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1                                   ROUGH TRANSCRIPT  
2                                   P R O C E E D I N G S  
3                                   JOHN J. FREEMAN, Ph.D.,  
4           having been first duly sworn, was examined  
5           and testified as follows:

6                                   EXAMINATION

7           BY MS. WARR:

8                   Q.       All right. Hello, Mr. Freeman. My  
9           name is Nicci Warr. We met just a moment ago off  
10          the record. I represent the defendants in this  
11          case. I work with the state. I'm with Stinson  
12          LLP.

13                               I think we are going to get some  
14          house cleaning out of the way which is that I  
15          have a pro hac vice motion that will be filed in  
16          this case today. It is ready to go. I believe  
17          there is agreement that there will be no  
18          challenge to that motion or to me taking the  
19          deposition?

20                               MR. JAOUDE: Yes, that's correct.

21                               MS. WARR: Okay. I don't know if  
22          we need to note your appearance.

23 MR. JAOUDE: Yes, Michael Anthony  
24 Jaoude, White & Case LLP on behalf of plaintiffs.  
25 Q. So you understand that you are here

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1 effectively in that school. So I was in that  
2 school for one year. After that I began my work  
3 as a school principal working first in Western  
4 Maine. In Woodstock Elementary School in Western  
5 Maine, two small schools. Then served for a time  
6 similarly in West Boylston, Massachusetts. I  
7 came to Barrington, New Hampshire in '87 and  
8 served in the Barrington school district as a  
9 school principal, middle school principal and  
10 served for a short time as a superintendent of  
11 schools in Barrington. From there I went back to  
12 the principal's role and spent a couple of years  
13 in Seabrook and then a number of years in  
14 Pittsfield. When I was in Pittsfield, I became  
15 the superintendent of schools and then served for

16 a brief time as superintendent of schools in  
17 Strafford. During those periods of time, I also  
18 served as an adjunct instructor in college  
19 university courses, education, English writing,  
20 public speaking those sorts of things.  
21 Literature, American literature. I also have  
22 served, have been serving as an educational  
23 consultant in a variety of school districts in  
24 this state as well as Massachusetts, Ohio, New  
25 York. There may have been other places.

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1 you use the numbers that are provided by the  
2 state as a baseline?

3 A. Yes.

4 Q. Okay. So in your report, you say  
5 that you are using for the sake of this report  
6 the criteria described in RSA 193-E:2 and the  
7 standards in ED 306. Do you consider all of ED  
8 306 to be the requirements in order to meet an  
9 adequate education?

10 MR. JAOUDE: Objection.

11 A. No.

12 Q. Can you describe for me the or  
13 identify for me the specific regulations that you  
14 believe are required for an adequate education?

15 A. I think I could if I had the RSA  
16 and the ED 306 beside me. I do not feel that  
17 they match up well, and there are additional  
18 requirements in ED 306 and in other places in the  
19 law in New Hampshire that place requirements on  
20 the schools that are not included in the RSA.

21 Q. Just without looking at them and  
22 maybe describing them by subject matter, can you  
23 identify any of the items that you believe are in  
24 the ED 306s that are outside of RSA 193-E:2?

25 MR. JAOUDE: Objection.

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1 A. I would really have to look at the  
2 wording. You know, school nurses, for example,  
3 come to mind, and I know in ED 306 there's

4 language that sort of couches that requirement.  
5 So I really have to look at it quite honestly. I  
6 haven't worked with that since I've been retired  
7 from public school service.

8 Q. When did you retire?

9 A. I finally retired in October of  
10 '22.

11 Q. Did you look at RSA 193-E:2 for  
12 purposes of forming your opinions in this case?

13 A. Yes.

14 Q. And did you look at ED 306 as well?

15 A. I did.

16 Q. Okay. At a high level can you tell  
17 me any of the subjects outside in other laws that  
18 you believe impose requirements on schools?

19 A. Yeah. As an example, water and air  
20 testing are required, but they don't -- to the  
21 best of my knowledge, they don't appear in the  
22 RSA or ED that we're talking about.

23 Q. And is it your opinion that those  
24 types of requirements should also be taken into  
25 account when determining the cost for an adequate

1 spent by school district per student and then the  
2 average across the state. Do you recall if  
3 that's the same report?

4 A. Yes, it's the same report.  
5 Typically what the state does in those reports is  
6 put the averages on the top line and then list  
7 the school districts either alphabetically or by  
8 SAU number below.

9 Q. Okay, perfect. And would you have  
10 looked at the same year to obtain that  
11 information for each of those data points?

12 A. I would assume so, but I can't  
13 verify that a hundred percent.

14 Q. Since it's the same report, I  
15 assume it's fair to say that that 21,000 number  
16 you're also not sure if the reporting by the  
17 state is meant to have any tie to constitutional  
18 adequacy?

19 A. Yeah, I don't know.

20 Q. Is it your opinion that base  
21 adequacy, constitutional base adequacy should

22 cover all of the amounts that are required to  
23 operate a school for students who do not qualify  
24 for differentiated aid?

25 MR. JAOUDE: Objection.

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1 not?

2 A. There are some. Student government  
3 is one, so yes. But something like a chess club  
4 would not be specifically mandated.

5 Q. And what about restorative justice,  
6 would that be specifically mandated?

7 A. That is not specifically named, no.

8 Q. And ski/snow board club?

9 A. Not specifically named.

10 Q. Moving on to the next paragraph,  
11 the summer recreation program. It looks like  
12 that -- it says that's cosponsored with local  
13 charities. Do you remember how much of that  
14 program cost the school was covering?

15 A. Like a percentage or --

16 Q. Yeah.

17 A. -- actual amount.

18 Q. Either way?

19 A. It was less than 50 percent. I  
20 believe it was -- I'm not sure if I'm remembering  
21 with 100 percent accuracy, but the cost of the  
22 program was split and then transportation costs  
23 were not provided by the district.

24 Q. Okay. And the summer recreation  
25 program, was that required by state law?

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1 that also the average cost of capital  
2 expenditures per pupil across the state?

3 A. I believe so.

4 Q. And did you also obtain that from  
5 DOE data?

6 A. Yes.

7 Q. That is available on the DOE  
8 website?

9 A. Yes.

10 Q. Would that also have been the most  
11 recent available at the time you looked?

12 A. Yes.

13 Q. And that would have been sometime  
14 in the fall of last year?

15 A. Yes, I believe so. Yes.

16 Q. And what is the basis of your  
17 opinion that the average expenditure across the  
18 state is the appropriate amount for adequacy?

19 A. Well, what is provided in adequacy  
20 clearly is not enough. It does not address the  
21 full cost of adequacy. And it seems as though  
22 the average would be, the approximate average  
23 would be a realistic place to start.

24 Q. For schools that are currently  
25 spending less than the average, is it your

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1 opinion that those schools are not providing an  
2 adequate education?

3 A. No.

4 Q. And for schools that are currently  
5 spending more than the average, is it your

6 opinion that the average would cover the cost of  
7 an adequate education for those schools?

8 A. I don't know that it would.

9 Q. Your final sentence of this  
10 paragraph that goes on to the next page says,  
11 "This amount may vary slightly to reflect the  
12 specific demographics or geography of a given  
13 district." Do you see that?

14 A. Yes.

15 Q. Do you have a definition of what  
16 slightly might be by amount?

17 A. No.

18 Q. Okay. Is there any definition you  
19 could give to slightly, for instance, less than  
20 \$5,000?

21 A. I couldn't. You know, I would have  
22 to look. If you were asking me to identify a  
23 number, I would have to look further and conduct  
24 an additional study to take a look at school  
25 districts that are spending more and school

1 understand that. Is the sentence explaining that  
2 because an average is being taken of what is  
3 expended that it therefore already includes  
4 things like inflation?

5 A. Yes, it would.

6 Q. Okay. And the average already  
7 includes decisions made by schools about what  
8 they want to spend money on?

9 A. Yes.

10 Q. When we're dealing with averages,  
11 as the amount at the top is raised, that raises  
12 the average, correct?

13 A. Yes.

14 Q. Are you offering any opinions about  
15 any limits with regard to use of the average that  
16 should be used to determine a adequate education  
17 funding amount?

18 A. No.

19 Q. And I know you noted in your report  
20 that you're not being compensated for your work  
21 in this case; is that right?

22 A. That's correct.

23 Q. Okay. Why are you spending your

24 time to testify as an expert if you're not being

25 compensated?