amount through the year 2003 just
10 to pay off what you've already done?

11 A. Yes.

12 Q. Okay. So if you build some new buildings, it's going
13 to have to be tacked on to that?

14 A. Yes.

15 Q. At this time, have you used up all the money on
16 projects that your voters in your district have
17 authorized you to spend on buildings?

18 A. Yes. We have used all of the authorization to -- for
19 building bonds that we currently have.

20 Q. Now, when that high school burned down, you said you
21 had to rebuild a \$12 million high school, you got a
22 million from the insurance, so there was \$11 million
23 difference. Who paid that 11 million?

24 A. Local taxpayers are paying that in this bonded
25 indebtedness.

1 Q. Okay. And on top of that high debt service rate,
2 your taxpayers are still averaging 70, 80, 90 cents
3 maintenance and operations through the last ten years
4 or so?

5 A. Yes.

6 Q. Is there any question about the dedication of your
7 taxpayers to support your program in your district?

8 A. There is an unquestionable commitment to education in
9 the North Forest community. Without a doubt, the
10 commitment of the community to improve and support
11 its schools, seeing those schools as a vehicle for
12 the improvement of life chances for that community is
13 very clear and the record speaks to that.

14 Q. You said improvement of life chances. Why don't you
15 tell us what you mean by that.

16 A. I talked earlier about what I considered to be the
17 promise of America. We are a nation that believe in
18 the rights of individuals. We are a nation that
19 believe that opportunity should not be restricted by
20 circumstance of sex, race, or geography. Where a
21 child is born should not be the determinant in the
22 type or quality of education that he or she receives
23 largely because where one is born is not of one's
24 free choice.

25 And I think it extends beyond that in the sense

1 that as a nation, as a state, as a part of the larger
2 world community, but particularly as a nation, our
3 educational resources, all of them, from all segments
4 of our society will determine our future. The
5 competition from citizens of other countries heats up
6 every day.

7 So if we are to meet that challenge, we must
8 provide an opportunity for the minds, the great minds
9 in all of our school systems to develop so that the
10 future strength of our country and our ability to
11 carry out our responsibilities as a member of the
12 nation families of the world can be met.

13 And we cannot meet those with part of our army
14 -- and I'm referring to our intellectual army in this
15 case -- in full dress battle and other parts of it
16 getting the crumbs from the table. We need every
17 educated person in this country to solve our major
18 problems.

19 So consequently, all of the school systems, all
20 of the communities, all children deserve and need a
21 reasonable support base under them in order to have
22 schools help them make this achievement.

23 Q. Okay. Under the Texas school finance system, the
24 combination of the state funds and the amounts that
25 your district can raise at \$1.17 tax rate, do you

1 feel that you're giving the kids in your district
2 that support they need to have an equal opportunity
3 to compete with other kids in the state?

4 A. It is very difficult for me to realistically say that
5 the students in my school district can compete on an
6 equal basis. Their opportunities are, in fact,
7 limited. They're limited by all of the things which
8 we are talking about.

9 I could cite examples if I talked about
10 facilities. I could cite examples when we talk about
11 personnel staff. I can cite examples when we talk
12 about curriculum. We could go into all of the
13 different areas of the operation of schools. And in
14 many of those areas, while we have dedicated staff
15 members who work very hard, who are doing the best
16 job under the circumstances, there are significant
17 handicaps.

18 For example, I talked earlier about some
19 facilities problems. I mentioned one,
20 air-conditioned buildings. I'll talk about another.

21 On two occasions since I have been
22 superintendent of North Forest, one, my -- one
23 occasion, I did, myself, and on another occasion, we
24 have had staff members to have to spend all night in
25 the school buildings because we have a number of open

1 drainage areas in our school district. And I am very
2 mindful of safety and custodial care. And once
3 children come to school in the morning, and parents
4 go off to work in all of the different places that
5 they go, among the things that they expect us to do
6 is to provide for the safe custodial care as we
7 educate the children during the day. So when we have
8 heavy rain storms, we have drainage problems in a
9 couple of schools. And early release, releasing the
10 school at noon, whatever, in my judgment, compounds
11 the potential problem for disaster. So we keep kids
12 in school all day where orderly release with our
13 transportation system, or those parents would pick up
14 at the end of the day, or on a couple of occasions,
15 as I indicated, buses could not get in because we had
16 the drainage problems, we had to keep kids all night.
17 Now, that is a problem that money could solve.

18 We have learning media centers. It goes from
19 libraries to learning resource centers to learning
20 media centers. The names change with the agency
21 language, but we're talking about those core
22 instructional areas largely in the center of the
23 instructional program whereby students get and
24 classroom teachers get support from a variety of
25 materials, some that may be print, some that may be

1 mediated, but those centers are the life blood of
2 every effective school.

3 And if you look at and if you sample school
4 buildings in Dan's district or some of the others,
5 you will see that that is the core of the
6 instructional program.

7 And in our case, we are having to expand or to
8 attempt to create such centers because you heard
9 testimony early this morning, we don't have
10 everything that we need or we don't have such
11 facilities in the manner in which we should have them
12 in all of our schools. So that's another area where
13 that same problem exists.

14 If we talk about personnel, we see some of the
15 same kinds of problems. The salary differences that
16 exist between my school district where teachers start
17 at \$17,500.00, which is above the state minimum, but
18 in Harris County, the district next to me on the
19 rung, lowest in starting salary is at \$21,000.00. So
20 I am competing for teachers in a market where I start
21 out \$4,000.00 behind.

22 I had four outstanding teachers just this past
23 school year who were recruited by the Aldine School
24 District next door and transferred from my district
25 to that one almost exclusively -- in fact, I will say

1 because I happen to know one of them extremely well
2 -- almost exclusively because of the economic difference
3 that had -- that dilemma that one has when one is in
4 the work environment when one feels that one is
5 making a contribution, things are going well in the
6 work setting, but how can one give up \$4,000.00 a
7 year in personal income. So we face that problem of
8 a constant recruitment.

9 I know of at least 10 or 12 -- 10 to 12 such
10 instances in the last three and a half years with our
11 surrounding districts. Bilingual teachers in our
12 school district are consistently recruited by the
13 Houston Independent School District. They are in a
14 position to offer a \$5,000.00 supplement to a
15 bilingual teacher. So we have those problems.

16 We train young teachers and, in some cases,
17 some of them then move on to other districts to work.

18 Q. Well, you summarized now some of the problems in your
19 district. The ones that you have summarized, do you
20 feel that those problems are due to the lack of
21 funding in your district or not?

22 A. Yes. If we were adequately funded, we could resolve
23 these type of problems of the facilities that I
24 mentioned, problems of losing staff or problems of
25 recruiting staff.

1 I would like to describe an incident of a
2 recruiting battle. And that's a friendly term, and
3 it was kind of ironic. An individual that I was
4 competing with was also from Illinois, the
5 superintendent in Spring ISD, Gordon Anderson. A
6 young lady who had been an assistant principal in the
7 Fairfax County District of Virginia relocated to the
8 Houston area and both of us had vacancies at the same
9 time. And we both had staff members interview, and
10 sufficient to say, we were both very impressed with
11 the young lady's credentials, her poise, et cetera,
12 and wanted to employ her. Again, I lost because that
13 position in my school system paid \$36,000.00 a year,
14 and his, I think, it was 42.

15 So, money does make a difference. It forces
16 the North Forest type districts in many cases to
17 settle for an alternative after another district has
18 made its selection.

19 Q. Now, after the state funds are given to your district
20 and your local funds raised by your \$1.17 tax rate,
21 what sort of expenditures per student can you spend
22 on your kids in your district, and for the moment,
23 not including federal funds?

24 A. Altogether with our weighted formulas, we spend about
25 2,850, right around \$2,900.00 per student.

1 Q. Okay. And that's in the '86-'87 school year?

2 A. Yes.

3 Q. And I think the average in the State of Texas that
4 year is roughly 34, 3,500?

5 A. Probably closer to 35.

6 Q. Okay. So the North Forest District, with its \$1.17
7 tax rate and its state funds is still around \$600.00
8 below the state average in terms of what it can spend
9 per kid?

10 A. Yes. If we were to look at that another way, we
11 would be spending at the state average --

12 Q. Uh-huh.

13 A. -- that would be an additional seven and a half
14 million dollars than my school district.

15 Q. okay. And I think that we looked at that a little
16 bit over lunch. It's seven and a half million
17 dollars. And you say you raise \$90,000.00 per penny
18 of tax rate?

19 A. About 85, right.

20 Q. Okay. So, that puts on roughly how much on to your
21 tax rate?

22 A. It would take a little more than an additional \$1.00
23 on our local tax rate to bring our expenditures to
24 the state average --

25 Q. Okay.

1 A. -- which means our tax rate would be --

2 Q. Roughly over \$2.00?

3 A. -- \$2.17, and I would be looking for a job.

4 Q. Okay. Sure.

5 A. That would be very harmful, yes

6 Q. Okay. And what about the kids in your district, now?

7 Are they children that require the normal amount of
8 average expenditures for the state or do they require
9 more or less? What do you think?

10 A. Pointed out earlier this morning that fully half of
11 my students qualify in the low income guidelines, so
12 I have -- half of my students are high cost students.
13 So consequently, it would take more than the average
14 to get the benefit from the programs that we would
15 expect.

16 I could not, with average expenditures, compete
17 again on the same level because what we are talking
18 about is a system in which we develop the maximum
19 potential of all children. And in order to do that,
20 clearly as indicated by many of the things in our
21 current school formulas, as indicated by many of the
22 cases, and as indicated by much of the research,
23 every child -- no less than the fact that we know
24 children do not walk at the same time, do not talk at
25 the same time, do not learn at the same rate, so

1 there are differentiations on all of these
2 activities. So we have fast pace, slow pace
3 learners, and they are not lumped in any one
4 particular group. That crosses the spectrum. We
5 have exceptional children who need all kinds of
6 special education services.

7 So when you take all of these things together,
8 you get into varied costs, you get into high costs,
9 you get into a need for a substantial funding base in
10 order to provide the quality of education that meets
11 the needs of all of the children in the district.

12 Q. Does that variety backgrounds or learning speeds and
13 educational issues, educational problems in the
14 schools, does that have any impact in the budget of a
15 district? I mean does it cost more or less to
16 educate that mix of children than children who are
17 roughly learning at the same rate?

18 A. Clearly, the more diverse and complex the student
19 population, the more expensive the various programs
20 and alternatives are that you will need to have an
21 effective program.

22 I might add something else. When you have that
23 complex program requirement because of the mix of
24 students, historically, students on both ends of the
25 spectrum suffer because you are in a situation with

1 limited resources where you're targeting and tending
2 to gravitate toward the middle. You're dealing with
3 your learning disabilities, but you're not dealing as
4 adequately with your severely emotionally disturbed
5 problems as rapidly as you ought to be. And you're
6 not dealing with your gifted and talented on the
7 other end as effectively as you should be because
8 there's a tendency to compress everything toward the
9 middle.

10 Let's talk about the gifted and talented again.
11 Say that you have in a high school in the senior year
12 12 students who have advanced through the curriculum
13 -- and I'm going to use math as my example -- to the
14 extent that they have completed algebra, geometry and
15 they should be going into calculus at this point, but
16 because of the limited resources, the limited staff,
17 how do you create a calculus class for these 12 or 13
18 children? You do either one of three things. If you
19 have sufficient funding, you make the class and you
20 operate it with 13 students. That's the ideal way to
21 do it. It's the way affluent districts can do it.

22 Or secondly, you compress that class in with
23 another eight or ten students who may be taking
24 advanced algebra, and you compress the instructor,
25 but at least you get -- here we have a situation

1 where one instructor is now teaching and balancing
2 two class loads, two completely different classes in
3 the same room at the same time.

4 The third alternative is you simply say to
5 those students, "We can't offer the course."

6 And again, that goes back to the argument that
7 I made earlier. In that point, we are diminishing
8 our nation's resources because perhaps in one of
9 these schools will be the mind that will solve some
10 significant problem in our society, whether it be a
11 cure for cancer, whatever.

12 Q. Well, you've mentioned your calculus example, I mean,
13 does the state require you to offer that calculus
14 class?

15 A. No. It does not require us in the sense that it is a
16 part of our standards on curriculum, and the rules
17 that those are courses that are there to be offered.

18 I think it is pretty clear that there is a
19 reasonable expectation that there be a reasonable
20 number of students available to take a course. And
21 where that number approaches the average class size,
22 then I think it is prudent and reasonable that the
23 agency would expect a school district to offer that
24 course.

25 But if it took undue hardship financially in

1 order to make that happen, I think that you will find
2 in those cases that it would not be pressed to that
3 point.

4 Q. Well, I mean, but if the state doesn't really require
5 you then to offer the calculus course for 12 kids, I
6 mean, how can it hurt the kids if they don't have
7 calculus?

8 A. I just described that what it does is it diminishes
9 the opportunities. I have a very democratic way of
10 looking at society. And perhaps it is because of my
11 -- both my upbringing and my experience. But I don't
12 want anything for myself that someone else can't
13 have. I don't want to be in a position to say that
14 this is good for North Forest, but Edgewood shouldn't
15 have it or Aldine shouldn't have it.

16 I realize that there are differences and there
17 will be pragmatic differences, and that we're not
18 -- that my position is not that there should not be
19 enrichment in programs and enrichment based on
20 interest in various areas. But to do that at the
21 expense of the basic necessities, I guess I would
22 take it to say that if we were in a compressed
23 chamber here and there was a limited amount of
24 oxygen, I would want all of us to have an adequate
25 supply. I would not want to say that let's cut it

1 off to those on that side of the room so that those
2 on this side of the room can flourish.

3 And I think that is a part of what some of the
4 inequities are really doing to children in school
5 districts such as mine.

6 Q. Such as your low wealth district?

7 A. Yes, low wealth school districts.

8 Q. In terms of the ability or opportunity of your kids
9 to go on to college and be prepared for college, do
10 things like not having enough calculus courses or
11 chemistry courses, does that have any impact on the
12 opportunity of your kids to go on?

13 A. I think that it has -- yes, it has two types of
14 impact.

15 One, it means that as individuals who have not
16 had these enriching opportunities go on to college,
17 they start with disadvantages perpetuated. You might
18 call them disadvantages from early childhood
19 perpetuated into elementary, into middle, into high,
20 into college.

21 And on the other hand, even beyond that, the
22 opportunity to grow and expand, based on those added
23 curricular offerings is not there.

24 So it affects the student who does not get
25 these opportunities in two ways. It makes it -- if

1 we talked about a spectrum that is this
2 long (indicating) where others are getting something
3 at grade 11, he is not going to get to that in his
4 freshman year at college. By the time he gets to his
5 senior year, when the other student who took those
6 types of courses in the 11th or 12th grade will be
7 doing other things in that fourth year of college.
8 So you're looking at a perpetuation of a cycle.

9 I use the term, is it the task of our public
10 education system to send some of our students on a
11 chase to the back of the merry-go-round, on a chase
12 to the back of the merry-go-round. There's a cycle
13 there that must be broken somewhere. And it has to
14 be broken with the permitment of sufficient resources
15 to schools.

16 Q. Now, your district then -- you said we have about
17 double the state average tax rate, you have \$500.00
18 to \$600.00 below the state average expenditures, and
19 you have children in your district which have above
20 average needs or special needs. Do you think that
21 situation is fair to the kids in your district or the
22 taxpayers in your district?

23 A. To the children, no, it is not fair. But perhaps as
24 important as the fact that it is not fair to the
25 children, it is not fair to the promise of what our

1 state and our nation is all about.

2 If these patterns are perpetuated, the promise
3 of Texas as a leading state in the Union cannot
4 happen. If these inequities are perpetuated, we are
5 signing a warrant for Texas to become a second class
6 or second rate state in the affairs of the nation
7 because all of the demographics tell us that we will
8 have an increasing proportion of children in low
9 wealth school districts.

10 And if we do not educate them properly into the
11 21st Century, Texas will not be a leader among the
12 states of the United States. And if that pattern is
13 perpetuated across this country, the United States
14 will not be a leader among the nations.

15 We have to solve this problem.

16 Q. Let's talk a little bit about this tax rate in your
17 district and the effect it has on the future economic
18 prosperity of the district.

19 I assume that developers who want to build
20 housing projects or businesses in your district
21 certainly are aware of the tax rates?

22 A. Yes, they are.

23 Q. Do you discuss this matter with them from time to
24 time?

25 A. I discuss it with members of our business community.

1 In fact, I served on the Board of the Chamber
2 of Commerce, in the Northeast Chamber of Commerce
3 which serves not only my school district, but a
4 larger area, part of Houston and part of Aldine.

5 And the business community is concerned about
6 tax rates. They are concerned about questions of
7 equity and questions of productivity, also, and to
8 some extent, a 250 housing development. And there
9 are a number of other factors I'm sure are involved
10 with that with the turndown of the economy in
11 Houston. But a 250 housing development was delayed
12 because of concerns around some of those issues.

13 Q. You mean some of these issues, you mean the tax rate
14 in the district?

15 A. It being the economy, the tax rate. And there has
16 been an attempt or movement in part of your note in
17 looking at those numbers that while the tax rate is
18 still substantially high, three years ago, we made an
19 adjustment. Now, we're starting on that curve in the
20 other direction. It was adjusted to \$1.11, now it's
21 back to \$1.17. It may possibly have to go to \$1.27
22 next year. But that is a concern to the business
23 community.

24 Q. Is the effect of that to encourage businesses to come
25 in or discourage them from coming in, that tax rate?

1 A. Other things being equal, that is a negative
2 incentive. It causes businesses to seek to locate
3 just on the other side of the tracks.

4 Q. And the other side of the tracks in this case is
5 Houston?

6 A. Houston.

7 Q. Okay. Mr. Sawyer, I want to go on a second and talk
8 about the teachers in the district. And you briefly
9 described some of the situation there. And your
10 salaries in your district are, you said, \$3,000.00 to
11 \$4,000.00 below your nearest competition in your
12 minimum scale?

13 A. Yes.

14 Q. Okay. Does that have any effect on the teachers you
15 can attract to your district?

16 A. Yes, it does. It puts us at a disadvantage in
17 recruiting teachers. Clearly, the economic interest
18 of teachers, all of whom are underpaid, is an
19 important consideration when employment opportunities
20 are available. So, if a district pays \$4,000.00
21 more, there's a greater likelihood that a person is
22 going to -- that they are going to get their
23 opportunity to choose and select from the pool before
24 I am.

25 Q. Okay. And the fact that they can choose before you

1 do, is that going to have any effect on the quality
2 of the teachers in your district, do you think?

3 A. Yes.

4 Q. Okay.

5 A. If we make -- and I think it's an honest assumption,
6 that if we are both competing for teachers, and I get
7 to choose first, I'm going to choose the best one.
8 So that means I am limited to those choices after
9 other choices are made. That means that I may be
10 getting second and third best.

11 Q. Now, does that salary structure of your district,
12 North Forest ISD, have anything to do with your
13 ability to retain teachers once you got them and you
14 like them, if you like them, to keep them? Does the
15 salary schedule have any effect on that?

16 A. It does because school districts as well as
17 recruiting and as well as hiring new individuals to
18 the profession also hire individuals from other
19 districts because our state policies are very liberal
20 on that kind of transfer. You can take your state
21 sick days, you can take your career ladder, you can
22 take a number of your benefits along with you when
23 you move from district to district. And that is as
24 it should be.

25 However, it does present us with a situation in

1 which many of our staff members are recruited by
2 other districts. And it is sufficient to say that
3 when your staff members are being recruited by other
4 districts, they are not recruiting from the bottom
5 echelon of your faculty. They're working from the
6 top side, your high flyers, as we call them.

7 Q. Okay. Well, does the fact that the high flyers or
8 the upper echelon teachers are more likely to leave
9 your district, does that have any effect on the
10 quality of your educational core of your district, do
11 you think? It certainly does --

12 A. Again, it has the impact of affecting instruction
13 when you lose highly skilled teachers.

14 Q. And do those factors affect the kids in your
15 district, the educational opportunity you can give to
16 your kids in your district?

17 A. Yes, it does. It means that instead of a veteran
18 chemistry or physics teacher, I might have to have a
19 novice.

20 Q. In terms of attracting teachers, you've mentioned
21 salaries. Are there any other factors about your
22 district which would lead to attracting or not
23 attracting teachers to your district?

24 A. I think that there are both. I think that there are
25 factors about my school district that would encourage

1 one to want to come and work there, and then there
2 are some factors that would tend to discourage that.

3 Q. What are those factors? What are the ones that would
4 attract teachers?

5 A. Well, I would like to think that the school district
6 provides an open climate where professionals can
7 flourish and receive full recognition for their
8 intrinsic and inherent value as members of our
9 profession, not as much as economic compensation
10 because our salary schedule is not as high.

11 I think that our school district is one in
12 which individuals, irrespective of race, et cetera
13 -- demographics of that nature, race, sex, et cetera
14 -- can work and be productive. We have tried to make
15 sure that that open climate remain.

16 We have intensely committed parents, parents
17 who work very hard with teachers and with the school
18 system. We require twice a year for parents to come
19 in and pick up report cards. Our schedules are
20 varied on those days. And on those two days, one in
21 the fall and one in the spring, of 14,500 students,
22 we will have 12,000 parents to come in and pick up
23 -- 12,000 family units, which is close to what, 80
24 percent of the kids to come in and pick up the report
25 cards and meet with the instructor briefly and then

1 set up whatever conferences would be necessary. But
2 that is an asset.

3 Our kids are an asset because they are not
4 difficult to work with. They have learning and
5 economic problems in some cases, not in all cases.
6 But they are not difficult to work with. So those
7 are advantages.

8 There are other perceptions of our school
9 district because we're predominantly black that
10 mitigate against many individuals choosing to come to
11 work with us. We try to overcome that.

12 There are perceptions, vis-a-vis wealth and
13 salary structure, which we've talked about, that
14 mitigate against individuals wanting to come to North
15 Forest to teach.

16 There are perhaps -- I'm sure that there are
17 concerns with respect to the adequacy of facilities
18 in comparison with the magnificent facilities that
19 some of the other surrounding school districts have
20 that would mitigate against individuals choosing to
21 come to work with us.

22 So I guess on the whole you would say that we
23 have both, but they are probably in terms of allowing
24 us to recruit from the larger teaching pool. There
25 are a few more things that mitigate against us than

1 there are that work in our favor, which makes staff
2 selection, staff recruitment a significant concern.

3 Q. You've talked a little bit about your ability to
4 attract staff or to retain staff. Have these matters
5 resulted in any -- in what way have they resulted on
6 the overall quality of the teaching staff you now
7 have in your district to give your kids an
8 educational program?

9 A. It has had a significant effect. I don't believe
10 that any one single measure characterizes the
11 perception of a faculty, of an entire school
12 district, particularly one that has over 1,000
13 professions.

14 However, let me talk for a minute about the
15 recent experience of North Forest under the Texas
16 examination of current administrators and teachers
17 commonly called TECAT.

18 When the exam was initially given, 23 percent
19 of my professional staff did not meet the TECAT
20 standards. With subsequent hard work, staff
21 development, et cetera, 96 percent completed that
22 standard overall --

23 Q. Uh-huh.

24 A. -- the second time the exam was given. In other
25 words, we picked up 23 percent the second time around

1 -- I'm sorry -- 15 percent the second time around.

2 But 200 -- approximately 225 professionals did
3 not pass the examination.

4 Q. 225 of a thousand?

5 A. Of a thousand, right.

6 That was a reflection of a number of issues,
7 some probably historical because we did, as many
8 -- as many districts, I'm sure, except that we had a
9 larger sample to work on. We did an analysis of the
10 data and determined that certain things could --
11 could be pointed out as indisputable.

12 Of the 225 in my district's case, about 98, 99
13 percent of those were Black. Older teachers, those
14 more than 50 years old, did much poorer on the
15 examination than younger teachers did. Male teachers
16 did poorer than female teachers.

17 So all of the demographics were there, but one
18 other factor, also, we looked at very closely. A
19 large number, in fact, almost all of the individuals
20 who did not pass the TECAT examination, particularly
21 in the older group, had attended traditionally
22 historically Black universities, Prairie View, TSU.

23 That says something about the overall
24 educational system that the state has perpetuated
25 through the years. But again, it's a part of the

1 cycle that we're talking about and we're trying to
2 get to the back of the merry-go-round.

3 If such institutions produce teachers and such
4 teachers produce students for such institutions and
5 you get a continuing cycle and you don't elevate
6 those standards at some point, you have that
7 difficult problem. We attacked it on two levels,
8 intensive staff development with respect to the TECAT
9 on the one hand, but more importantly than that,
10 extensive staff development with respect to the
11 improvement of teaching strategies so that the cycle
12 can be broken for children.

13 But clearly, clearly the numbers speak for
14 themselves. And in the case of North Forest, we had
15 more teachers who had difficulty with that measure,
16 that one measure we're talking about, TECAT, than did
17 other districts. And that's a basic literacy
18 examination that deals with communication skills that
19 everyone in our profession must master.

20 Q. To put those numbers a little bit in perspective, you
21 said the first time the examination was given, 23
22 percent of your professional personnel, your
23 teachers, did not meet that standard. At that time,
24 was 3 percent overall in the state that didn't meet
25 it roughly? My co-counsel has been involved in this

1 litigation.

2 A. I think it was about 5 percent the first time.

3 Q. Okay. 23 percent for you and 5 percent overall for
4 the state. And after the remediation and whatever,
5 you said you went down and you had 4 or 5 percent?

6 A. We had about 4 percent that did not pass it.

7 Q. Did not pass it the second time. And overall for the
8 state, it was a little bit less than 1 percent?

9 A. Right.

10 MR. O'HANLON: .9.

11 BY MR. KAUFFMAN:

12 Q. Then, about the quality of your teachers, other than
13 the TECAT matter, do you feel that these factors of
14 inability to recruit equally or to retain teachers
15 equally has had an effect on the quality of your
16 teachers?

17 A. I think it has had an effect to the extent that all
18 things being equal, are we in North Forest in a
19 position to hire the same teachers, the same type of
20 teachers that other districts are? And the answer to
21 that is no, we are not. We cannot compete
22 economically. And I think that is at the root of the
23 problem.

24 I think, on the other measures that I described
25 and talked about, those are perceptions in other

1 kinds of issues, but the heart of the matter is, we
2 cannot compete because we cannot pay salaries and
3 provide benefits at the same level that other
4 districts can. And when you can't do that, other
5 variables become less important.

6 If we have equal facilities, which we don't, if
7 we have equal professionalism and access to the kinds
8 of intrinsic things that make one feel good, and I
9 think we do in that case, we're okay. But if we
10 don't have equal economic opportunity, salary,
11 benefits, we're at a disadvantage because there's a
12 proclivity in these other areas for one to look hard
13 at a district where one would get a new building,
14 tremendous parking lot, engineered for drainage, et
15 cetera, et cetera --

16 Q. Uh-huh.

17 A. -- learning media resources, additional support staff
18 in the building that can deal with some of the kinds
19 of problems that we talked about, and a high salary.
20 So with all of that, we are at a disadvantage.

21 Q. We've talked some about the salaries you can offer
22 your teachers. Have you compensated by just having
23 lower teacher salaries, but having more teachers than
24 you would otherwise have?

25 It's my understanding from talking to school

1 people that if you lower your teachers' salaries, you
2 can afford a lot more teachers. Is that the trade
3 off you made by having lower teachers' salaries, you
4 have an abundance of teachers now?

5 A. No, I guess I am cursed in two ways in that I do not
6 have more teachers than other districts have for the
7 same number of students. And I don't pay less -- I
8 mean, I'm sorry -- I don't pay more.

9 True, if you paid less and if you had the same
10 amount of money, then clearly, you could hire more
11 teachers. But we have less money, and we have tried
12 to maintain reasonable teacher/pupil ratios.

13 For example, we implemented House Bill 72's
14 mandate for 1-to-22 in pre-K, kindergarten, 1st
15 grade, 2nd grade, without any hesitation. What did
16 we have to do in order to accomplish that? And it
17 took a lot of the resources which were available to
18 us.

19 But one, we had to refurbish a building that
20 was not in use, had not been used, because it had a
21 number of fire code and other violations, which
22 existed in North Forest for ten years. But it took
23 them two weeks after I got to town to bring out the
24 citations, but that's true.

25 We closed the school in 1983, and in

1 preparation for House Bill 72, the board approved
2 refurbishing it, bringing it up to standards, putting
3 in all of the systems that we needed. It cost about
4 \$350,000.00. We housed 400 pre-K students. We have
5 a pre-K center, okay, so we had to fully staff that.
6 And we employed the additional teachers necessary to
7 meet the 22-to-1 ratio.

8 And here, you're talking about a situation in
9 which for 25-to-1, which is where we have been
10 functioning before, and now we're restricted to 22,
11 almost for every hundred plus students, we have to
12 add one teacher. 125, we have to add another
13 teacher. So that carried with it significant cost.

14 Q. What about the student/teacher ratios in the rest of
15 your school system up in the higher grades?

16 A. They vary. We have not been able to reduce class
17 ratios, teacher/pupil ratios to any fixed magical
18 number throughout the system.

19 We have tried within the framework of utilizing
20 resources most efficiently to keep class sizes in
21 English -- the high school level is about 28, which
22 is too many, given the nature of writing and the kind
23 of assignments that should be done in high school
24 English classes.

25 We have tried -- so we have some classes that

1 run 30, 32, 35, but for the most part, we are -- our
2 goals are 32-to-1, 28 -- in other subject areas,
3 28-to-1 in English, 25 in the middle grades. The
4 mandates coming down next year, I suppose, that those
5 grades go to 22-to-1.

6 We have in that context another problem. We
7 have two elementary schools with almost 1,000
8 students.

9 Q. 1,000 students each?

10 A. 1,000 students in each school. Those are very large
11 K-5 in school buildings. Ideally, a K-5 school
12 should not be any larger than five, five-fifty.

13 At both of those schools, we have a number of
14 portable buildings, which overtax the other related
15 facilities, wash rooms, cafeteria, and other special
16 purpose rooms because of the added load.

17 So if we were to project a look at the future,
18 the district in the next three to five years will
19 need to construct a minimum of two elementary schools
20 and refurbish, to some extent, 13 of our 16
21 buildings.

22 If, for example -- and we have tried to develop
23 some cyclical maintenance programs, and some of those
24 are working for us, but if you do one major roofing
25 project a year --

1 Q. Uh-huh.

2 A. -- depending upon the number of square feet, you're
3 probably going to come in somewhere around 200,
4 \$250,000.00. You're talking about doing a building
5 every 13 years. And the life of such systems, at
6 best, probably seven to eight, you're getting superb
7 maintenance. You're lucky if you get ten years.

8 Foot candles, lighting in many of my schools is
9 inadequate. The district went through a period, as I
10 guess many school districts did, and we became so
11 concerned about energy conservation, we must conserve
12 energy, we have some systems to do that that are
13 computer driven, but you can't educate children in 50
14 foot candles of light, so you have to strike a
15 balance again. And some very old buildings that are
16 dark, need reflective ceilings, et cetera, so there
17 are a number of things that need to be done to
18 improve the school district.

19 Q. Okay. Let's talk about the facilities issue that
20 you've outlined. I think you said you have 16
21 campuses in your district.

22 A. Right.

23 Q. What do you have, two high schools?

24 A. Two high schools, four middle schools --

25 Q. Uh-huh.

1 A. -- nine elementaries and one pre-K center.

2 Q. Now, how many of those 16 campuses need substantial
3 improvements to them?

4 A. 13.

5 Q. Okay. And to do those substantial improvements, are
6 you going to have to ask the voters for a new bond
7 issue?

8 A. That's the only alternative at this time.

9 Q. Okay. And to do that, you'll have to raise your tax
10 rate?

11 A. Yes.

12 Q. Okay. Now, inside the campus, those substantial
13 improvements, you mentioned something about lighting
14 in your classrooms. Any other major types of
15 improvements that would need to be done?

16 A. I mentioned earlier some discussion about our
17 facilities.

18 Q. Facilities?

19 A. Our learning media centers and what needed to be done
20 there.

21 Many of our middle and high schools are
22 undergoing the necessary changes as we move toward
23 technology in education, so there are a number of
24 expenses related to the installation of the kinds of
25 systems that are going to be required to meet some of

1 the curriculum mandates, again, computer literacy and
2 also computer-assisted instruction programs, computer
3 programming, computer math, and other courses because
4 children who are going to function in the 21st
5 Century who have to be more familiar with computers
6 than our generation was with typewriters.

7 So again, these are things that every school
8 district will have to meet. These are expenses that
9 everyone is going to incur in one way or another.

10 Q. Okay. Do you feel that your buildings at this time,
11 though, have the learning media centers, the computer
12 facilities, the science labs, et cetera, that you
13 need to provide an adequate education for your kids
14 to compete in today's society?

15 A. Our ability to compete on an equal basis is limited
16 because of the resources which we have historically
17 had to solve these problems of facilities.

18 Q. Now, we've talked something about the facilities in
19 terms of the need to build new buildings and things.
20 What effect does that have on the kids in the
21 environment that are going to school in these
22 buildings to have buildings that are properly
23 maintained or properly lighted or properly cleaned,
24 whatever? What effect does it have on the learning
25 environment?

1 A. I believe it has a significant effect on the learning
2 environment. And I think the most dramatic example
3 of that is the fact that our newer buildings, the
4 high school that I mentioned and one middle school
5 that was built, I think in '77 or '78, provide
6 facilities that are clearly superior to some of the
7 others, so much so that in a school district where
8 you have some facilities that are monitored, you have
9 significant problems with balancing enrollment.

10 And the board in the North Forest Independent
11 School District sought to solve this problem by
12 allowing, to the extent that the capacity of a
13 building is not overtaxed, that students may enroll
14 in the school of their choice as long as they provide
15 their own transportation. There are attendance
16 zones, but they may go outside of those zones if they
17 provide their own transportation.

18 Those two schools -- I'm very proud to say one
19 of them, the middle school, has been just nominated
20 nationally for recognition in the state program,
21 passed the mustard in the State of Oak Village Middle
22 School, but those two schools are constantly leaders
23 of the pack in their respective divisions, high
24 school and middle schools, with respect to
25 attendance. The variation is about 400 -- close to

1 400 students between the two high schools. The
2 capacity is pretty much the same.

3 But that's the clear choice. That's a clear
4 indication that there is a preference for the
5 superior facilities. And I don't think anyone would
6 deny that.

7 Q. But in your opinion as an educator, is it better for
8 the kids going to schools in those superior
9 facilities to go to classes in them than to go to
10 school in other facilities?

11 A. It is better because the facilities lend themselves
12 to producing more efficient educational program
13 opportunities, science labs, the computer labs, the
14 learning media centers, the various kinds of
15 equipment and kinds of programs that come with such
16 facilities that clearly enhance educational
17 opportunity.

18 Q. Now, on the curriculum offerings in your district,
19 you mentioned something about the calculus example.
20 How does your district give advanced chemistry
21 courses? What sort of class structure are you
22 required to have?

23 A. We have to combine, compress, and in some cases,
24 organize two classes into one setting, into one
25 learning period in order to maximize the opportunity

1 for students to get certain opportunities.

2 We also have to utilize, which is by far from
3 being the ideal, the interactive television network
4 whereby students can take a course on television
5 through our Regional Service Center in order to get
6 some students access to a particular type of courses.

7 Q. Well, in the chemistry example, how does that work?
8 I mean, are there two chemistry classes in one room
9 at the same time with the same teacher?

10 A. Yes.

11 Q. You need to tell the Court a little bit about that.

12 A. What happens is that a program, let's say, that we
13 have -- let's go through a sequence. We have 11 or
14 12 juniors because of summer and other things that
15 are able to take an advanced course. Then in the
16 senior year, those students who had that advanced
17 unit, now being ready for more advanced courses,
18 which is not a course that we can afford to offer to
19 that small group alone will then be put into a class
20 where an instructor will share time and teach the
21 advanced group. And of course, you get into a lot of
22 self-directed activities. But that is the
23 alternative to not offering the course at all. So
24 there are different kind of configurations that can
25 be offered.

1 Q. Okay. So what you're saying is you have Chemistry I
2 and Chemistry II in the same class at the same time
3 with one teacher?

4 A. We have to.

5 Q. And she or he is trying to teach both courses at the
6 same time?

7 A. He or she is teaching --

8 Q. Yeah.

9 A. -- the students at the same time.

10 Q. Okay. And in your opinion as an educator, is that as
11 good for the kids in those classes as to have one
12 classroom of Chemistry I and one of Chemistry II?

13 A. It would be easier if we had each class in its own
14 setting. If we did not have to take the next level
15 of a particular science or math --

16 Q. Uh-huh.

17 A. -- and compress it, it would be certainly more
18 desirable and more productive.

19 Q. More productive for the kids in the classroom in
20 terms of learning?

21 A. Yes.

22 Q. Okay.

23 A. And for the teacher in terms of job satisfaction.

24 Q. Okay. What about the interactive television? Is
25 that where, what, a few kids sit around and watch a

1 TV set to learn calculus or something?

2 A. The theory there is again to introduce economies of
3 scale through the regional network. Let's say that
4 four kids in my school district and five in Sheldon
5 or ten in Humble or whatever -- and it's an
6 interactive network. And so consequently, the
7 instructor presents what the students can view, and
8 then with the touch system or communication system,
9 they can talk to the instructor. So it's another way
10 or a technological way of attempting to get at this
11 problem of limited resources.

12 Q. Well, through --

13 A. We pay, of course, for that basic education.

14 Q. Through some of the other witnesses in the case,
15 we've talked about the choices of districts, that
16 maybe if your district didn't have a coach for a
17 football team, then you could afford a Chemistry II
18 teacher, or if your district didn't have an auto
19 mechanic instructor, assuming that you do, then you
20 could afford the chemistry teacher.

21 You, at districts, are required, I guess, to
22 make some choices like this?

23 A. Of course we are required to make choices. It
24 puzzles me that we are always asked to give up A in
25 order to have B. When those who ask us to give up A

1 to have B have A, B and C, then that's difficult to
2 understand.

3 It goes back to what I said earlier, I don't
4 want to ask my colleagues to give up resources for
5 their kids that I have.

6 Now, giving up resources I don't have is a
7 different ball game. But to say that, "Well, I have
8 a magnificent building, a \$45 million high school,
9 and advanced computer technology, et cetera, et
10 cetera, and I also have" -- and I'll stay with the
11 example that you cited -- "I also have four coaches
12 on my high school football staff." But if you cut
13 yours to one coach, then maybe you could have a
14 science. Well, I get my brains beat out both ways.

15 We're always asking the have nots, always
16 asking the have nots to give up something else. And
17 I don't think that's the American way. I don't think
18 that's the Texas way.

19 Q. Well, Mr. Sawyer, given the situation in your
20 district and the issues we have talked about in terms
21 of teachers, and curriculum, and facilities, tax
22 rates, the amount you can spend on your kids, do you
23 feel that the children in your district have an equal
24 opportunity to learn or progress in our society to
25 the opportunity of kids in other wealthy districts?

1 A. No. It is not equal. It is not equal at all.

2 And I guess I use the term equitable rather
3 than equal because I see a little difference. I see
4 equity in terms of some reasonably intellectual way
5 of deriving at a point from which we all should
6 depart.

7 And to cite some examples that we have heard
8 from testimony today, I don't think we should depart
9 from a perspective where one district has buildings
10 that are cold in the winter and hot in the summer, a
11 lack of facilities for libraries and learning
12 resources, a lack of sufficiently, well paid,
13 qualified professionals to teach while other
14 districts have all of these things and more. It is
15 not the and more that concerns me, it is the lack of
16 all of these things in all of the low wealth school
17 districts. That's the big difference.

18 MR. KAUFFMAN: We'll pass the witness, Your
19 Honor.

20 THE COURT: Why don't we stop for break.
21 We'll get started up again at a quarter till.

22 (Afternoon recess.)

23 THE COURT: All right, sir.

24 MR. RICHARDS: I had one question or two
25 before Mr. O'Hanlon, very briefly.

1 THE COURT: Okay.

2 CROSS EXAMINATION

3 BY MR. RICHARDS:

4 Q. Just a railroad track question, Mr. Sawyer. Is it
5 true that railroad tracks represent a taxable basis
6 for ad valorem taxes?

7 A. Yes. The property of the railroads are taxable. And
8 they are expensive properties, so they yield, yes.

9 Q. And do they yield a fairly substantial evaluation?

10 A. Yes.

11 Q. I was curious about the dividing line between the
12 railroad track between you and the Houston
13 Independent School District. Is it the railroad
14 track that divides the two of you?

15 A. On the west side of the district at Hershey Road,
16 there is a railroad track that runs along Hershey
17 Road. The dividing line, Hershey Road is on my
18 district's side of the railroad track. The dividing
19 line between the two districts is Hershey Road, not
20 the railroad track. You could split the track down
21 the middle and take half on each, but we have Hershey
22 Road and Houston has the railroad.

23 Q. All right. So as I understand it, the dividing line
24 between you and the Houston Independent School
25 District is the railroad track -- they get all of the

1 railroad track, is that correct?

2 A. Yes, it's taxable to that district.

3 Q. And you got the road, which is non-taxable?

4 A. Yes.

5 MR. RICHARDS: That's all I have.

6 THE COURT: Okay. Mr. O'Hanlon.

7 CROSS EXAMINATION

8 BY MR. O'HANLON:

9 Q. Mr. Sawyer, under those circumstances, I suppose it's
10 an interesting question, which district is on the
11 wrong side of the track?

12 Mr. Sawyer, let's start off with talking about
13 what House Bill 72 meant to your district.

14 Do you have any idea what your operating
15 expenses were in your district prior to House Bill
16 72?

17 A. Approximately 32, 33 overall property rate.

18 Q. Okay. After House Bill 72, what was your current
19 -- what's your operating expense?

20 A. The first year that House Bill 72 was approved, we
21 received an additional \$10.6 million in state aid. I
22 think my numbers are very, very close.

23 Q. Okay. The first year, \$10.6 million?

24 A. Yes.

25 Q. What about the second year?

1 A. About 95.

2 Q. Okay. And that's an increase. How much did that
3 translate to per student?

4 A. Take a calculator real quick for me and we'll divide
5 that by 14,800, that's the 10.6, at 14.5 -- oh no,
6 it's not -- about \$700.00, a little more than that.
7 Is someone doing it?

8 MR. RICHARDS: You don't have to do that in
9 your head, Mr. Sawyer. They've got a whole team of
10 calculator people over there. Let them do it.

11 MR. O'HANLON: A battery of accountants.

12 MR. HALL: We've got 1,103 here.

13 MR. KAUFFMAN: It's 716 the first year.

14 MR. O'HANLON: 716?

15 MR. KAUFFMAN: Yes.

16 MR. O'HANLON: Okay. Well, let's just take
17 that number for right now.

18 BY MR. O'HANLON:

19 Q. What were you able to do with that \$716.00 per ADA?
20 Where did you spend it?

21 A. We were able to retire some of the district's
22 deficits because the district for several years had
23 operated with substantial deficits. The second year,
24 I think, it was two million -- two million three. We
25 were able to implement the salary schedule. Our

1 starting salary was \$13,800.00 prior to --

2 Q. Okay.

3 A. -- House Bill 72.

4 Q. 13 --

5 A. I think it was 13,875.

6 Q. After?

7 A. Seventeen five.

8 A. When our salary was 13,875, the other districts in
9 Harris County were starting at 16 or 17.

10 Q. Uh-huh.

11 A. Seventeen five.

12 Post House Bill 72, most districts raised their
13 starting salary to 19, 20 and \$21,000.00. Our
14 increase was to seventeen five.

15 30 people were able to implement additional
16 staff positions, some required by the 22-to-1 ratio,
17 which came a year later, and some by -- we employed
18 personnel that we did not have. Example, we had a
19 number of schools without counselors --

20 Q. Uh-huh.

21 A. -- a number of schools without school nurses. We've
22 talked a little bit about various kinds of critical
23 support staff. We did not -- we had nurses running
24 from building to building hoping that the injuries
25 occurred in the building they were working in.

1 Otherwise, they would have to go to another school.
2 So we employed a nurse for every school. We employed
3 counselors in our school buildings. We employed
4 additional classroom teachers. Altogether, we spent
5 about seven million the first year.

6 Q. Okay. You put the rest of it in the bank?

7 A. We put the rest in reserve to be used for future
8 years.

9 Q. Okay.

10 A. The second year -- one other thing I should point
11 out, the new state salary schedule, which now has ten
12 steps, requires North Forest to spend approximately a
13 million and a half dollars in salary increments.

14 Q. Uh-huh.

15 A. So the second year, as you see with the decline
16 there, we met the requirements of the salary
17 increase. We added additional positions that came
18 that next year with the 22-to-1 class size, and we
19 completed the air-conditioning project of our schools
20 with the million four hundred thousand of operating
21 capital, operating funds.

22 The bond issue that we had was not quite
23 sufficient to complete the entire program. It was
24 about a six and a half million dollar program.

25 So we did all of those things in year two, and

1 we came to year three, which is this year. And our
2 state aid is, at this point, anticipated to be down
3 to probably eight and a half million dollars over
4 where it was post House Bill 72.

5 Q. Okay. What is your enrollment going to do this year?
6 What has it done?

7 A. About fourteen two.

8 Q. Okay.

9 A. And we're projecting, based on your latest
10 calculations, that -- I don't have it here -- that we
11 will receive eight -- about 8.3 million more than
12 post 72.

13 Q. Okay. Now, correct me if I'm wrong, but you're
14 comparing to your salaries -- your teacher average
15 salary to just the local districts. Stacking up
16 against the state as a whole, you're not very much
17 below the statewide average, are you?

18 A. I am comparing it to those districts that I must
19 compete with for teachers. I cannot compete for
20 teachers with El Paso or Brownsville or Amarillo. My
21 competition is Harris County. So, yes, I am making
22 that comparison. But to make any other comparison
23 would be folly.

24 Q. Okay. Do you know that your average teacher salary
25 for 1985-'86 was \$22,841.00?

1 A. Yes. I have an older experienced faculty. A number
2 of my faculty, of course, has been in the district
3 for some time.

4 Q. And versus the statewide average of 23,281?

5 A. What's the average for Harris County?

6 Q. I don't have it by counties. It's not in this book
7 by counties.

8 A. That's the way you need it to compare my school
9 district with our -- our immediate competition for
10 teachers is there.

11 Q. Okay.

12 A. And I think that's very important.

13 Q. Well, you didn't hear Dr. Christian testify, but
14 teachers are a rather mobile lot, aren't they?

15 A. Let's take that premise, yes. Let's take that
16 premise and say yes. But if a teacher is mobile and
17 that mobility that we're referring to is from a
18 district that pays substantially less toward a
19 district that pays substantially more, we would agree
20 that the mobility would be in that direction, right,
21 that a teacher would move to a district with a higher
22 salary.

23 Q. That was your stated premise earlier.

24 A. Those teachers, if we take the premise of
25 Superintendent Christian, that those teachers from

1 low paying districts in other parts of the state who
2 gravitated toward Harris County, would gravitate to
3 employment in the districts that pay 21, 22 and 23
4 before gravitating to North Forest.

5 That's the problem that I've tried to cite that
6 we face, that no matter the situation, if they come
7 to the area, we are still at a disadvantage of
8 competing for teachers.

9 Q. Okay. But your salaries -- how do your salaries
10 compare with Crosby, with Liberty, with New Waverly?

11 A. Why would you compare me with districts that are
12 outside the immediate Houston area when my
13 competition is Humble, Aldine, and Houston and
14 Sheldon.

15 Q. Well, now, Crosby is not that very far away, is it?

16 A. No, Crosby is not. But Crosby is perhaps a district
17 that we would consider more rural than the others
18 which I cited.

19 Q. Uh-huh.

20 A. And I think that's a fair statement.

21 Q. And you're paying more money than they are, aren't
22 you?

23 A. I don't have a Crosby salary schedule in front of me.
24 I think I have something that might give me that.

25 MR. GRAY: Bench Marks shows that Crosby is

1 paying more than North Forest.

2 MR. O'HANLON: Well, I don't want to get in
3 a fight about it.

4 MR. RICHARDS: I don't think you can get
5 away that easy.

6 MR. O'HANLON: Okay. Let's do it.

7 MR. GRAY: Crosby is paying \$23,736.00 on
8 average for teachers. North Forest is 22,841, for an
9 approximate difference of Crosby paying approximately
10 a thousand dollars more.

11 MR. O'HANLON: All right.

12 BY MR. O'HANLON:

13 Q. At any rate, there's a movement, I mean, salaries are
14 relative, are they not? I mean, there's a lot of
15 districts out there that you're paying higher
16 salaries than, wouldn't you concede that?

17 A. In the state?

18 Q. Yes.

19 A. Yes.

20 Q. Okay.

21 A. They are not the districts that we compete with for
22 teachers in the immediate sense of our geographical
23 proximity.

24 Q. Where do you recruit?

25 A. All over the country. Many of them come to Houston

1 and wind up working in other districts because of
2 higher pay.

3 Q. Well, when you're recruiting all over the country,
4 you'd be recruiting with practically anybody,
5 wouldn't you?

6 A. I am saying that to say that we have -- in our
7 recruiting efforts, there is open access. I'm really
8 not literally saying that I send my personnel
9 director or members all over the country seeking
10 teachers. I'm simply saying that as far as we go, we
11 seek teachers and we get applications from a variety
12 of places.

13 Q. Okay.

14 A. I think it's fair to say that most of the ones that
15 we get from out of state are individuals who, upon
16 graduating from school, contact districts and express
17 an interest in teaching.

18 When many come to the Houston area and
19 ascertain information on the relative salary
20 schedules of various districts, we are at a
21 disadvantage.

22 Q. Okay. Now, your district has more aides than the
23 state as a whole, does it not?

24 A. I think we're pretty close to the statewide average,
25 aren't we, 9.1.

1 Q. You've got one per thousand students?

2 A. We have what?

3 Q. You've got --

4 A. 9.1

5 Q. You've got 9.6 per thousand versus the statewide
6 average of 8.3.

7 A. 8.3?

8 Q. Yes, sir. And you've got higher support staff levels
9 than the state as a whole, do you not?

10 A. Those figures that you are describing include my
11 special federal programs.

12 Q. Well, they include everybody's special federal
13 programs. That's how it's been given to us.

14 A. Except that in some cases, other districts don't have
15 those -- some of those programs.

16 Q. But you've got a lot fewer special federal programs
17 than a lot of districts as well, don't you? You
18 don't have a high bilingual population in your
19 district, do you?

20 A. I don't have a high bilingual. I have a high Chapter
21 1.

22 Q. Okay.

23 A. Right.

24 Q. But you've got higher levels of support staff and
25 aides than the state as a whole, don't you?

1 A. I don't know if that would be considered
2 statistically significant. It's .8 percent.

3 Q. Well, that's a salary that you've got to pay, isn't
4 it?

5 A. It's a part of the salary. It's not actually a whole
6 one. It's .8.

7 Q. Okay. If you reduce the number of aides in the
8 statewide average and the number of support staff,
9 you could have more money for salaries?

10 A. How much?

11 The point I'm making is that if you take those
12 -- and I want to emphasize these points -- if you'll
13 take those calculations and translate them into
14 dollars, and then you spread those dollars over my
15 entire faculty, you would not be talking about a
16 salary increase of \$50.00 per teacher --

17 Q. Okay.

18 A. -- because a hundred dollars per teacher for my total
19 staff equals over \$100,000.00, and we wouldn't --

20 Q. What about the \$11 million that you're paying out now
21 because somebody was asleep at the switch with
22 respect to the insurance coverage?

23 A. On the contrary, that's not -- let's clarify that.

24 I said the building was under insured. I did
25 not say that its value was \$12 million. The building

1 was built in 1930-"X". It probably should have been
2 insured for maybe three and a half or \$4 million,
3 probably. I am -- we're talking about -- I'm a
4 little uncomfortable because we're talking about a
5 1980 period and a 1980 incident. I came to the
6 district in 1984, and I would not want to be
7 insensitive or presumptuous with respect to the
8 decisions and work of my predecessors and why certain
9 decisions were made.

10 I'm just not in a position to discuss that
11 beyond saying that the building that was there,
12 framed building from the '30s was not a \$12 million
13 building that burned, and I want to make sure that
14 that's clear. It took that much to build a minimum
15 essential high school to replace it.

16 Q. Okay. But there's no question that your district
17 lost substantial sums of money due to the fact that
18 your insurance coverage was inadequate, isn't that
19 right?

20 A. I believe that there is sufficient information to
21 suggest that that particular building could have been
22 insured perhaps for somewhat more than it was.

23 However, I'm very cautious because knowing how
24 insurance companies function and work, if the
25 building was insured for a million dollars, a million

1 dollars was paid on the claim, then there may be some
2 justification for that being the actual -- not
3 replacement costs, but the actual value of that
4 particular structure.

5 You see, as I said, I'm at a disadvantage. I
6 never saw the building. I don't know what was there.
7 All I know is that it was a wood frame building, a
8 large portion of it.

9 MR. O'HANLON: May I approach the witness?

10 THE COURT: Yes.

11 (Defendants' Exhibit No. 25 marked.)

12 Q. I'm handing you now what's been marked as Defendants'
13 Exhibit No. 25. Are you familiar with that document?

14 A. Yes, I am.

15 Q. What is that?

16 A. It is a part of what the Texas Education Agency calls
17 student information, financial information, test
18 score information, personnel information on the North
19 Forest Independent School District, which is to be
20 included as a part of this year's annual performance
21 report.

22 Q. All right. And that information is valid information
23 with respect to your district?

24 A. I have some reservations about some of it. For the
25 most part, it's valid.

1 Q. Okay.

2 MR. O'HANLON: We would offer Defendants'
3 Exhibit No. 25, Your Honor.

4 MR. RICHARDS: May we see it?

5 MR. O'HANLON: You've got a copy of it.

6 MR. KAUFFMAN: Your Honor, I'm not sure
7 about the federal funds issue, again. So I do want
8 to preserve that. I've gotten the things. I've
9 looked at them. I certainly haven't had a chance to
10 check the data. We'll certainly stipulate it's a
11 report of the Texas Education Agency. There's
12 certainly no doubt about that.

13 MR. GRAY: Your Honor,
14 Plaintiff-Intervenors have no objections to the
15 extent that this witness says the information is
16 accurate within the document.

17 That information that he says is inaccurate, we
18 would be objecting on that portion of it. But we
19 don't know, he just says parts of it. And Mr.
20 O'Hanlon hasn't gone further with him.

21 That would be the only reservation we would
22 offer, I believe.

23 MR. RICHARDS: And pretty clearly, I guess,
24 to the extent they talk about funding information, it
25 does include federal funds in this apparent exhibit.

1 THE COURT: All right. It will be
2 admitted.

3 (Defendants' Exhibit No. 25 admitted.)

4 BY MR. O'HANLON:

5 Q. Mr. Sawyer, would you give me the test scores, let's
6 say, in --

7 A. Okay. All right.

8 Q. If you'll just give me the test scores real quick for
9 writing in your district for 3rd grade, and give me
10 your district's and the state.

11 A. My district, writing, 3rd grade?

12 Q. Yes, sir.

13 A. 62 percent.

14 Q. This is a percentile ranking, isn't it?

15 A. That's what it says. Again, I'm not in a position to
16 -- for example, this data is based on TEAMS scores.

17 Q. Uh-huh.

18 A. The TEAMS examination is a criterion reference exam.

19 Q. Uh-huh.

20 A. It is not given to a national population.

21 Q. Uh-huh.

22 A. So these scores which are called national percentile
23 ranks are extrapolations --

24 Q. Uh-huh.

25 A. -- which are subject to statistical error --

1 Q. Uh-huh.

2 A. -- which are subject to assumptions in order to
3 conclude or come to those percentile rankings. I
4 don't know what those assumptions are. I don't know
5 what the significant statistical error is, if it's
6 .01 or .05, I don't know where -- so what I'm saying
7 is that to the extent that this -- of these data
8 purport to be a translation of criterion reference
9 TEAMS scores into national percentile ranks
10 supposedly equating them with what, the metropolitan
11 or the Iowa or the CAT?

12 Anyway, those are reservations that I have
13 about the data.

14 But my district's 3rd grade score was 62
15 percent.

16 Q. What was the national?

17 A. That's my national percentile rank. What was the
18 state?

19 Q. What was the state, excuse me.

20 A. You mean state?

21 Q. Excuse me.

22 A. 61 percent.

23 Q. Okay. Let's do 5th.

24 A. 69 percent.

25 Q. What's the state?

1 A. 63 percent.

2 Q. Let's do the 7th.

3 A. 36 percent.

4 Q. State?

5 A. 54 percent.

6 Q. 9th?

7 A. 39 percent; 60 percent.

8 Q. 11th?

9 A. 27; 50.

10 Q. Okay. Now, what we see here by looking at that, is
11 that for the grades in which House Bill 72 has been
12 in effect, you're doing as well as the state, isn't
13 that right?

14 A. How can you say House Bill 72 has been in effect for
15 grade 3 and 5?

16 Q. Well, now, these kids -- the kid in 3rd grade has had
17 almost -- most of his education has had two years
18 under House Bill 72, isn't that right, which is
19 two-thirds?

20 MR. RICHARDS: What year was the test made?

21 MR. O'HANLON: 1985.

22 MR. KAUFFMAN: Your Honor, I think it's
23 '85-'86 data.

24 A. It's '85-'86 data. You would have had two of four
25 years in school.

1 Q. Uh-huh.

2 A. 50 percent of his school time.

3 Q. Okay. 69 -- what causes -- I don't want to argue
4 about the years, what causes that change? Why are
5 you so much better in the younger grade?

6 A. I could spend a substantial amount of time talking
7 about why I think the schools reflect what you see.
8 And I think that would involve a number of things.
9 And one of the ones on which I would like to
10 compliment the Agency on is that while the data is
11 being aggregated to look at districts, it is also
12 focusing on campuses. And I have some campuses that
13 have some serious problems with achievement.

14 Q. Well, obviously, you've got some campuses, then, that
15 -- if you've got some that are below, you've got some
16 campuses that are not going to top on the achievement
17 scores as well?

18 A. That is true. That is true. I have some campuses
19 that are achieving very well.

20 Q. Okay.

21 A. Some that are higher than because, of course, looking
22 at averages. I do.

23 Q. Well, what causes that? Let me ask you this --

24 A. It's a combination of personnel, which is probably
25 the critical variable, school principal and staff,

1 because critical attributes of achievement in
2 schools, school climate, leadership, teachers, exist
3 in some campuses and not in others. There are other
4 factors involved that tend to cause the problem in
5 the middle grades where the scores start to decline.
6 And some of those problems can be attributed to a
7 lack of adequate resources and resources being
8 targeted on the earlier programs in the elementary
9 grades.

10 And also, a part of it can be attributed to
11 -- and this does give some credence to a part of the
12 statement that you made earlier, to the fact that a
13 large number of students in Texas public schools now
14 in grades 12, 11, 9, 8, 7, went through the early
15 years of school in a system when very little was
16 demanded academically with respect to what should
17 have been the standard.

18 And consequently, we are now reaping -- as you
19 see, we're reaping or we're suffering the
20 repercussions of a lack of the enforced of
21 educational standards.

22 I could point to -- and you selected one
23 content area. I think we looked across the board,
24 the trends would fairly well reflect what you see
25 there in writing. You selected the one that best

1 made your argument and I understand that.

2 Q. I actually selected the one that was at the bottom
3 because it was the easiest to read.

4 What I'm curious about is, is that you will
5 admit, will you not, that these lower grades include
6 the higher -- longer period of exposure relative to
7 their whole school lives at the higher level of
8 expenditures, and the fact that your district could
9 do more for those kids.

10 A. But I would also submit to you that were you to look
11 at my district's scores post-House Bill 72, the
12 trends in achievement would be similar.

13 Q. You mean pre.

14 A. I'm sorry, pre, right. Pre-House Bill 72. The
15 earlier grades would reflect higher achievement
16 scores. In fact, in a five-year study done by Texas
17 Education News on the old TEAMS examination -- on the
18 TABS examination, my district had a similar
19 experience of starting the first year of TABS, which
20 was 1980, which significantly were low achievement
21 scores. Five years later, among the larger districts
22 in Texas, we had the highest growth in gain rates of
23 any district above 10,000 students in math and
24 reading.

25 So I'm suggesting that there are some things

1 operating in the school district, things of which we
2 are proud, but yet, things which still mirror the
3 challenges and the inadequacies that we face with
4 respect to resources to bring all of those scores up
5 to national averages.

6 Those scores ought to be at least a 50. I
7 think there's a tendency in our looking at them to
8 feel that because there are numbers that escalate,
9 that they all should go to 99. But when you're
10 talking about percentile and rates, if you reach 50,
11 you're at a point where half of the population is
12 better and half is not as good. So that is where the
13 average should be.

14 And I think we have to watch that, too. We
15 keep talking about average. You say the average
16 salary, the average -- you're talking about what's in
17 the middle.

18 Q. Uh-huh.

19 A. You're not talking about the fact that there are some
20 people who are 50 percent above that.

21 Q. Uh-huh. Now, your TABS and --

22 A. So you --

23 Q. Well, go ahead. I don't want to cut you off.

24 A. No, I'm saying in talking about the average, you were
25 saying that it's okay for some to have half as many

1 again resources.

2 Q. Well, what -- your TEAMS scores actually, in your
3 district -- those were '85-'86 figures -- went up
4 again this year, didn't they?

5 A. Yes, they did go up again. Let's hope that they go
6 up every year. That's what I'm there for.

7 Q. I understand that. I'm not trying to tell you that
8 they shouldn't. I'm just trying to give the Court a
9 picture of what's going on in your district.

10 A. But you are saying that because the scores are going
11 up, we don't need any resources.

12 Q. No, sir. I'm asking you what's going on in your
13 district so we can give the -- I'm trying to ask you
14 what's right about your district rather than what's
15 wrong about your district. You don't object to
16 talking about what's right about your district, do
17 you?

18 A. No. I don't object to talking about what's right
19 about our school district.

20 Q. And one of the things that's right about your
21 district is, is that your test scores are going up
22 and, as a matter of fact, they're going up faster
23 than the state as a whole, aren't they?

24 A. They're not going up fast enough.

25 Q. I understand that, but that wasn't my question.

- 1 A. Okay, yes.
- 2 Q. I appreciate your attitude.
- 3 A. Yes.
- 4 Q. But they are going up faster than the state -- you're
5 gaining on the state, your district?
- 6 A. Yes.
- 7 Q. And a lot of -- is it fair to attribute at least some
8 of that to the increased funding that was made
9 available to your district through House Bill 72?
- 10 A. Some of it.
- 11 Q. And some of it to the --
- 12 A. The funds enable us to purchase resources.
- 13 Q. Okay.
- 14 A. They could go up even faster if we had more
15 resources.
- 16 Q. Okay. What kind of gains did you post over last
17 year?
- 18 A. Last year to this year?
- 19 Q. Yes, sir.
- 20 A. To '86?
- 21 Q. For your '87 tests. Those are --
- 22 A. Well, the '87s are just being given today.
- 23 Q. Okay.
- 24 A. This week. Those are the '87s.
- 25 Q. Okay.

1 A. So we haven't had another year of that exam yet
2 except for the 11th graders, which we have because
3 they took theirs in October.

4 Q. Okay. What are you doing to get those kinds of
5 increases? How are you doing it?

6 A. We are concentrating the resources available to us on
7 staff development to make more time on task, more
8 effective instructional strategies the rule of the
9 day.

10 We have placed an emphasis on diagnostic
11 research to evaluate what kind of skills are being
12 taught and what kind of skills are not being taught
13 relative to the specific essential elements on which
14 students are being tested.

15 In other words, we are trying to look at our
16 performance indicators, to look at our curriculum, to
17 look at the materials that we are using, and to make
18 sure that they are all synchronized, to make sure
19 that there is quality time, instructional time, spent
20 with students, that expectations are high, and that
21 resources are made available to teachers when they
22 need them, that principals are performing leadership
23 functions and instruction rather than management
24 administration, and that parents are involved in
25 working with the school, and that students understand

1 that they are responsible.

2 So a combination of all of that is our
3 operational plan, and that is what we hope will take
4 us in the direction that we need to go.

5 Q. When you say quality educational time, that's kind of
6 educational jargon. What does that mean in -- to us
7 non-educators?

8 A. A teacher in a classroom has the responsibility of
9 leading instruction. Leading instruction can take
10 many forms. It can be teacher director, or the
11 teacher can have students self-directed activities.
12 She can have peer grouping. There are a number of
13 different configurations that can be used as a part
14 of your instructional strategy.

15 What best meets the needs of those students as
16 analyzed by the teacher with the diagnostic tools
17 that he or she has, pre-tests, results from
18 standardized tests, programs which describe or poured
19 out for a whole class what objectives they mastered
20 and which ones they did not master, then that enables
21 that teacher to plan her strategy for instruction so
22 that everyone gets what he or she needs.

23 That's what I call quality of instruction time
24 where those type of activities are being utilized to
25 guarantee that the time the students spent on

1 instruction is quality time.

2 A simplistic way of putting it is, we don't
3 want teachers in our classrooms who have had one year
4 of experience 20 times. We want people who have had
5 20 years of experience, if they've been there 20
6 years.

7 In other words, you have to accept the premise
8 that some things may be done the same way if they're
9 successful. If they're not successful, then one
10 needs to do something different.

11 A teacher who teaches biology, teaches biology
12 the same way year after year and has about 40 percent
13 of her kids to complete the course successfully and,
14 let's say, 60 percent not to do so, cannot say, "Boy,
15 I'm doing one heck of a job of teaching biology. I
16 know it's right and I'm going to keep on doing it
17 that way," because it's quite obvious that that is
18 not quality time on task for 60 percent of the
19 students in that program. So that's what I meant by
20 that.

21 Q. Is it fair to say that in terms of prognosis for
22 future achievement that if you had -- if you looked
23 at those numbers, it's important to have higher
24 scores in the lower grades as opposed to the other
25 way around? I mean, if you've got a kid that's

1 behind -- what I'm asking, I guess, is it's harder to
2 catch up then it is to stay even?

3 A. Yes, but that's tantamount to asking me do I prefer
4 to die of a heart attack or cancer. It's important
5 to have high scores in all grades.

6 Q. I understand that. What I'm saying is, is that the
7 fact that you've got higher scores in the lower
8 grades makes it a little more encouraging for the
9 future than if it was the other way around?

10 A. Yes, yes.

11 Q. Okay. So these relative percentiles portend good
12 things for your district, do they not?

13 A. With caution.

14 Q. Okay.

15 A. If the resources are available.

16 And let me go back to the other chart that you
17 had. And you talked about the new money which my
18 district received. 10.6, 9.45, 8.3, 7.5 next year,
19 less, and you pile all of the additional requirements
20 in terms of reduction of class sizes, which means
21 additional staff, we're talking about moving that to
22 the 3rd and 4th grade, additional facilities, et
23 cetera, a salary schedule that in my case, because of
24 the size in my district means in order to pay the
25 same faculty members next year that I have this year,

1 I need a million and a half more. And if you look at
2 the 10.6 that I started out with, then you need a
3 million and a half more.

4 You talked about the three that we said we
5 banked, that's gone. And now, we're on the down side
6 of the curve. And then the requirements are being
7 increased.

8 You are funding my special education program
9 now at 95 percent of parenting. For every dollar
10 that you promised to give me for special education,
11 you're giving me 95 cents. For my pre-K students in
12 the four-year-old program, for every dollar that you
13 promised to give me this year, you're giving me 85
14 cents.

15 Q. Well, that's not just you, that's every district,
16 isn't it?

17 A. But, but --

18 Q. Well, just answer that first.

19 A. Yes.

20 Q. Okay.

21 A. But in the process of doing that to every district, I
22 have a program commitment at the pre-school level
23 that is now under funded by \$90,000.00, based on the
24 number of students that I have. That's one cents in
25 a tax rate for me to make up. For someone else in

1 one of the higher wealth districts where you make the
2 same pro rata cut, if they have a low income
3 pre-school program at all, it doesn't require a one
4 cents tax rate to make up the lost revenue. So
5 that's not equity. Again, that's not equity.

6 It's saying you earn a hundred dollars a week
7 and your rent payment is 50, and I'm going to raise
8 your rent to \$51.00. On the other hand, you earn a
9 thousand dollars a week, and your rent payment is 50,
10 and I'm going to raise your rent payment to \$51.00.
11 The proportional requirement that you're asking of
12 those two districts relative to this special ed. and
13 this pre-K are very different. There was another way
14 to do it.

15 Q. Now, when you said the difference between your
16 district's expenditures and state average was
17 \$750.00, where did you get those figures?

18 A. I don't think we said 750.

19 Q. Well, what --

20 A. I think we talked about five, about 2,900 and
21 possibly 3,500.

22 Q. Yeah, where did you get the \$3,500.00?

23 A. Well, the current -- the latest figures that you have
24 show a difference of a little more than \$300.00.

25 Q. Yeah.

- 1 A. There has generally been accepted in circles wiser
2 than mine that this year's increase on the average in
3 school districts looking at billion dollar tax
4 changes that were made average out to about \$200.00
5 per child in expenditures this year. So we're
6 estimating -- that's an '86-'87 figure that's
7 probably the difference now -- because our revenue
8 this year is less than it was last year. So my
9 average expenditure this year is going to go down
10 from where it was there.
- 11 Q. Well, is what you're telling me and what you were
12 telling me earlier, is that you got the \$3,500.00
13 figure from Mr. Kauffman rather than any kind of
14 scientific basis?
- 15 A. No. I'm saying that the figure came from the data
16 which we developed.
- 17 Q. Well, what data?
- 18 A. I just explained it to you. The average on that
19 chart right there is how much.
- 20 Q. What I show is the statewide average of -- for state
21 and local taxes of \$3,299.00 versus your district's
22 figures which are \$2,987.00.
- 23 A. About \$300.00. And since we're splitting them close,
24 \$312.00.
- 25 Q. Uh-huh.

1 A. And I'm suggesting that we settle this at that level
2 for every district involved at \$300.00 per child.

3 Q. No. I'm asking you where you got the \$3,500.00
4 figure?

5 A. I'm saying that \$200.00 is my belief of the
6 additional expenditure per child in school districts
7 in this year over last year.

8 Q. What is the basis of that belief?

9 A. Changes and increases in tax rates and a projection
10 of the total expenditure of all school districts
11 combined by students.

12 Q. Where did you get those figures?

13 A. The data -- all of the data to make that
14 interpretation is there just as the data is there for
15 that interpretation to be made.

16 Are you suggesting that, on the contrary,
17 salary increases paid in school districts this past
18 year, additional expenditures in school districts
19 were accomplished with the same amount of money the
20 year before?

21 Q. No. What I'm suggesting to you, sir, is that I don't
22 have '86-'87 data. I simply don't have it. And
23 that --

24 A. So my projections on '86-'87 data are unacceptable to
25 you.

1 Q. No, sir. I'm asking you what your basis of your
2 interpretation is?

3 A. I just explained the basis of that.

4 Q. Where did you get the information about tax increases
5 and where did you get the information about
6 expenditures?

7 A. I think if you call your Property Tax Board for
8 measures on tax rates for school districts this year
9 and apply those rates to assess evaluation and look
10 at the revenue increases between this year and last
11 year, you will begin to approach the figures that I'm
12 talking about. You will see that school districts
13 are, in fact, spending more money this year than they
14 spent previously.

15 Q. That's correct.

16 A. And that on the average, I'm suggesting is about 200.

17 Q. Well, how much of that is, for example, the fact that
18 Houston had to raise their tax rate because they lost
19 about \$60 million in state aid last year?

20 A. I'm not in a position to answer that question. I
21 don't know the wherewithal -- what is Houston's tax
22 rate?

23 Q. I don't know the rate for '86-'87.

24 A. Can we look at that?

25 Q. Sir, all I have is -- honest, I'm not fooling with

1 you, all I've got is information for '85-'86.

2 A. Oh, you mean the fact that they raised their tax rate
3 above this 60 -- they raised it to 71 cents, I
4 believe.

5 Q. I don't know.

6 MR. RICHARDS: Well, the Plaintiffs'
7 Exhibit 116 has all of those numbers if you want to
8 them, I think.

9 A. 71 cents, I think. Is it 71 cents?

10 Q. Plaintiffs' Exhibit -- once again, the problem we've
11 got is all of the data that's -- my understanding,
12 unless you all slipped in something on us is that
13 we're using the '85-'86 numbers.

14 MR. RICHARDS: Oh, I'm sorry. I didn't
15 mean to get in a bicker with you. I thought --

16 MR. O'HANLON: And he's talking about how
17 things changed this year, and I'm trying to find out
18 why because I don't have all of that information.

19 MR. KAUFFMAN: Excuse me. When you say you
20 don't, you don't or the Agency doesn't?

21 MR. O'HANLON: Well, we have not compiled
22 all of that information yet, except --

23 A. But the information is available. It can be
24 compiled. School districts have raised tax rates,
25 some have received additional state aid, some have

1 received less. I'm saying that all of these things
2 balance out, school districts collectively, the
3 aggregate of expenditures in the state are greater
4 this year than they were last year.

5 Q. Okay. What is your tax base doing right now in that
6 district?

7 A. What is my tax base doing?

8 Q. Yes.

9 A. It's declining.

10 Q. Is it?

11 A. Yes.

12 Q. In about the same proportion as the county as a whole
13 or better or worse?

14 A. Slightly less than the county as a whole. 5 percent
15 versus -- the average, that's probably somewhere
16 around seven and a half. I think the highest that I
17 saw was ten.

18 Q. Okay.

19 A. It would be about -- we went down about 5 percent of
20 that. We lost 5 percent of our value with the
21 reappraisals.

22 Q. Okay. So you're doing better than some districts
23 down there of your neighbors?

24 MR. KAUFFMAN: Excuse me, Your Honor. I
25 object to the question. Doing better in terms of

1 what?

2 BY MR. O'HANLON:

3 Q. Better than your relative tax base this year?

4 A. My district is taxing at a rate of \$1.17. It lost 5
5 percent of its value and you say we're doing better.

6 Q. Well, I'm saying that the decline in your district is
7 better than some of the other districts down there,
8 as much as declines in property value can ever be
9 better?

10 A. Well, there's another way we can look at that. We
11 could look at what happened with the ADA per pupil in
12 my district versus the other districts. And in that
13 case, I don't think we could make the argument that
14 my district is doing better. We go from 71 to
15 \$66,000.00 per pupil expenditure. Other districts go
16 from 342 to 337 or 335. So because of the base on
17 which those percentages are being applied is so much
18 larger, the actual dollar increase is not that high.
19 That's just saying, you know, I lost 5 percent of my
20 wages and I earn a hundred dollars, so now I'm making
21 95. But the other guy lost 10 percent of his wages,
22 but he made \$100,000.00. So now he's making 900 --
23 I'm making 999,000.

24 Q. Has your district ever pursued consolidation with
25 another district?

1 A. Has my district pursued consolidation with a
2 neighboring district?

3 Q. Yes, sir.

4 A. My district is one of the, I think, the 44th largest
5 district in the State of Texas.

6 Q. That's correct.

7 A. I don't understand how consolidation would benefit my
8 school district.

9 Q. Well, for example, if you consolidated with the
10 Houston Independent School District, your district
11 could share in the wealth of the Houston Independent
12 School District, couldn't it?

13 A. My district is a product of an exodus from the
14 Houston School District. I don't think that that's a
15 practical solution. My achievement score is higher
16 than the Houston Independent School District's.

17 Q. So you don't want any part of it, even though by
18 annexing yourself to the Houston Independent School
19 District, you could increase your property wealth by
20 probably \$200,000.00 per pupil, you're not
21 interested?

22 A. That is not the solution that we seek.

23 Q. Okay.

24 A. Also, if we were to follow the scenario that you just
25 described, that would result in less resources for

1 both the students in North Forest and the students in
2 Houston because you would add 15,000 students to the
3 enrollment and substantially less to the tax base.
4 So you would be equalizing down, if you want to call
5 it that.

6 Q. That's right. But that combined district would still
7 be at or above the statewide property value or
8 statewide average property value?

9 A. Another way of putting that is that combined district
10 would be less than Houston currently has in values.
11 And my understanding of these processes with respect
12 to consolidation is that it takes two to tango.

13 Q. That's right. I'm asking you whether you're
14 interested in the dance?

15 A. I don't think that that's -- as the general
16 superintendent of schools, I think that would be a
17 question that will be properly addressed to the
18 school board of the citizens of the community. No,
19 I'm not interested in legislating myself out of the
20 superintendency of the North Forest Independent
21 School District.

22 Q. Okay. Have you ever talked about that issue with the
23 board of trustees in your district?

24 A. No, I have not.

25 Q. Has it ever been discussion among the citizens of

1 your school district?

2 A. There has been discussion among the citizens with
3 respect to not wanting to become a part of any other
4 school district.

5 Q. Okay. So even though you could increase your
6 property value substantially on a per ADA basis --

7 A. At the expense of another school district.

8 Q. Yes, sir.

9 A. Yes, sir.

10 Q. And even though that would allow the citizens of your
11 district to reduce their tax rate by being able to
12 pick up that additional revenue, they're simply not
13 interested in consolidation with anybody else, are
14 they?

15 A. I believe that to be the case.

16 Q. Why is that?

17 A. I believe the term in the Texas School Law Bulletin
18 is independent school district, and NFISD is that.
19 It is a school district with its own governing
20 structure pursuant to state statute. It is a school
21 district that, as you indicated, while it's not where
22 we want it to be, it's headed in the right direction
23 with respect to student achievement and it wants to
24 continue its life cycle.

25 Q. Okay. Is it fair to call that an interest in local

1 control?

2 A. No, I don't think school districts have local
3 control. My interpretation is that the local
4 independent school district is an appendage of the
5 state, that its powers are derived from the state
6 government, and that consequently, they have
7 independent responsibilities vis-a-vis that
8 geographical area.

9 Q. Uh-huh.

10 A. But they don't have quote, "local control." He who
11 controls the gold, rules, and the state controls the
12 resources. I think that all of the monies collected
13 in the State of Texas for the education of children
14 belongs to the state. Now, there may be a pass
15 through, there may be a delegation of part of that
16 responsibility to a local school board to levy ad
17 valorem taxes, et cetera, but I believe that that
18 money belongs to the state to educate the children of
19 the State of Texas, all of it.

20 Q. Okay. So you're not interested in anything that
21 would, as a matter of increasing your district's
22 ability to raise money from local sources, pursue any
23 kind of consolidation on some kind of a mass scale?

24 A. I think if you were asking the question, do you think
25 that the same -- do you think that Harris County

1 should be one unified school district, all of Harris
2 County?

3 Q. No. What I say doesn't matter. I'm asking you the
4 questions. If you want to answer your own, that's
5 fine.

6 A. I'm trying to establish whether or not -- for
7 example, if you were going to pursue that kind of
8 solution, I wonder why that you would pick Houston
9 and North Forest. Why did you not say, let's combine
10 Houston, North Forest, Aldine, Humble, Sheldon,
11 Spring Branch, Galena Park and make one metropolitan
12 district combined, and make one metropolitan district
13 with all of those. It still would meet all of the
14 criteria that you just described.

15 Q. Okay. Let's talk about that. Would you be
16 interested in that? Would the citizens in your
17 community be interested in that?

18 A. I indicated earlier that I think the citizens in my
19 community are interested in the maintenance of the
20 North Forest Independent School District.

21 Q. Okay. So, I mean, I'm not trying to trick you or to
22 hedge you in or something just by saying Houston, if
23 you think Houston is a distasteful choice. I
24 mean --

25 A. I did not say that. I don't discuss school districts

1 that way. Every school district in this state is
2 making the ultimate effort to educate children.

3 Q. Okay. But what I'm saying is any form of
4 consolidation with the -- I assume -- I started off
5 because I know you're adjacent to the Houston
6 Independent School District, but any of those school
7 districts that surround you?

8 A. We also -- well, no. The answer is no.

9 Q. Okay. And the reason I asked that is because Dr.
10 Richard Hooker, the first witness in this case,
11 talked about that as a potential revenue.

12 MR. KAUFFMAN: Objection, Your Honor. He's
13 mischaracterizing the record again.

14 Dr. Hooker never said about consolidating the
15 districts. He talked about a plan of taxing
16 districts which would combine the tax wealth of a
17 district and use that combined tax wealth to the
18 mutual benefit of the districts in the tax district.
19 He did not talk about consolidating the districts.

20 THE COURT: I believe that's right. What
21 do you say there, Mr. O'Hanlon?

22 MR. O'HANLON: Well, he talked about the
23 Governor's report, which talked about consolidating
24 districts, and how that was a good solution into 354,
25 if I'm not mistaken, and how that was a better

1 solution.

2 And I also submit to the Court that when we're
3 talking about districts, we're still operating under
4 some kind of constitutional constraints, and this
5 taxing authority is something they've pulled out of
6 the air and is totally unconstitutional. So we have
7 to have some kind of practical limitations on what
8 we're talking about in this case.

9 When the Texas Constitution talks in Article
10 VII, Section 3, it talks about the power of districts
11 to tax, not any kind of creation that we can dream
12 up. And if we're going to talk about it, we need to
13 talk about it in the form of something that is
14 constitutional. And I think that's a legitimate
15 inquiry. I'm trying to find out whether he would
16 consider consolidation.

17 THE COURT: Well, I suppose it's all right
18 for you to ask if he would consider consolidation of
19 the actual school districts, but I think the
20 objection was that you were putting it -- that you
21 were putting a question to him about what Dr. Hooker
22 said. He may have said what you said, but I got that
23 the gist of what Hooker was merely suggesting, I
24 don't even know if he's in favor of it, I get the
25 idea he doesn't really like the idea. But a way to

1 go at it, maybe, would be to perhaps have taxing
2 districts that would be different from school
3 districts.

4 Now you sit down and you ask what you want to
5 ask.

6 BY MR. O'HANLON:

7 Q. If somebody, if anybody propounded a system where
8 there would be a forced consolidation of your
9 district with another district, would the citizens of
10 your school district approve of that kind of thing?

11 A. Isn't your question rhetorical? You said a forced
12 consolidation. It would be a fait accompli.

13 Q. And I asked whether they would approve of it. Are
14 they interested in it?

15 A. I can't speak for the citizens of my school district
16 except to say that I believe that in the questions of
17 governments, that they want to maintain NFISD as an
18 independent school district.

19 Q. Okay.

20 MR. O'HANLON: I'll pass the witness.

21 CROSS EXAMINATION

22 BY MR. TURNER:

23 Q. Mr. Sawyer, could you tell me what percentage of your
24 revenues come from local tax dollars, and what
25 percentage comes from state funds, and what

1 percentage comes from federal funds in your --

2 A. About 9 percent of my revenue is from federal
3 sources, about 24 percent from local, and about 68
4 percent from state.

5 Q. Do you have those same percentages available for
6 pre-House Bill 72?

7 MR. RICHARDS: I think the question is do
8 you have available in some written form in front of
9 you.

10 A. The answer is no, I don't have it available.

11 Q. All right. And the figures that you just gave me, is
12 that from something that you brought with you that
13 you're referring to?

14 A. It's from the Agency report on financial information
15 on school districts for the '85-'86, the same report
16 that was entered as an exhibit a few minutes ago.

17 Q. That's from your annual report --

18 A. Yes.

19 Q. -- that we're talking about?

20 A. Yes.

21 Q. Tell me what type of federal monies you receive.

22 A. Chapter 1. That is compensatory education. We
23 received a small Chapter 2 program which supports
24 learning resources media materials. We receive
25 federal lunch program. About 48 percent of our

1 students are on some form of free and reduced lunch.
2 And we receive approximately \$150,000.00 a year in
3 federal special education funds, and we receive about
4 the same amount in federal vocational funds, and we
5 compete for other federal funds that are
6 discretionary to the federal government through grant
7 writing.

8 Q. Mr. Sawyer, in terms of actual dollars, what does
9 that 9 percent of federal funds equate to in dollars?

10 A. Probably overall about four -- a little more than \$4
11 million.

12 Q. All right. I didn't mean to ask you to have to
13 figure that out if you didn't have it in front of
14 you. Maybe it's best just to ask you what your total
15 revenues are for 1985-'86 that you gave me the
16 percentages for?

17 A. \$49,385,884.00.

18 Q. So approximately four million of that is federal
19 money?

20 A. Right.

21 Q. And if you can, break that down for me by source of
22 federal program?

23 A. I can do that for you if I'm not being held to the
24 -- I'm going to be off probably a couple of hundred
25 thousand on the big ones.

1 Q. That's fine.

2 A. Okay.

3 Q. That's fine.

4 A. The Chapter 1 program is about 2.1 million.

5 Q. All right. While we're talking about that program,
6 tell me what that does and what you are permitted to
7 use that money for.

8 A. Those funds are committed to be used for improving
9 educational achievement for students who fall into
10 and meet the Chapter 1 guidelines. Those are
11 students who are functioning one or more years below
12 grade level.

13 The funds provided are not adequate to provide
14 a program for all of the students to fit into those
15 categories because this is another federal program
16 where your numbers are gathered for all of the
17 districts in Texas and all of the districts across
18 the country, and then they take the total number of
19 students and divide it into the amount of money that
20 they had. And so you get a pro rata share of funds,
21 as I talked about with the special ed. earlier. So
22 you may not get enough funds to service all of the
23 children in a district.

24 Our programs are targeted at reading
25 achievement --

1 Q. Now, how do you find out --

2 A. -- and a small portion of it at staff development,
3 training teachers.

4 Q. How do we determine whether a student is one or more
5 years below grade level?

6 A. Standardized test measures.

7 Q. So these tests make --

8 A. We use the California achievement test for that
9 purpose.

10 Q. And you have to report the number of students that
11 you have that fall below this one or more years below
12 grade level?

13 A. For what, the funding purposes?

14 Q. For funding purposes?

15 A. No. The funding is tied to the number of students on
16 the free lunch program. Funding is tied to something
17 unrelated to the purpose of the program.

18 It was considered at that time to be one of the
19 better measures that they could use because there are
20 income guidelines to qualify for the free lunch
21 program, and so based on that number of school
22 districts that allocated a certain number of units
23 times the funding for Chapter 1.

24 Q. Now, tell me how, when you get this money, this \$2.1
25 million, tell me how you actually spend it. What do

1 you do with it?

2 A. Most of it is spent on teachers who are employed to
3 teach in the Chapter 1 program.

4 Now, some of it is used for aides to support
5 the Chapter 1 program because Chapter 1 has class
6 size limitations which are even more stringent than
7 House Bill 72, 22-to-1. I believe with an aide, you
8 can have 15 students in our Chapter 1 classes.

9 It might be characterized as a pull-out
10 program. By law, it must not supplant what the
11 district is doing with its regular resources. It is
12 considered to be a supplemental program, so there are
13 some limitations both on how we can use the funds and
14 what students we can use them with.

15 Q. How long is a comp. ed. student in a class with
16 -- for reading achievement under this program?

17 A. How long may he stay in such a program?

18 Q. And how long during the day is he in that program?

19 A. Usually 45 minutes to one hour, mostly one hour.

20 Q. And how many teachers do you have employed that are
21 specifically funded by this program?

22 A. I would guess approximately 35 or 40.

23 Q. 35 or 40?

24 A. About that.

25 Q. And that's the only responsibility that these

1 teachers have that are employed?

2 A. In that program.

3 Q. In that program?

4 A. Yes.

5 Q. And what do you call that kind of teacher?

6 A. Chapter 1 teacher.

7 Q. Chapter 1 teacher?

8 A. Chapter 1 reading teacher, uh-huh.

9 Q. And how many aides do you have employed that are paid
10 for specifically by this program?

11 A. I think I -- I believe I have something that
12 approximates that number for me, about 19.

13 Q. Did you say a number?

14 A. 19.

15 Q. 19?

16 A. One nine.

17 Q. 19?

18 A. Yes.

19 Q. And what other expenses or what other things are
20 purchased out of this \$2.1 million?

21 A. Program learning materials, which are a part of
22 Chapter 1 proposal, which is submitted and approved
23 by the state, some staff development activities, and
24 consultants to do staff development. Again, all of
25 those which are a part of the Chapter 1 proposal

1 which is submitted and approved. Those expenditures
2 amount to maybe 300, 350,000 of the total program
3 costs.

4 Q. This is staff development cost?

5 A. And program materials, learning labs that are
6 utilized. We use a program called prescription
7 learning, reading, diagnostic reading labs.

8 Q. All right. My numbers are still including those
9 salaries for the teachers, and aides, and the
10 materials, and staff development cost of 350,000, I'm
11 still coming up with a little money left out of that
12 2.1 million. Is there something else in there
13 that --

14 A. What did you base the salaries on? You took the
15 22,000 average?

16 Q. Well, I actually did it for convenience. I
17 multiplied 40 teachers times 25,000.

18 A. Probably not enough. When you take contributions to
19 the retirement program that Chapter 1 must make, the
20 insurance benefits and fringe benefits, sick leave,
21 the other kinds of things that have to be covered,
22 plus there's a tendency for people to be experienced
23 since they stay in the program, you would probably be
24 better off with the number around 33 to 32 times --

25 Q. Okay. Mr. Sawyer -- excuse me.

1 How does the presence of these classes impact
2 your ability to meet the teacher/pupil ratios of
3 1-to-22?

4 A. They have no effect on that at all. The child who is
5 in a Chapter 1 program still must be in a regular
6 classroom. And let's talk about 1st and 2nd graders
7 who are in Chapter 1. That's a pull-out program.
8 And a Chapter 1 teacher may teach 10 or 15 of your
9 kids if she has an aide one hour, and 15 kids another
10 hour, and 15 kids another hour, but all of them must
11 be in a regular classroom with 22-to-1. Federal
12 funds have no impact on the cost of the regular
13 program. They don't supplement it, they don't assist
14 it in any way whatsoever.

15 Q. And when you do your calculations that you have to
16 report --

17 A. Yes.

18 Q. -- for teacher/pupil ratios --

19 A. Yes.

20 Q. -- you don't look at these special education classes?

21 A. We don't count those in. Obviously, in the report
22 they were included to get an overall.

23 But the fact is, those students have to be
24 counted in somebody's regular class, which comes out
25 of Foundation and local funds.

1 If I can use an example which will, I think,
2 make the point. Let me take the five of you and say
3 that each of you has a class with 22 students, okay?
4 So we've got 110 students being taught by the five of
5 you. Of that 110 that you teach, 45 are eligible for
6 Chapter 1 services.

7 Let's make the example less complex. Each of
8 you has 15 students eligible for Chapter 1 services.
9 This is a Chapter 1 teacher. He will take yours in
10 the first hour, yours in the second hour, yours in
11 the third, fourth, and fifth. That's his work day
12 and your work day. You are responsible for your
13 other students who are not in Chapter 1 when he takes
14 the Chapter 1 students.

15 So consequently for funding purposes, for
16 purposes of what we must do, I have to have the five
17 of you in my regular program. And I have to have the
18 Chapter 1 teacher funded for Chapter 1. You're
19 funded from local and Foundation funds.

20 Q. All right. Tell me, Mr. Sawyer, what the other
21 federal programs are and the approximate amount of
22 money that flows through them.

23 A. I would like to think that the school lunch program
24 is probably about a million seven or a million eight.
25 Of course, that fluctuates with the number of

1 students on the program and the number of students
2 utilizing the lunch program at various points during
3 the year.

4 And that is exclusively for the provisions of
5 the school lunch program. It pays for the cafeteria
6 staff, and the food purchased, and the managers and
7 director of that particular program.

8 The remaining portions would be the small
9 vocational and special education funding that I
10 described, which in both cases probably amounts to
11 something on the order of 150,000 each.

12 Q. Is that Chapter 2, we're talking about, funds?

13 A. No, it's -- yeah, I believe it's -- I think it is a
14 part of one of the classifications on either Chapter
15 2 or Chapter 4. I can't recall the nomenclature on
16 both of those.

17 The Chapter 2 that I refer to is a very small
18 dollar amount, less than \$30,000.00 that is available
19 for the purchase of library -- usually used for
20 library books, media materials, and things of that
21 nature.

22 Q. Mr. Sawyer, can you tell me how many teachers and
23 aides are employed in these other miscellaneous
24 federal programs that you just mentioned?

25 A. There might be four or five -- probably less than

1 that -- maybe three or four in the special education
2 program, monitors who ride school buses for severally
3 handicapped children that are supported in part with
4 that small federal program that I talked about, none
5 in vocational, none in 2(b).

6 Q. Are there any administrative positions that are
7 supported by these federal funds?

8 A. There is a Chapter 1 director who is responsible for
9 this complete program and a bookkeeper position for
10 interfacing and managing the records on the proximate
11 \$2 million program with the business office. It's a
12 person who is employed by Chapter 1, who works on
13 Chapter 1 program, but is assigned to the business
14 office.

15 Q. And is that all of the personnel that are in your
16 district that are employed as a result of federal
17 funds, the ones that you've mentioned?

18 A. Yes, during the school year, yes. I say during the
19 school year because there may be summer -- special
20 kinds of summer projects and programs which would not
21 be a part, because in those cases, we are really a
22 job site. We don't manage funds. The funds are
23 managed by the City of Houston or whatever. So those
24 are all of the things, yes.

25 Q. Mr. Sawyer, what's your evaluation of the

1 contribution to your school district and the ability
2 of your district to render an adequate or a quality
3 program that results from this federal -- these
4 federal programs that we just mentioned here?

5 A. Our research indicates that those students who
6 participate in the Chapter 1 program do slightly
7 better on standardized tests on TEAMS, et cetera,
8 than those of similar educational background. I say
9 that because I've already defined that the Chapter 1
10 students are those who are a year below level.

11 And there are others because, again,
12 limitations on resources and numbers may not get the
13 benefit of what we call the double treatment on
14 reading; that is, they get a regular reading program,
15 and then they get the Chapter 1 program in addition.
16 They do slightly better. So it does have some
17 positive effect. Not as much as I would like.

18 Q. Do you think the test scores that we see on the board
19 there are a result in part of the federal program or
20 is that the result of other things that you do?

21 A. The obvious answer is that it is a result of
22 everything that we do. Separating that out would be
23 very difficult because that means we would have to go
24 inside each one of those numbers and determine how
25 many students are actually in Chapter 1 classes, take

1 their scores, and then compute their averages and
2 compare it with the averages of those who are not in
3 the Chapter 1 programs, and then match them against
4 the aggregate number. We don't have the resources to
5 do all of that, so we have not moved that to that
6 level of analyzation, so I really can't tell you that
7 any one part of that is the reason.

8 Q. Mr. Sawyer, you mentioned during your direct
9 examination by Mr. Kauffman a figure of seven and a
10 half million dollars that you said would be needed to
11 bring your spending level up to the state average?

12 A. That was based on some assumptions that we made, yes.

13 Q. How did you arrive at that figure?

14 A. I took 14,000 students and multiplied it times
15 \$500.00 per kid, which we believe to be the
16 difference. I believe that comes out to about seven
17 million right on the head.

18 Q. So that was using that \$500.00 figure that you and
19 Mr. O'Hanlon got into a discussion about a few
20 minutes ago, is that right?

21 A. Yes, the figure that we had a discussion about.

22 Q. You testified that the first TECAT exam resulted in a
23 23 percent failure rate among the teachers in the
24 North Forest District. I take it you viewed that as
25 an indication of the level of the quality or lack

1 thereof of the teaching work force, did you not?

2 A. You force me to make a quantum leap when you make
3 that assumption that TECAT measured teaching quality
4 or the ability to teach. I don't think I did that.

5 TECAT and those results signal for me some
6 concerns and problems that we needed to address in
7 our school district with respect to language facility
8 because that is what I think TECAT measured.

9 Q. Measured what, I didn't hear you?

10 A. Language facility. It was a reading, writing test.
11 It did not measure one's ability to teach. It was
12 not a cultural examination. It was not a
13 philosophical examination. It was not a content
14 examination.

15 Q. So, are you telling me that in your judgment that
16 failure rate did not reflect upon the quality of your
17 teaching work force?

18 A. Yes, of course it did. Of course it did. But it
19 reflected on it vis-a-vis language facility and the
20 skills that I described rather than teaching ability.
21 We make a quantum leap and make some inferences, but
22 I'm not prepared to do that without more data.

23 Q. How do you evaluate your teaching force at North
24 Forest in terms of the degree of quality or lack
25 thereof in their ability to teach?

1 A. I would like to see all of the best teachers in the
2 world working in the North Forest Independent School
3 District. I have some who fit into that category. I
4 have others who don't. I have a professional staff
5 that is undergoing significant staff development and
6 training and I see a number of optimistic signs and
7 reasons to be optimistic with respect to the
8 improvement and the structural quality.

9 But I think sometimes we zoom in too heavily on
10 existing staff. They are with us and are employed,
11 and except for death, resignation, or termination,
12 most are going to be there through their career.

13 I have chosen and I think this is true of most
14 superintendents, certainly to work within the
15 framework of resignation and termination where
16 appropriate to deal with staff, and at the same time,
17 the major source of improvement of the quality of an
18 instructional staff comes from the
19 selection/recruitment process when you are hiring new
20 people.

21 And that's where I earlier lamented my
22 inability to compete on an equitable basis for the
23 bright minds coming out of school, or the individuals
24 who transfer and move into the greater Houston area,
25 because they have a lot to offer NFISD and if NFISD

1 could offer more compensation, I'm sure we could
2 strike some deals.

3 Q. Mr. Sawyer, I'm sure you said and I perhaps didn't
4 write it down, how many teachers do you have at North
5 Forest?

6 A. I have about 1,006 professionals of which probably
7 fully 800 -- roughly 800 are classroom teachers.

8 Q. In that first year after the TECAT exam was
9 administered, and I believe you said they took it a
10 second time, you had a 97 percent passage rate then?

11 A. Right.

12 Q. How many teachers did you lose as a result of the
13 TECAT?

14 A. About 26, 27, 28.

15 Q. That's solely as a result of their failure of the
16 exam?

17 A. Yes.

18 Q. You lost 28?

19 A. Yes.

20 Q. And put me in the proper time frame here --

21 A. That's before the start of this school year, this
22 year that we are involved in now, '86-'87.

23 Q. All right. And other than the loss as a result of
24 the failures of those 28, how many other teacher
25 turnovers did you have?

1 A. I believe our records will indicate that we hired
2 approximately 45 to 55 new staff members this past
3 year.

4 Q. And those would have been replacements rather than
5 additions, by and large?

6 A. Yes. We did not have additional class size reduction
7 this year, so we did not have any staff increases for
8 that reason.

9 Q. So would it be fair to say that on average, you
10 replace 50 teachers each year?

11 A. Somewhere between 35 and 50, but that's beginning to
12 change, probably a function of changes in the
13 economy. People are not as mobile now because the
14 job market is not as flexible, so those numbers are
15 down a little. I would guess that this coming year,
16 we're probably going to be closer to 20 or 25, if
17 that many.

18 THE COURT: Counselor, I want to stop
19 there.

20 Monday, the courthouse is closed, so let's plan
21 to work Friday. See y'all again at 9:00 o'clock on
22 Tuesday.

23

24 (Proceedings were recessed until
25 9:00 a.m., February 12, 1987.)