

2 **ESHB 2631** - S AMD to S ED COMM AMD

3 By Senators Rinehart, Bluechel and Bailey

4 On Page 4 of the amendment, beginning on line 11, strike all
5 material down through line 18 and insert the following:

6 "(1) For purposes of this section:

7 (a) "Maintain a place of business in this state" includes:

8 (i) Maintaining, occupying, or using, permanently or temporarily,
9 directly or indirectly, or through a subsidiary or agent, by whatever
10 name called, an office, place of distribution, sales or sample room or
11 place, warehouse or storage place, or other place of business; or

12 (ii) Soliciting sales or taking orders by sales agents or
13 travelling representatives.

14 (b) "Engage in business activities within this state" includes:

15 (i) Purposefully or systematically exploiting the market provided
16 by this state by any media-assisted, media-facilitated, or media-
17 solicited means including, but not limited to, direct mail advertising,
18 unsolicited distribution of catalogues, computer-assisted shopping,
19 telephone, television, radio, or other electronic media, or magazine or
20 newspaper advertisements or other media; or

21 (ii) Being owned or controlled by the same interests that own or
22 control a seller engaged in business in the same or similar line of
23 business in this state; or

24 (iii) Maintaining or having franchisee or licensee operating under
25 the seller's trade name in this state if the franchisee or licensee is
26 required to collect use tax.

27 (c) "Purposefully or systematically exploiting the market provided

1 by this state" is presumed to take place if the gross proceeds of sales
2 of tangible personal property delivered from outside this state to
3 destinations in this state exceed five hundred thousand dollars during
4 a period of twelve consecutive months.

5 (2) The department of revenue shall deposit sales and use tax
6 revenues collected from out-of-state taxpayers who do not maintain a
7 place of business in this state but who engage in business activities
8 within this state by purposefully and systematically exploiting the
9 market provided by this state through media-assisted, media-
10 facilitated, or media-solicited means as follows:

11 (a) The first three million dollars collected in any fiscal year
12 shall be deposited in the state general fund.

13 (b) All revenues in excess of three million dollars collected in
14 any fiscal year shall be deposited in the common school construction
15 fund."