

HONORABLE BRUCE HELLER

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STATE OF WASHINGTON

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

LEAGUE OF EDUCATION VOTERS, a Washington non-profit corporation; WASHINGTON EDUCATION ASSOCIATION, a Washington non-profit corporation; LAURIE JINKINS, an individual taxpayer and Washington State Representative; DAVID FROCKT, an individual taxpayer and Washington State Representative; JAMIE PEDERSEN, an individual taxpayer and Washington State Representative; ROBERT UTTER, an individual taxpayer and former Chief Justice of the Washington Supreme Court; KIM BIELSKI, an individual taxpayer; ANDY BUNN, an individual taxpayer; REBECCA BUNN, an individual taxpayer; REUVEN CARLYLE, an individual taxpayer and Washington State Representative; JOHN CHESBROUGH, an individual taxpayer; DEB EDDY, an individual taxpayer and Washington State Representative; SAM HUNT, an individual taxpayer and Washington State Representative; AMY MCKENNEY, an individual taxpayer; KURT MILLER, an individual taxpayer and President of the Tacoma Public Schools Board of Directors; JIM MOELLER, an individual taxpayer and Washington State Representative; TIMM ORMSBY, an individual taxpayer and Washington State Representative; RYAN PAINTER, an individual taxpayer; ERIC PETTIGREW, an individual taxpayer and Washington

No. 11-2-25185-3

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

1 State Representative; CHRIS REYKDAL,
2 an individual taxpayer, Washington State
3 Representative and Tumwater School
4 Board Member; CINDY RYU, an
5 individual taxpayer and Washington State
6 Representative; MIKE SELLS, an
7 individual taxpayer and Washington State
8 Representative; KRISTIN SKANDERUP,
9 an individual taxpayer,

6 Plaintiffs,

7 v.

8 The STATE OF WASHINGTON;
9 CHRISTINE GREGOIRE, in her official
10 capacity as Governor of the State of
11 Washington,

10 Defendants.

12 **I. INTRODUCTION**

13 1. The Washington State Constitution is the fundamental plan for the operation
14 of Washington State's government. It establishes the basic framework under which the
15 Washington Legislature and the people of the State of Washington enact laws. The
16 Washington Constitution cannot be amended, revised or altered except by way of
17 amendment as set forth in the Constitution. It cannot be amended, revised or altered by
18 exercise of the initiative or referendum power. The Washington Constitution provides in
19 Article II, § 22 that bills are enacted as law by a vote of a majority of the members elected
20 to each house of the Legislature. RCW 43.135.034, enacted in 2010 by Initiative 1053
21 ("I-1053" or the "Initiative"), unconstitutionally imposes a two-thirds supermajority vote
22 of the members elected to each house to enact laws that raise taxes. Article II, § 1(b) of
23 the Washington Constitution sets forth the means through which the people's referendum
24 power can be exercised. RCW 43.135.034 unconstitutionally mandates public votes on
25 bills without adhering to the constitutional requirements for public referenda. Article II, §

1 of the Washington Constitution sets forth the Legislature's power to enact bills and
2 Article VII, § 1 sets forth its power to tax. RCW 43.135.034's two-thirds supermajority
3 provisions unconstitutionally infringe on these powers. As a result of these constitutional
4 violations, RCW 43.135.034 impairs our State's ability to fund essential services such as
5 public education, public safety, elder care, and the justice system. Accordingly, RCW
6 43.135.034 is unconstitutional in its entirety. Plaintiffs seek declaratory and injunctive
7 relief against the State of Washington to prevent continued enforcement of RCW
8 43.135.034.

9 II. PARTIES

10 2. Plaintiff League of Education Voters ("LEV") is a Washington non-profit
11 corporation that represents the interests of Washington's schoolchildren and its taxpayer
12 members across Washington State. LEV works to create an educational system in which
13 every child in Washington has an equal and adequate opportunity to succeed in college,
14 work, and life. In 2000, Washington voters approved Initiative 728 with an almost 72%
15 "yes" vote. Initiative 728 promised to lower class sizes and provide more learning
16 opportunities such as preschool and all-day kindergarten for students. The writers and
17 sponsors of Initiative 728 went on to found LEV in 2001 to further their efforts. Among
18 other activities, LEV promotes and lobbies for legislation and policy to accomplish its
19 organizational goals and further the interests of its members. LEV has been an advocate
20 for enactment of bills that raise revenue to improve the State's education system. The
21 two-thirds supermajority requirement harms LEV's efforts in this regard, both because
22 legislation it promotes that would raise revenue is not furthered in the legislative process
23 due to the two-thirds supermajority requirement and because successful bills for which
24 LEV has lobbied are then not funded. For example, LEV was the leading proponent of
25 HB 2261, passed in 2009, which sets forth a new, more robust basic education formula.

1 HB 2776, passed in 2010, which LEV also supported, required the Legislature to ramp up
2 funding for the new basic education formula beginning in 2011-2013. Instead, the 2011
3 Legislature cut funding for teacher salaries by 1.9% and severely cut K-3 class size
4 reduction funding. Further, year after year LEV has advocated for increasing the number
5 of students who earn BA degrees in our state by reducing barriers to participation.
6 However, in order to reduce the impact of cuts to higher education institutions, the 2011
7 Legislature passed HB 1795, which authorizes annual 16% tuition increases at the
8 University of Washington, Washington State University and Western Washington
9 University, which will make it harder for many students to pursue four-year degrees.
10 These increases came on top of the 2011 Legislature's reduction of work study funding,
11 which many students depend on, by almost 70%. In sum, the Legislature's inability to
12 raise revenue results in budget cuts that directly affect LEV's organizational efforts and
13 members. The Legislature's budget cuts result in funding reductions to school districts,
14 and LEV's members are directly affected by teacher and staff layoffs, furlough days, loss
15 of professional development opportunities, fewer resources in the schools, and more
16 crowded classrooms and schools, which creates a more difficult learning environment.
17 LEV works and has members throughout Washington State. For example, Plaintiff
18 Kristin Skanderup is a taxpayer member of LEV. Kristin has been a supporter of LEV for
19 many years, including by way of regular donations and volunteering. LEV represents
20 Kristin's and its other supporters' desire to create a stronger public education system in
21 Washington through its advocacy and lobbying, including by its participation in this
22 action. LEV's principal place of business is in Seattle, Washington.

23 3. Plaintiff Washington Education Association ("WEA") is a Washington non-
24 profit corporation that represents the interests of its approximately 82,000 taxpayer
25 members across Washington State. WEA's mission is to advance the professional

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interests of its members in order to make public education the best it can be for students, staff, and communities. WEA's goal is to build confidence in public education and increase support for Washington's public school system. WEA does so by a variety of means, including promoting and lobbying for legislation and policy that furthers its organizational goals and the interests of its members. WEA has been an advocate for enactment of bills that raise revenue to improve the State's education system. The two-thirds supermajority requirement harms WEA's efforts in this regard, both because legislation it promotes that would raise revenue is not furthered in the legislative process due to the two-thirds supermajority requirement and because laws for which WEA has lobbied are then not funded. For example, WEA has consistently advocated for the full funding of Initiative 728 (as described above) and Initiative 732. Washington's citizens passed Initiative 732 with a 63% "yes" vote in 2000. Initiative 732 provides that public school teachers and other school district employees must receive annual cost of living adjustments. The Legislature has not fully funded either Initiative. Further, the Legislature's inability to raise revenue results in budget cuts that directly affect WEA's organizational efforts and public school teacher and employee members. The Legislature's budget cuts result in funding reductions to school districts, and WEA's members are directly affected by layoffs, furlough days, reduction in salary, revocation of planned salary increases, loss of professional development opportunities, fewer resources with which to do their jobs, and more crowded classrooms and schools, which creates a more difficult teaching and learning environment. WEA works and has members throughout Washington State. For example, Plaintiffs Kim Bielski and Ryan Painter are members of WEA. WEA represents Kim's, Ryan's and its other members' desire to create a stronger public education system in Washington through its advocacy and

1 lobbying, including by its participation in this action. WEA's principal place of business
2 is in Federal Way, Washington.

3 4. Plaintiff Laurie Jinkins is a resident of Washington State who lives in
4 Tacoma, Washington. She is a taxpayer in Washington State and also a Washington State
5 Representative for the 27th Legislative District.

6 5. Plaintiff David Frockt is a resident of Washington State who lives in Seattle,
7 Washington. He is a taxpayer in Washington State and also a Washington State
8 Representative for the 46th Legislative District.

9 6. Plaintiff Jamie Pedersen is a resident of Washington State who lives in
10 Seattle, Washington. He is a taxpayer in Washington State and also a Washington State
11 Representative for the 43rd Legislative District.

12 7. Plaintiff Robert Utter is a resident and taxpayer of Washington State who
13 lives in Olympia, Washington. He is a former Justice of the Washington Supreme Court,
14 of which he was Chief Justice. Justice Utter also was a King County Superior Court
15 Judge, Washington State Court of Appeals Judge, and a professor at the University of
16 Puget Sound School of Law.

17 8. Plaintiff Kim Bielski is a resident and taxpayer of Washington State who lives
18 in Bothell, Washington.

19 9. Plaintiff Andy Bunn is a resident and taxpayer of Washington State who lives
20 in Bellingham, Washington.

21 10. Plaintiff Rebecca Bunn is a resident and taxpayer of Washington State who
22 lives in Bellingham, Washington.

23 11. Plaintiff Reuven Carlyle is a resident of Washington State who lives in
24 Seattle, Washington. He is a taxpayer in Washington State and also a Washington State
25 Representative for the 36th Legislative District.

1 12. Plaintiff John Chesbrough is a resident and taxpayer of Washington State who
2 lives in Bellingham, Washington.

3 13. Plaintiff Deb Eddy is a resident of Washington State who lives in Bellevue,
4 Washington. She is a taxpayer in Washington State and also a Washington State
5 Representative for the 48th Legislative District.

6 14. Plaintiff Sam Hunt is a resident of Washington State who lives in Olympia,
7 Washington. He is a taxpayer in Washington State and also a Washington State
8 Representative for the 22nd Legislative District.

9 15. Plaintiff Amy McKenney is a resident and taxpayer of Washington State who
10 lives in Bellingham, Washington.

11 16. Plaintiff Kurt Miller is a resident of Washington State who lives in Tacoma,
12 Washington. He is a taxpayer in Washington State and President of the Tacoma Public
13 Schools Board of Directors.

14 17. Plaintiff Jim Moeller is a resident of Washington State who lives in
15 Vancouver, Washington. He is a taxpayer in Washington State and also a Washington
16 State Representative for the 49th Legislative District.

17 18. Plaintiff Timm Ormsby is a resident of Washington State who lives in
18 Spokane, Washington. He is a taxpayer in Washington State and also a Washington State
19 Representative for the 3rd Legislative District.

20 19. Plaintiff Ryan Painter is a resident and taxpayer of Washington State who
21 lives in Arlington, Washington.

22 20. Plaintiff Eric Pettigrew is a resident of Washington State who lives in Seattle,
23 Washington. He is a taxpayer in Washington State and also a Washington State
24 Representative for the 37th Legislative District.
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1 29. On June 17, 2011, plaintiffs made a demand upon Attorney General Rob
2 McKenna to investigate the unconstitutional requirements of RCW 43.135.034 and initiate
3 legal proceedings on behalf of all Washington taxpayers. A copy of this demand is
4 attached as Exhibit 1. Plaintiffs made this demand despite the fact that Attorney General
5 McKenna's prior position on the constitutionality of the statute rendered such a request
6 futile. On June 24, 2011, Attorney General McKenna declined to investigate and initiate
7 legal proceedings. A copy of Attorney General McKenna's letter is attached as Exhibit 2.

8 30. Plaintiffs have standing because this matter is of serious public importance,
9 immediately affects substantial segments of the population and its outcome will have a
10 direct bearing on commerce, finance, labor, industry or agriculture generally.

11 31. Further, the legislative plaintiffs are injured because the two-thirds
12 supermajority requirement prevents legislators from exercising their constitutional right as
13 elected officials to advance bills through the legislative process, and prevents the public
14 from receiving the benefit of such bills. Thus, RCW 43.135.034 unconstitutionally
15 impairs the Legislature's ability to enact legislation, make policy and fund services, and
16 Washington taxpayers' ability to receive the benefit of such legislation, policy and
17 services.

18 a. For example, in 2009 the House of Representatives voted on Second
19 Substitute House Bill 2029 ("SSHB 2029"). The bill would have provided
20 increased public safety by creating an enhanced 911 emergency
21 communication system funded by fees on certain communication devices,
22 including cellular phones. SSHB 2029 received 58 yeas votes in the House
23 of Representatives. But because a two-thirds supermajority was required,
24 the bill failed and was not sent to the Senate. In 2010, the Legislature
25 temporarily suspended the two-thirds supermajority requirement. A bill

1 that was substantively the same as SSHB 2029 passed the House of
2 Representatives with 56 yea votes, two less than the year before, and
3 subsequently became law. *See* Substitute Senate Bill 6846 (2010). The
4 only reason that legislators could not enact, and the public could not benefit
5 from, the bill a year earlier was the two-thirds supermajority requirement.

6 b. Another example is Senate Bill 6931 (2008), which would have provided
7 additional emphasis patrols for DUI enforcement and chemical dependency
8 treatment funded by a tax on certain types of liquor. The bill received a
9 majority of yea votes in the Senate, 25, but did not receive the two-thirds
10 supermajority. As a result, the bill failed and was not sent to the House of
11 Representatives.

12 c. Finally, as described more fully below, in 2011, Substitute House Bill 2078
13 would have funded the K-3 class size reductions approved by the voters in
14 Initiative 728 by closing a tax loophole for large banks. The bill received a
15 majority of yea votes for passage in the House of Representatives, but
16 failed to receive the required two-thirds supermajority. The bill failed as a
17 result and was not sent to the Senate.

18 32. In the alternative, the legislative plaintiffs have standing to bring this action in
19 a representative capacity on behalf of their constituents.

20 33. Plaintiffs are also directly and individually harmed by the continued
21 unconstitutional application of RCW 43.135.034. For example:

22 a. Plaintiffs Andy and Rebecca Bunn are parents of children who attend the
23 Bellingham School District's public schools. The Bunn's have children
24 entering second and fourth grade at Larabee Elementary School, and a
25 child in preschool. Andy volunteers as a chess coach at Larabee

1 Elementary School through the school's PTA. Rebecca frequently
2 volunteers in their children's classrooms. The Legislature has been unable
3 to pass legislation that funds I-728's reduction in K-3 class size in part due
4 to the two-thirds approval requirement. The Bunns' children have
5 experienced class sizes resulting in a more difficult teaching environment
6 for teachers, and impacting the children's educational experience.

7 b. Plaintiffs John Chesbrough and Amy McKenney are parents of a child who
8 attends the Bellingham School District's public schools. John and Amy
9 have a child who is entering second grade at Parkview Elementary School,
10 and a child in preschool. Amy is active in the Parkview Elementary School
11 PTA. Amy is in charge of fundraising for the PTA and has experienced a
12 heightened pressure to raise funds for programs that have been eliminated
13 or reduced as a result of state budget cuts to the school district. For
14 example, state budget cuts resulted in the loss or reduction of arts programs
15 at Parkview Elementary School. The burden for funding such programs
16 has been shifted onto the PTA and parents at the school to backfill the state
17 budget cuts.

18 c. Further, John Chesbrough is also a public high school science teacher in
19 Sedro-Wooley, Washington. John has taught Advanced Placement
20 physics, physics and physical science. The two-thirds approval
21 requirement has forced the State to make budget cuts to his school district.
22 The number of full time equivalent employees has been reduced as a result.
23 Consequently, students are offered fewer choices in available courses. For
24 example, John will no longer be teaching Advanced Placement physics
25 because he would not have a full class of students and there is not enough

1 staff to teach less than full classes. Students at his high school no longer
2 will be given the opportunity to take this rigorous science course. The loss
3 of such courses contrasts with the State's recent emphasis on quality
4 science and math education as essential to student success. *See, e.g.,*
5 Washington State Board of Education, *2010-2011 Strategic Plan*, available
6 at [http://www.sbe.wa.gov/documents/2010.09.22%20Strategic%20Plan](http://www.sbe.wa.gov/documents/2010.09.22%20Strategic%20Plan%20Final.pdf)
7 [%20Final.pdf](http://www.sbe.wa.gov/documents/2010.09.22%20Strategic%20Plan%20Final.pdf) (stating that one of the State Board of Education's five
8 strategic goals is to "Promote Effective Strategies to Make Washington's
9 Students Nationally and Internationally Competitive in Math and
10 Science").

11 d. Plaintiff Kurt Miller is President of the Tacoma Public Schools Board of
12 Directors and Director of the REACH Center in Tacoma, Washington.
13 Kurt has served for eight years on the Tacoma Public Schools Board of
14 Directors. As a result of the State's inability to pass legislation that raises
15 revenue (and consequential budget cuts), Kurt is forced to make decisions
16 in his capacity as a Board Member that undercut the quality education
17 Tacoma Public Schools strives to provide its students. For example, the
18 Board of Directors recently closed two elementary schools due to budget
19 cuts. One of those schools, Wainwright Elementary, had been named a
20 "Blue Ribbon School" by the United States Department of Education.
21 Plaintiff Rep. Laurie Jenkins' child attended Wainwright Elementary prior
22 to its closure. In addition, the Board of Directors has had to reduce
23 paraeducator hours, cut professional development for staff, increase class
24 and school size, and, due to the State's most recent 1.9% reduction in
25 funding for teacher salaries, either cut or freeze teacher salaries or cut

1 general fund spending on other educational services. Further, Kurt is the
2 Director of the nonprofit REACH (Resources for Education and Career
3 Help) Center. The REACH Center provides career, education, and
4 personal development services for young adults, ages 16-24, in the
5 Tacoma/Pierce County area. Kurt has seen and experienced major cuts in
6 safety net funding from the State for nonprofits such as the REACH
7 Center. As a result, his organization is unable to provide essential services
8 to its clients, 60% of whom are high school dropouts. Without these
9 services, many needy young adults disengage from the work force.

10 e. Plaintiff Chris Reykdal is a member of the Tumwater School District
11 School Board in addition to being a State Representative. Rep. Reykdal
12 has been a School Board member since 2007. This past year's legislative
13 actions are resulting in additional budget cuts to the Tumwater School
14 District for the third year in a row. Substitute House Bill 2078, which
15 received a constitutional majority of yea votes to pass out of the House of
16 Representatives but failed to receive the required two-thirds supermajority,
17 would have provided the Tumwater School District approximately
18 \$225,000 in Financial Year 2012 ("FY 2012") and approximately \$300,000
19 for Financial Year 2013 ("FY 2013"). These are significant resources in
20 Tumwater and would have allowed the Tumwater School District to retain
21 three teaching positions in FY 2012 and four positions in FY 2013 in
22 grades K-3. With three and four additional teachers in each of the next two
23 years, the Tumwater School District would have reduced student faculty
24 ratios in K-3 grades by 1.0 student in year one and 1.3 students in year two.
25 At the Tumwater School District's current student to faculty ratio of 22.55

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in grades K-3, a one student reduction in each class is equal to approximately 5% additional teacher contact time for every single student in grades K-3 across the entire district. In the alternative, Tumwater School District could have done more with its all-day kindergarten. The Tumwater School District currently has one all-day kindergarten class in each of its six elementary schools. If the above mentioned resources had been forthcoming, the district could have made a choice to leave student faculty ratios untouched and instead made the choice to offer three additional all-day kindergarten classes in the first year and four additional all-day kindergarten classes in the second year. In the Tumwater School District, board members, students and faculty have been, and will continue to be, harmed as a direct result of requiring a two-thirds supermajority to raise taxes or close tax preferences.

f. Plaintiff Kim Bielski is an elementary school teacher in the Snohomish School District. Kim has taught four years at Little Cedars Elementary School in kindergarten and fourth grade classrooms. Kim received a Reduction in Force (“RIF”) notice in May 2011, informing her that she no longer would be employed with the Snohomish School District. The Snohomish School District was forced to RIF teachers due to the State’s inability to raise revenue and the resulting budget cuts. In addition to her job loss, Kim experienced significant stress and emotional impact associated with the RIF. While Snohomish School District was able to re-hire Kim, she has been relocated to a new school and her current assignment is for fewer hours than her previous teaching assignment. Unless Kim receives more hours in her job she will be forced to find a

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second job to pay her bills. Indeed, the anticipated loss of income has already caused Kim to renegotiate her student loan payments so they are manageable. As a teacher, Kim has experienced many other effects from the State's inability to raise revenue to fund public education. Many of the supports she receives as a teacher that enable her to focus on her primary job of educating students have been cut. For example, education assistant hours have been cut, providing her with less resources and one-on-one time with struggling students. Hours for custodial and secretarial staff have also been cut. Kim has had to spend time outside of her contractual work day cleaning her room and helping with administrative tasks due to budget cuts that affected the custodial and office staff. This has adversely affected her students' educational experience and parents' connection with the school.

g. Plaintiff Ryan Painter is an elementary school teacher. Ryan taught second and fourth grade for three years at Dutch Hill Elementary School in the Snohomish School District. Ryan received a RIF notice in May 2011, informing him that he no longer would be employed with the Snohomish School District. The Snohomish School District was forced to RIF teachers due to the State's inability to raise revenue and the resulting budget cuts. In addition to his job loss, Ryan experienced significant stress and emotional impact associated with the RIF. Ryan's first child was born shortly after receiving his RIF notice. The economic uncertainty and job search caused by the RIF has been emotionally taxing on Ryan. While Ryan is hopeful that the Snohomish School District will find a new job for him after retirements in the District, he has no formal teaching contract as of the time of filing this Complaint. As a teacher, Ryan has experienced

1 many other effects from the State's inability to raise revenue to fund public
2 education. For example, education assistant hours have been cut, providing
3 him with less resources and one-on-one time with struggling students.
4 Further, he does not receive any additional money or support for teaching
5 larger classes. His second grade class in the 2010-2011 school year was 25
6 students, one over the cap of 24 students. Ryan, however, did not receive
7 extra funding for teaching the larger class as he had previously. State
8 budget cuts have also resulted in Ryan paying significantly more in health
9 care premiums and costs.

10 34. This Court's grant of declaratory and injunctive relief will directly redress the
11 harms caused to the Plaintiffs by continued application of RCW 43.135.034.

12 V. FACTS

13 35. I-1053 represents the latest in a series of initiatives that have imposed
14 unconstitutional restrictions on our State's ability to fund essential public services. The
15 first of these measures, Initiative 601, was passed in 1993. Initiative 601 included a
16 provision that "any action or combination of actions by the legislature that raises state
17 revenue or requires revenue-neutral tax shifts may be taken only if approved by a two-
18 thirds vote of each house...." Former RCW 43.135.035(1) (1994) (Laws of 1994, ch. 2, §
19 4(1)). If such action resulted in "expenditures in excess of the state expenditure limit, then
20 the action of the legislature shall not take effect until approved by a vote of the people at a
21 November general election." *Id.* § 4(2).

22 36. In the years following the passage of Initiative 601, the Legislature reenacted
23 and suspended the two-thirds supermajority requirement on various occasions.

24 37. In 2007, Initiative 960 was enacted. That measure provided:

25 [A]ny action or combination of actions by the legislature that

1 raises taxes may be taken only if approved by a two-thirds
2 vote of each house of the legislature, and then only if state
3 expenditures in any fiscal year, including the new revenue,
4 will not exceed the state expenditure limits established
5 under this chapter. Pursuant to the referendum power set
6 forth in Article II, section 1(b) of the state Constitution, tax
7 increases may be referred to the voters for their approval or
8 rejection at an election.

6 If the legislative action under subsection (1) of this section
7 will result in expenditures in excess of the state expenditure
8 limit, then the action of the legislature shall not take effect
9 until approved by a vote of the people at a November general
10 election.

10 Laws of 2008, ch. 1, § 5.

11 38. In the November 2010 general election, the voters approved I-1053. I-1053
12 was written to re-enact the requirements of Initiative 960. A true and correct copy of I-
13 1053 is attached as Exhibit 3.

14 39. Both RCW I-1053 and 43.135.035 (the codification of Initiative 960)
15 contained the same relevant language, including the requirement of a two-thirds
16 supermajority for the Legislature to pass any bill that “raises taxes” and a public vote on
17 such bills in some circumstances.

18 40. I-1053 included two versions of the same statutory language, one of which
19 amended RCW 43.135.035, and one of which purported to repeal RCW 43.135.035 and
20 replace it with a new section that was identical to the amended language. Which section
21 took effect was contingent on whether the Legislature amended or repealed RCW
22 43.135.035 in the 2010 legislative session.

23 41. The Legislature amended RCW 43.135.035 in the 2010 legislative session to
24 suspend its requirements until after July 1, 2011. *See* Engrossed Substitute Senate Bill
25 6130, Ch. 4 Laws 2010. As a consequence, when I-1053 was approved, it added a new

1 section to the Revised Code of Washington, which is codified at RCW 43.135.034. RCW
2 43.135.034 took effect on January 1, 2011. Laws of 2011, ch. 1.

3 42. RCW 43.135.034(1) requires that “any action or combination of actions by
4 the Legislature that ‘raises taxes’ may be taken only if approved by at least two-thirds
5 legislative approval in both the house of representatives and the senate.”

6 43. RCW 43.135.034(6) defines “raises taxes” as “any action or combination of
7 actions by the legislature that increases state tax revenue deposited in any fund, budget, or
8 account, regardless of whether the revenues are deposited into the general fund.”

9 44. RCW 43.135.034(2)(a) requires that if a bill that raises taxes “will result in
10 expenditures in excess of the state expenditure limit, then the action of the legislature shall
11 not take effect until approved by a vote of the people at a November general election.”

12 45. On May 24, 2011, the House of Representatives voted on Substitute House
13 Bill 2078. Consistent with the Legislature’s paramount duty to provide for education
14 under Article IX, § 1 of the Washington Constitution, SHB 2078 would have funded the
15 reductions in kindergarten through third grade class size approved by the voters in
16 Initiative 728. A true and correct copy of SHB 2078 is attached and incorporated as
17 Exhibit 4. Funding for these class size reductions would have come from narrowing a tax
18 deduction for large banks and other financial institutions.

19 46. Prior to the House vote on SHB 2078, several legislators raised points of
20 order with Speaker of the House Frank Chopp. Speaker Chopp stated that SHB 2078
21 would “raise taxes” and therefore was subject to the two-thirds supermajority approval
22 requirement of RCW 43.135.034. Speaker Chopp also noted that only the courts can
23 resolve the question of whether RCW 43.135.034 is constitutional. A true and correct
24 transcript of these points of parliamentary inquiry and the ensuing debate on SHB 2078
25 on the House floor is attached and incorporated as Exhibit 5.

1 47. SHB 2078 received a constitutional majority of 52 out of 98 votes to pass out
2 of the House and advance in the legislative process. A true and correct copy of the
3 legislative history of SHB 2078 is attached and incorporated as Exhibit 6. Absent a
4 specific constitutional provision requiring a higher voting threshold, bills that receive a
5 constitutional majority are sent from the House to the Senate. SHB 2078 did not,
6 however, receive the two-thirds supermajority required by RCW 43.135.034. Thus,
7 Speaker Chopp declared that SHB 2078 failed, and the bill did not advance to the Senate.

8 48. In 2011, six new initiatives were submitted that contained the same relevant
9 language as I-601, I-960 and I-1053, including the requirement of a two-thirds
10 supermajority for the Legislature to pass any bill that “raises taxes” and a public vote on
11 such bills in some circumstances. Initiatives 1111, 1131, 1133, 1136, 1151, and 1181
12 were submitted for potential inclusion on the November 2011 ballot by the same three
13 individuals, some of whom were also sponsors of I-601, I-960, and I-1053.

14 VI. CONSTITUTIONAL VIOLATIONS

15 49. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully
16 set forth herein.

17 50. Plaintiffs’ Complaint challenges the constitutionality of RCW 43.135.034, the
18 relevant statute currently in effect. Plaintiffs also challenge, however, the identical
19 requirements of RCW 43.135.035 if and when that statute is given effect.

20 Notwithstanding that challenge, citations in this Complaint are to the statute currently in
21 effect: RCW 43.135.034.

22 51. Plaintiffs bring both facial and as-applied challenges to RCW 43.135.034.

23 A. ARTICLE II, § 22 OF THE WASHINGTON CONSTITUTION

24 52. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully
25 set forth herein.

1 53. Article II, § 22 of the Washington Constitution provides that bills require only
2 a majority vote in both houses of the Legislature to become law:

3 No bill shall become a law unless on its final passage the vote be taken by
4 yeas and nays, the names of the members voting for and against the same
5 be entered on the journal of each house, and a majority of the members
6 elected to each house be recorded thereon as voting in its favor.

7 54. RCW 43.135.034(1)'s requirement that any bill that "raises taxes" must
8 receive a two-thirds supermajority approval in both houses of the Legislature to become
9 law violates Article II, § 22's requirement that bills need only a simple majority to pass.

10 55. For example, SHB 2078 should have passed out of the House and been sent to
11 the Senate because it received a constitutional majority. But the bill failed to advance to
12 the Senate solely because it did not receive the statutory two-thirds supermajority imposed
13 by RCW 43.135.034(1).

14 56. Constitutional requirements may not be amended by statute or initiative.
15 RCW 43.135.034(1)'s additional vote requirements for certain bills violate Article II, §
16 22.

17 **B. ARTICLE II, § 1 OF THE WASHINGTON CONSTITUTION**

18 57. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully
19 set forth herein.

20 58. Article II, § 1 of the Washington Constitution vests legislative authority in the
21 Legislature and allows the people to enact or reject laws only in certain circumstances:

22 The legislative authority of the state of Washington shall be vested in the
23 legislature, consisting of a senate and house of representatives, which shall
24 be called the legislature of the state of Washington, but the people reserve
25 to themselves the power to propose bills, laws, and to enact or reject the
same at the polls, independent of the legislature, and also reserve power, at
their own option, to approve or reject at the polls any act, item, section, or
part of any bill, act, or law passed by the legislature.

...

1 (b) Referendum. The second power reserved by the people is the
2 referendum, and it may be ordered on any act, bill, law, or any part thereof
3 passed by the legislature, except such laws as may be necessary for the
4 immediate preservation of the public peace, health or safety, support of the
5 state government and its existing public institutions, either by petition
6 signed by the required percentage of the legal voters, or by the legislature
7 as other bills are enacted: Provided, That the legislature may not order a
8 referendum on any initiative measure enacted by the legislature under the
9 foregoing subsection (a). The number of valid signatures of registered
10 voters required on a petition for referendum of an act of the legislature or
11 any part thereof, shall be equal to or exceeding four percent of the votes
12 cast for the office of governor at the last gubernatorial election preceding
13 the filing of the text of the referendum measure with the secretary of state.

14 59. The Legislature's power to enact legislation is plenary.

15 60. No bill, whether enacted by the Legislature or by initiative, may bind a future
16 Legislature or otherwise limit its power to act.¹

17 61. RCW 43.135.034(1)'s requirement that any bill that "raises taxes" must
18 receive a two-thirds supermajority vote in both houses of the Legislature to become law is
19 an unconstitutional impairment of the Legislature's plenary power to pass laws. Thus, the
20 two-thirds supermajority approval requirement violates Article II, § 1.

21 62. Further, RCW 43.135.034(2)(a)'s requirement that if a bill that raises taxes
22 "will result in expenditures in excess of the state expenditure limit, then the action of the
23 legislature shall not take effect until approved by a vote of the people at a November
24 general election" violates Article II, § 1 because it constrains the ability of future
25 Legislatures to govern. Specifically, RCW 43.135.034(2)(a) conditions a state law solely
on voter approval and requires future legislatures to submit a class of legislation for a
public vote.

63. RCW 43.135.034(2)(a)'s vote requirement for every bill that would result in
expenditures in excess of the state expenditure limit also violates Article II, § 1(b), which

¹ An exception to this rule is that the Legislature only may amend a law enacted by
initiative by a two-thirds vote for the two year period after its passage. Article II, § 1(c).

1 specifies the conditions under which a bill may be subject to referendum. A bill may be
2 referred only if a petition is circulated and signed by the required percentage of legal
3 voters or if the Legislature votes to refer the bill. “[L]aws as may be necessary for the
4 immediate preservation of the public peace, health or safety, support of the state
5 government and its existing public institutions” are also exempt from referendum. RCW
6 43.135.034(2)(a) disregards the Constitutional requirements of Article II, § 1(b).

7 64. Further, RCW 43.135.034(2)(a)’s referendum requirement removes the
8 Governor’s traditional role in approving or vetoing revenue legislation in a manner other
9 than that constitutionally allowed under Article II, § 1. *See* Article III, § 12.

10 **C. ARTICLE VII, § 1 OF THE WASHINGTON CONSTITUTION**

11 65. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully
12 set forth herein.

13 66. Article VII, § 1 of the Washington Constitution provides in relevant part that:
14 “The power of taxation shall never be suspended, surrendered or contracted away.”

15 67. The State’s power to tax is plenary and subject only to constitutional
16 limitation.

17 68. RCW 43.135.034’s limitations on the power of the Legislature to pass any bill
18 that “raises taxes” violate Article VII, § 1 by effectively suspending and surrendering the
19 power of taxation.

20 **D. ARTICLE XXIII OF THE WASHINGTON CONSTITUTION**

21 69. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully
22 set forth herein.

23 70. Article XXIII of the Washington Constitution provides a specific procedure
24 through which the Constitution may be amended:
25

1 Any amendment or amendments to this Constitution may be proposed in
2 either branch of the legislature; and if the same shall be agreed to by two-
3 thirds of the members elected to each of the two houses, such proposed
4 amendment or amendments shall be entered on their journals, with the
5 ayes and noes thereon, and be submitted to the qualified electors of the
6 state for their approval, at the next general election; and if the people
7 approve and ratify such amendment or amendments, by a majority of the
8 electors voting thereon, the same shall become part of this Constitution,
9 and proclamation thereof shall be made by the governor: Provided, That if
10 more than one amendment be submitted, they shall be submitted in such a
11 manner that the people may vote for or against such amendments
12 separately. The legislature shall also cause notice of the amendments that
13 are to be submitted to the people to be published at least four times during
14 the four weeks next preceding the election in every legal newspaper in the
15 state: Provided, That failure of any newspaper to publish this notice shall
16 not be interpreted as affecting the outcome of the election.

17 71. The Constitution may not be amended by statute or initiative.

18 72. RCW 43.135.034 is unconstitutional because it amends the Constitution by
19 initiative, and contrary to the requirements of Article XXIII.

20 73. Specifically, and as detailed above, RCW 43.135.034 amends Article II, § 22
21 by imposing a two-thirds supermajority vote on certain legislation instead of the
22 constitutional majority.

23 74. Further, and as detailed above, RCW 43.135.034's referendum requirement
24 changes the plenary power granted to the Legislature in Article II, § 1 and the referendum
25 process established in Article II, § 1(b).

75. RCW 43.135.034 attempts to change how funding bills become law. These
changes affect the existing constitutional requirements related to the power of the
Legislature over legislation and taxation, and the Constitution's requirements for
referenda. Thus, RCW 43.135.034 goes beyond the power of legislation by amending the
Constitution without regard for the requirements of Article XXIII.

1 **E. ARTICLE II, § 19 OF THE WASHINGTON CONSTITUTION**

2 76. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully
3 set forth herein.

4 77. Article II, § 19 of the Washington Constitution provides that: “No bill shall
5 embrace more than one subject, and that shall be expressed in the title.”

6 78. Article II, § 19 contains two separate requirements. The first is that every bill
7 (including initiatives) may contain only a single subject. The second is that the single
8 subject of the bill or initiative must be reflected in the bill or ballot title.

9 79. I-1053 and its predecessors (Initiative 601 and Initiative 960) each contained
10 at least two subjects: (1) a two-thirds supermajority vote to pass bills that raise taxes, and
11 (2) a mandatory referendum before a bill that exceeds the state expenditure limit may take
12 effect. These subjects lack rational unity and, therefore, violate the single subject
13 requirement of Article II, § 19.

14 **F. ARTICLE I, § 32 OF THE WASHINGTON CONSTITUTION**

15 80. Article I, § 32 of the Washington Constitution provides: “A frequent
16 recurrence to fundamental principles is essential to the security of individual right and the
17 perpetuity of free government.” Article I, § 29 of the Washington Constitution adds: “The
18 provisions of this Constitution are mandatory, unless by express words they are declared
19 to be otherwise.”

20 81. RCW 43.135.034 is contrary to fundamental principles established by our
21 constitution. The statute attempts to undo the checks and balances carefully put into place
22 by our constitution’s framers, and substantially alter the structure of state government in
23 disregard of the constitutional safeguards of representative democracy.

24 82. RCW 43.135.034, therefore, violates Article I, § 32 of the Washington
25 Constitution.

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VII. FIRST CAUSE OF ACTION: DECLARATORY JUDGMENT

83. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

84. For reasons including but not limited to those stated herein, an actual dispute exists between Plaintiffs and Defendants, which parties have genuine and opposing interests, which interests are direct and substantial, and of which a judicial determination would be final and conclusive.

85. Plaintiffs are, therefore, entitled to a declaratory judgment that RCW 43.135.034 is unconstitutional, as well as such other and further relief as may follow from the entry of such a declaratory judgment.

VIII. SECOND CAUSE OF ACTION: INJUNCTIVE RELIEF

86. Plaintiffs repeat and re-allege each of the foregoing allegations as though fully set forth herein.

87. For reasons including but not limited to those stated herein, Plaintiffs are entitled to prevent and enjoin continued enforcement of RCW 43.135.034.

88. Plaintiffs have clear legal rights to prevent and enjoin continued enforcement of RCW 43.135.034 as described herein, which rights are and continue to be invaded by Defendants, resulting in actual and continuing injury. No adequate remedy at law exists to remedy this invasion of Plaintiffs' rights.

89. Plaintiffs are, therefore, entitled to an injunction restraining and prohibiting further enforcement of RCW 43.135.034.

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IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following relief:

1. That the Court enter a declaratory judgment that RCW 43.135.034 violates Article II, § 1; Article II, § 22; Article VII, § 1; Article XXIII and Article I § 32 of the Washington Constitution;
2. Such other and further relief as may follow from the entry of a declaratory judgment;
3. Entry of an injunction prohibiting further enforcement of RCW 43.135.034;
4. Reasonable attorney's fees, expenses and costs, to the fullest extent allowed by law and equity; and
5. Any further relief as this Court may deem necessary and proper.

DATED this 25th day of July, 2011.

PACIFICA LAW GROUP LLP


By 
Paul J. Lawrence, WSBA # 13557
Matthew J. Segal, WSBA # 29797
Gregory J. Wong, WSBA # 39329
Attorneys for Plaintiffs

EXHIBIT 1

PACIFICA
LAW GROUP

1191 2nd Avenue, Suite 2100
Seattle, Washington 98101-2945
T 206.245.1700
F 206.245.1758
pacificallawgroup.com

June 17, 2011

The Honorable Robert M. McKenna
Washington State Attorney General
1125 Washington Street SE
P.O. Box 40100
Olympia, WA 98504-0100

**Re: Request for the Attorney General to Investigate and Institute Legal Proceedings on
the Unconstitutionality of RCW 43.135.034**

Dear Attorney General McKenna:

We represent a group of Washington taxpayers, legislators, and organizations with taxpayer members, including but not limited to the League of Education Voters, Rep. Laurie Jinkins, Rep. David Frockt, Rep. Jamie Pedersen, Rep. Jim Moeller, Rep. Timm Ormsby, Rep. Sam Hunt, Rep. Mike Sells, Rep. Deb Eddy, Rep. Reuven Carlyle, Rep. Cindy Ryu, and Rep. Chris Reykdal. We request that your office remedy the ongoing constitutional violations arising from RCW 43.135.034.¹

Specifically, we request that you investigate and promptly institute legal proceedings because RCW 43.135.034 unconstitutionally impairs our State's ability to fund essential services such as public education, public safety, and elder care. This was recently evidenced by the failure of Substitute House Bill 2078 on May 24, 2011. The bill would have funded the reductions in kindergarten through third grade class size approved by the voters in Initiative 728 by narrowing a tax deduction for large banks and other financial institutions. The fiscal note for SHB 2078 estimated that the legislation would have shifted \$105,778,000 from this tax deduction to class size reduction in the 2011-13 biennium. SHB 2078 received a constitutional majority of 52 out of 98 votes to pass out of the House, but did not receive the supermajority required by RCW 43.135.034. Thus, RCW 43.135.034 prevented SHB 2078 from even advancing to the Senate, and the statute will continue to prevent legislators from fulfilling their constitutional duty as elected officials to advance legislation that is in the public interest.

¹ RCW 43.135.034 is identical in relevant part to RCW 43.135.035. This demand applies to both statutes. Citations are to the statute currently in effect, RCW 43.135.034.

RCW 43.135.034 improperly changes the Washington Constitution and is otherwise unconstitutional on multiple grounds, including but not limited to the following:

First, RCW 43.135.034 amends existing provisions of the Constitution. Our Constitution may be amended only pursuant to Article XXIII, and not by statute or initiative. *Amalgamated Transit Union Local 587 v. State* (“ATU”), 142 Wn.2d 183, 232-33, 11 P.3d 762 (2001).

Second, RCW 43.135.034(1) requires that “any action or combination of actions by the legislature that raises taxes may be taken only if approved by at least two-thirds legislative approval in both the house of representatives and the senate.” This provision violates Article II, § 22 of the Constitution, which allows for passage of bills by majority vote of the Legislature. *See generally Gerberding v. Munro*, 134 Wn.2d 188, 208-10, 949 P.2d 1366 (1998) (constitutional requirements may not be added to by statute). The provision also violates Article II, § 1 and Article VII, § 1 of the Constitution by limiting the Legislature’s ability to pass laws and effectively suspending the State’s power of taxation. *See generally Smith v. State*, 64 Wn.2d 323, 330-31, 391 P.2d 718 (1964) (state’s power to tax is plenary and subject only to constitutional limitation).

Third, RCW 43.135.034(2)(a) requires that if a bill that raises taxes “will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election.” This section violates Article II, § 1(b) of the Constitution by disregarding the Constitution’s requirements related to referenda. *See ATU*, 142 Wn.2d at 229-32. This section also violates Article II, § 1 of the Constitution by constraining the power of future legislatures to govern effectively. *See id.* at 232-41; *Wash. State Farm Bureau Fed’n v. Gregoire*, 162 Wn.2d 284, 301-02, 174 P.3d 1142 (2007). The provision further offends separation of powers by mandating the use of a particular ballot title for any referenda made pursuant to this section.

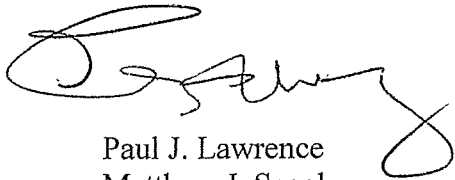
Fourth, Initiative 1053 (“I-1053”), which enacted RCW 43.135.034, violates Article II, § 19 of the Constitution. Article II, § 19 mandates that an initiative contain only a single subject, and that subject must be stated in the ballot title. I-1053 violates these requirements by encompassing multiple subjects, not all of which are in the ballot title, and which otherwise lack rational unity. *See ATU*, 142 Wn.2d at 206-45. Specifically, I-1053 contains at least two subjects, one related to the number of votes required to pass bills that raise taxes and one that requires specific legislation not take effect until approved by a vote of the people.²

² This same constitutional infirmity was present in I-1053’s predecessors, Initiative 601 and Initiative 960.

Attorney General McKenna
June 17, 2011
Page 3

As evidenced by the failure of Substitute House Bill 2078, these issues are not merely academic. The Attorney General should take action when unconstitutional laws such as RCW 43.135.034 impair our State's ability to act in the people's interest. We request that you pursue immediate measures to address the unconstitutional provisions of RCW 43.135.034. *See Farris v. Munro*, 99 Wn.2d 326, 329, 662 P.2d 821 (1983) (allowing a taxpayer to demand that the Attorney General bring suit on behalf of all taxpayers).

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul J. Lawrence", with a large, stylized flourish extending from the end of the signature.

Paul J. Lawrence
Matthew J. Segal
Gregory J. Wong

EXHIBIT 2



RECEIVED
JUN 27 2011

Rob McKenna

BY:

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

June 24, 2011

Paul J. Lawrence
Matthew J. Segal
Gregory J. Wong
Pacifica Law Group
1191 2nd Avenue, Suite 2100
Seattle, WA 98101-2945

Re: Your Letter of June 17, 2011

Dear Messrs. Lawrence, Segal, and Wong:

This is in response to your letter of June 17, 2011, requesting this office to “investigate and promptly institute legal proceedings” to challenge the constitutionality of RCW 43.135.034, a statute enacted by the people of Washington through the initiative process. Just as statutes enacted by the Washington Legislature are entitled to a presumption of constitutionality, statutes enacted by the people are presumed constitutional. Except in extraordinary circumstances, the role of this office is to defend duly enacted Washington laws.

I have thoroughly reviewed your letter, the cases cited in it, and the legal theories you advance to argue that RCW 43.135.034 is invalid. I find inadequate basis to institute the proceedings that you request, and we respectfully decline to do so.

To the extent your letter is intended to satisfy a precondition to asserting taxpayer standing, nothing in this letter is intended to suggest that the requirements for taxpayer standing would be satisfied in this instance.

Thank you for your consideration.

Sincerely,

Maureen Hart
Solicitor General
(360) 753-2536

MH/rs

EXHIBIT 3

Initiative Measure No. 1053

FILED

JAN 05 2010

SAVE THE 2/3'S VOTE FOR TAX INCREASES

SECRETARY OF STATE
STATE OF WASHINGTON

COMPLETE TEXT

AN ACT Relating to tax and fee increases imposed by state government; amending RCW 43.135.035 and 43.135.055; adding a new section to chapter 43.135 RCW; creating new sections; repealing RCW 43.135.035; and providing contingent effective dates.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

INTENT

NEW SECTION. **Sec. 1.** This initiative should deter the governor and the legislature from sidestepping, suspending or repealing any of Initiative 960's policies in the 2010 legislative session. But regardless of legislative action taken during the 2010 legislative session concerning Initiative 960's policies, the people intend, by the passage of this initiative, to require either two-thirds legislative approval or voter approval for tax increases and majority legislative approval for fee increases. These important policies ensure that taking more of the people's money will always be an absolute last resort.

**PROTECTING TAXPAYERS BY REQUIRING EITHER TWO-THIRDS LEGISLATIVE APPROVAL
OR VOTER APPROVAL FOR STATE GOVERNMENT TO RAISE TAXES**

(sections 2 and 3 take effect if the 2010 legislature suspends or repeals the two-thirds legislative vote requirement for tax increases)

NEW SECTION. **Sec. 2.** A new section to chapter 43.135 RCW is added and reads as follows:

(1) After July 1, 1995, any action or combination of actions by the legislature that raises taxes may be taken only if approved by at least two-thirds legislative approval in both the house of

representatives and the senate. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration

of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

(6) For the purposes of this chapter, "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

emergency--Taxes on intangible property--Expenditure limit to reflect program cost shifting or fund transfer) and 2009 c 479 s 36 are each repealed.

**PROTECTING TAXPAYERS BY REQUIRING EITHER TWO-THIRDS LEGISLATIVE APPROVAL
OR VOTER APPROVAL FOR STATE GOVERNMENT TO RAISE TAXES**
(section 4 takes effect if the 2010 legislature does not suspend or repeal
the two-thirds legislative vote requirement for tax increases)

Sec. 4. RCW 43.135.035 and 2009 c 479 s 36 are each amended to read as follows:

(1) After July 1, 1995, any action or combination of actions by the legislature that raises taxes may be taken only if approved by ((a)) at least two-thirds ((vote of each house of the legislature)) legislative approval in both the house of representatives and the senate, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter. Pursuant to the referendum power set forth in Article II, section 1(b) of the state Constitution, tax increases may be referred to the voters for their approval or rejection at an election.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The state expenditure limit committee shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for personal income growth?"

(3) (a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor. The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall lower the state expenditure limit to reflect the shift. For the purposes of this section, a transfer of money from the state general fund to another fund or account includes any state legislative action taken that has the effect of reducing revenues from a particular source, where such revenues would otherwise be deposited into the state general fund, while increasing the revenues from that particular source to another state or local government account. This

subsection does not apply to: (a) The dedication or use of lottery revenues under RCW 67.70.240(3), in support of education or education expenditures; or (b) a transfer of moneys to, or an expenditure from, the budget stabilization account.

(5) If the cost of any state program or function and the ongoing revenue necessary to fund the program or function are shifted to the state general fund on or after January 1, 2007, the state expenditure limit committee, acting pursuant to RCW 43.135.025(5), shall increase the state expenditure limit to reflect the shift unless the shifted revenue had previously been shifted from the general fund.

(6) For the purposes of this chapter (~~(1, Laws of 2008)~~), "raises taxes" means any action or combination of actions by the legislature that increases state tax revenue deposited in any fund, budget, or account, regardless of whether the revenues are deposited into the general fund.

**PROTECTING TAXPAYERS BY REQUIRING MAJORITY LEGISLATIVE APPROVAL
FOR STATE GOVERNMENT TO INCREASE FEES**

Sec. 5. RCW 43.135.055 and 2008 c 1 s 14 are each amended to read as follows:

(1) (~~(No)~~) A fee may only be imposed or increased in any fiscal year (~~(without prior legislative approval)~~) if approved with majority legislative approval in both the house of representatives and the senate and must be subject to the accountability procedures required by RCW 43.135.031.

(2) This section does not apply to an assessment made by an agricultural commodity commission or board created by state statute or created under a marketing agreement or order under chapter 15.65 or 15.66 RCW, or to the forest products commission, if the assessment is approved by referendum in accordance with the provisions of the statutes creating the commission or board or chapter 15.65 or 15.66 RCW for approving such assessments.

CONSTRUCTION CLAUSE

NEW SECTION. **Sec. 6.** The provisions of this act are to be liberally construed to effectuate the intent, policies, and purposes of this act.

SEVERABILITY CLAUSE

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

MISCELLANEOUS

NEW SECTION. **Sec. 8.** This act shall be known and cited as Save The 2/3's Vote For Tax Increases Act of 2010.

NEW SECTION. **Sec. 9.** Sections 2 and 3 of this act take effect if, during the 2010 legislative session, the legislature amends or repeals RCW 43.135.035.

NEW SECTION. **Sec. 10.** Section 4 of this act takes effect if, during the 2010 legislative session, the legislature does not amend or repeal RCW 43.135.035.

-- END --

EXHIBIT 4

SUBSTITUTE HOUSE BILL 2078

State of Washington

62nd Legislature . 2011 1st Special Session

By House Ways & Means (originally sponsored by Representatives Jinkins, Reykdal, Lytton, Billig, Frockt, Moscoso, Fitzgibbon, Tharinger, Ryu, Ladenburg, Stanford, Sullivan, Green, Van De Wege, Moeller, Springer, Pettigrew, Maxwell, Dickerson, Kagi, Ormsby, Upthegrove, Hasegawa, Appleton, Rolfes, McCoy, Carlyle, Lias, Kenney, Eddy, Darneille, Pedersen, Orwall, Hunt, Cody, Kirby, Roberts, Takko, Blake, Seaquist, Goodman, Haigh, Hudgins, Dunshee, Sells, Finn, Clibborn, and Morris)

READ FIRST TIME 05/16/11.

1 AN ACT Relating to funding K-3 class size reductions by narrowing
2 and repealing certain tax exemptions; amending RCW 82.04.4292 and
3 83.100.230; adding a new section to chapter 82.32 RCW; creating a new
4 section; providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington's
7 best opportunity for long-term success rests with the further
8 development of our public educational system. The legislature further
9 finds that smaller classes in the early grades can significantly
10 increase the amount of learning that takes place in the classroom. The
11 legislature further finds that a primary focus of Initiative Measure
12 No. 728, which passed with over seventy-one percent approval in
13 November 2000, was to allocate additional moneys to class size
14 reductions.

15 (2) It is the intent of the legislature to fully fund critical K-3
16 class size reductions by significantly narrowing a tax deduction for
17 banks and other financial institutions.

1 **Sec. 2.** RCW 82.04.4292 and 2010 1st sp.s. c 23 s 301 are each
2 amended to read as follows:

3 (1) In computing tax there may be deducted from the measure of tax
4 by those engaged in banking, loan, security or other financial
5 businesses, interest received on investments or loans primarily secured
6 by first mortgages or trust deeds on nontransient residential
7 properties.

8 (2) Interest deductible under this section includes the portion of
9 fees charged to borrowers, including points and loan origination fees,
10 that is recognized over the life of the loan as an adjustment to yield
11 in the taxpayer's books and records according to generally accepted
12 accounting principles.

13 (3) Subsections (1) and (2) of this section notwithstanding, the
14 following is a nonexclusive list of items that are not deductible under
15 this section:

16 (a) Fees for specific services such as: Document preparation fees;
17 finder fees; brokerage fees; title examination fees; fees for credit
18 checks; notary fees; loan application fees; interest lock-in fees if
19 the loan is not made; servicing fees; and similar fees or amounts;

20 (b) Fees received in consideration for an agreement to make funds
21 available for a specific period of time at specified terms, commonly
22 referred to as commitment fees;

23 (c) Any other fees, or portion of a fee, that is not recognized
24 over the life of the loan as an adjustment to yield in the taxpayer's
25 books and records according to generally accepted accounting
26 principles;

27 (d) Gains on the sale of valuable rights such as service release
28 premiums, which are amounts received when servicing rights are sold;
29 and

30 (e) Gains on the sale of loans, except deferred loan origination
31 fees and points deductible under subsection (2) of this section, are
32 not to be considered part of the proceeds of sale of the loan.

33 (4) Notwithstanding subsection (3) of this section, in computing
34 tax there may be deducted from the measure of tax by those engaged in
35 banking, loan, security, or other financial businesses, amounts
36 received for servicing loans primarily secured by first mortgages or
37 trust deeds on nontransient residential properties, including such

1 loans that secure mortgage-backed or mortgage-related securities, but
2 only if:

3 (a) (i) The loans were originated by the person claiming a deduction
4 under this subsection (4) and that person either sold the loans on the
5 secondary market or securitized the loans and sold the securities on
6 the secondary market; or

7 (ii) (A) The person claiming a deduction under this subsection (4)
8 acquired the loans from the person that originated the loans through a
9 merger or acquisition of substantially all of the assets of the person
10 who originated the loans, or the person claiming a deduction under this
11 subsection (4) is affiliated with the person that originated the loans.
12 For purposes of this subsection, "affiliated" means under common
13 control. "Control" means the possession, directly or indirectly, of
14 more than fifty percent of the power to direct or cause the direction
15 of the management and policies of a person, whether through the
16 ownership of voting shares, by contract, or otherwise; and

17 (B) Either the person who originated the loans or the person
18 claiming a deduction under this subsection (4) sold the loans on the
19 secondary market or securitized the loans and sold the securities on
20 the secondary market; and

21 (b) The amounts received for servicing the loans are determined by
22 a percentage of the interest paid by the borrower and are only received
23 if the borrower makes interest payments.

24 (5) (a) The deductions provided in this section are not available to
25 any person that is located in more than ten states.

26 (b) For the purposes of this subsection:

27 (i) A person is located in a state if:

28 (A) The person or an affiliate of the person maintains a branch,
29 office, or one or more employees or representatives in the state; and

30 (B) Such in-state presence allows borrowers or potential borrowers
31 to contact the branch, office, employee, or representative concerning
32 the acquiring, negotiating, renegotiating, or restructuring of, or
33 making payments on, mortgages issued or to be issued by the person or
34 an affiliate of the person.

35 (ii) "Affiliate" means a person is "affiliated," as defined in
36 subsection (4) of this section, with another person.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 By June 1, 2012, and by June 1st of every year thereafter, the
4 department must annually estimate the increase in state revenue for the
5 current fiscal year resulting from the changes made to the deduction
6 for banks and other financial institutions under section 2 of this act,
7 and certify the estimated amounts to the state treasurer. By July 1,
8 2012, and by July 1st of every year thereafter, the state treasurer
9 must transfer the certified amount into the education legacy trust
10 account created in RCW 83.100.230.

11 **Sec. 4.** RCW 83.100.230 and 2010 1st sp.s. c 37 s 953 are each
12 amended to read as follows:

13 The education legacy trust account is created in the state
14 treasury. Money in the account may be spent only after appropriation.
15 Except as otherwise provided in this section, expenditures from the
16 account may be used only for ((deposit into the student achievement
17 fund)) the support of the common schools and for expanding access to
18 higher education through funding for new enrollments and financial aid,
19 and other educational improvement efforts. ((During the 2009-2011
20 fiscal biennium, moneys in the account may also be transferred into the
21 state general fund.)) Money deposited into the account as required in
22 section 3 of this act must be used only for K-3 class size reductions.

23 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 August 1, 2011.

--- END ---

EXHIBIT 5

HOUSE FLOOR DEBATE
SUBSTITUTE HOUSE BILL 2078
Transcribed from Video Recording

1 PRESIDING OFFICER: House Bill 2078, please.

2 THE CLERK: Funding K-3 class size
3 reductions. New section, section 6. This act
4 takes effect August 1, 2011.

5 PRESIDING OFFICER: The House will adopt the
6 ways and means committee's substitute. Seeing no
7 objection, it's ordered. There are no further
8 amendments. So with the consent of the House,
9 will advance Substitute House Bill 2078 to third
10 reading, final passage. Seeing no objections, so
11 ordered.

12 Substitute House Bill 2078 final passage.

13 Remarks?

14 Representative Jinkins.

15 REP. JINKINS: Thank you, Mr. Speaker. I
16 rise for point of parliamentary inquiry.

17 PRESIDING OFFICER: Please state your point.

18 REP. JINKINS: Mr. Speaker, what is the
19 number of votes required for final passage of
20 Substitute House Bill 2078?

21 PRESIDING OFFICER: Article two, section 22
22 of the Washington State Constitution requires the
23 affirmative vote of the constitutional majority of
24 a membership of the House, or 50 votes for final
25 passage of bills. Separate constitutional

1 provisions provide for higher voting requirements
2 in certain cases, not relevant here, such as for
3 constitutional amendments. RCW 43.135.034 imposes
4 a super majority requirement of two thirds of the
5 members for final passage of a measure that raises
6 taxes.

7 Subsection six of that section defines
8 raises taxes as any action or combination of
9 actions by the legislature that increases state
10 tax revenue deposited in any fund, budget, or
11 account, regardless of whether the revenues are
12 deposited into the general fund. In determining
13 whether a measure raises taxes as defined by the
14 statute, the speaker considers whether the money
15 is raised as revenue for general government
16 purposes, which would be a tax, or charged to a
17 specific class of payers to provide a specific
18 service or program related to that class, which
19 would be a fee.

20 Substitute House Bill 2078 repeals a
21 business and occupation tax exemption on interest
22 from first mortgages and directs the proceeds to
23 class size reduction in kindergarten through third
24 grade of our public schools, as contemplated by
25 Initiative 728. The fiscal mode for the bill

1 indicates that its passage would result in a
2 increase in state business and occupation tax
3 revenues deposited into the state's education
4 legacy trust fund account. The funds would
5 benefit the general public as a whole and are
6 properly characterized at a tax. RCW 43.135.034
7 therefore requires the affirmative vote of two
8 thirds of the members, or 66 votes, for final
9 passage.

10 Representative Pedersen.

11 REP. PEDERSEN: Mr. Speaker, I also rise for
12 a point of inquiry.

13 PRESIDING OFFICER: Please state your point.

14 REP. PEDERSEN: Mr. Speaker, your previous
15 ruling referenced the different vote requirements
16 in article 2, section 22 of the Washington State
17 Constitution and RCW 43.135.034. Mr. Speaker, do
18 you as a presiding officer of the House of
19 Representatives have the authority to determine
20 whether the super majority requirement of the
21 statute violates the constitutional majority
22 requirement of article 2, section 22?

23 PRESIDING OFFICER: Under long standing
24 precedent in this body, the speaker does not have
25 the authority to rule on the constitutionality of

1 any statutory requirement. This institutional
2 precedent is supported by centuries of American
3 legal jurisprudence, holding that only the courts
4 may determine the constitutionality of a statute.
5 In addition, if a speaker on his own authority
6 were to disregard a statute that has not been
7 declared unconstitutional by the courts, doing so
8 may constitute malfeasance for purposes of RCW
9 29.A.56.110, potentially subjecting the speaker to
10 recall. Having personally faced this ambiguity
11 for 13 years, the speaker would welcome
12 clarification from the courts about how to resolve
13 the differences between the provisions of the
14 constitution and the statute.

15 Representative Frockt.

16 REP. FROCKT: Thank you, Mr. Speaker. I
17 also rise for point of inquiry.

18 PRESIDING OFFICER: Please state your point.

19 REP. FROCKT: Mr. Speaker, would an appeal
20 under House Rule 22 authorize the members of this
21 body to overturn the ruling you issued and
22 determine that the super majority requirement of
23 RCW 43.35.034 is unconstitutional?

24 PRESIDING OFFICER: No. House Rule 22
25 provides that any member of the House may appeal

1 the ruling of the presiding officer to the body,
2 which may sustain or overrule the speaker's ruling
3 by a simple majority vote. However, neither House
4 Rule 22 nor any other parliamentary device would
5 authorize the members of this body to determine
6 the constitutionality of the statutory super
7 majority requirement.

8 The speaker is only aware of one instance in
9 Washington legislative history where the members
10 of the legislative body have appealed and
11 overturned the ruling of the presiding officer.
12 In that instance, the president of the Senate
13 ruled that a measure embraced multiple subjects in
14 violation of Senate Rule 59. The members of the
15 Senate appealed the rules and overturned it. In
16 *Power, Incorporated v. Huntley*, 39 Washington 2nd
17 191, decided in 1951, the Washington State Supreme
18 Court found the measure to embrace multiple
19 subjects in violation of article 2, section 19 of
20 the Washington State Constitution and voided it in
21 its entirety. The Supreme Court considered this
22 issue de novo, without any deference to the
23 previous procedural history in the senate. This
24 case illustrates a fundamental precept of the
25 doctrine of separation of powers. That is that

1 determinations of constitutionality are solely
2 within the province of the courts.

3 While the speakers and the members of this
4 body have sworn an oath to uphold our state
5 constitution, only the courts have the power to
6 enforce those provisions.

7 Remarks on final passage? Representative
8 Jinkins.

9 REP. JINKINS: Thank you, Mr. Speaker. Wow.
10 You know a lot.

11 Mr. Speaker, everyone in this body saw my
12 son Wolf when he came to the floor on children's
13 day. Many of you were kind enough to shake his
14 hand and talk to him. I appreciated that. He
15 appreciated that. It meant something to him. And
16 every day when I drop him off at school now, he
17 asks me what we're going to legislate today.

18 This bill means something for kids, for
19 kindergarteners, for first graders, and second
20 graders, and third graders. It means something to
21 parents in every corner of this state. I remember
22 Wolf's first day of kindergarten. I remember
23 worrying about him getting the right teacher. I
24 remember worrying about him learning to read, to
25 write, to do math, because I knew that his

1 earliest years were the most important years.

2 If you care about high school drop outs,
3 then you care about those early years. If you
4 care about the achievement gap, then you care
5 about those early years. If you care about giving
6 every child, rich or poor, boy or girl, black or
7 white, Asian or Hispanic, a great education, a
8 better life than what you had, then you care about
9 those early years.

10 I care. I believe we all care. We have
11 said it. We have said that we care on both sides
12 of this aisle over and over again this year. This
13 is one of the rare chances in a year of horrible
14 budgets where we can do something positive for
15 young children. I'm frustrated that it's going to
16 take 66 votes to help our kids, but I'm asking for
17 the vote of every single person in this body.

18 Right now, the hundred million dollars that
19 would be generated by passage of this bill isn't
20 doing a single positive thing in this state. Wall
21 Street banks don't notice it. They don't give us
22 anything in return. Not lower mortgage rates, not
23 easier mortgages, nothing.

24 We can do something with that money. We can
25 save the jobs of 1,300 teachers in this state. We

1 can make a difference for tens of thousands of
2 children. And I'm voting for this bill. I'm
3 voting yes, not just because it's going to help my
4 son Wolf. I'm doing it because I know that there
5 are moms and dads, boys and girls, and teachers
6 all over this state who will be helped by this
7 bill and who will remember on that first day of
8 kindergarten what we did today.

9 Thank you, Mr. Speaker.

10 PRESIDING OFFICER: Representative Debolt.

11 REP. DEBOLT: Mr. Speaker, I almost want to
12 applaud at the political theater I just witnessed
13 tonight. I have to say, Mr. Speaker, that this
14 institution tonight when we are running a bill
15 right now, that you just passed a budget with four
16 billion dollars in new spending and didn't
17 prioritize education, and then you stand and hide
18 behind this bill that you know is going to fail,
19 that you are choosing to take a special session
20 that we have been here all these days -- you
21 haven't run this bill all year. And we wonder why
22 we're still here.

23 This is the reason we're still here, because
24 we are choosing to waste the people's time on a
25 bill that we know is not going to pass, for the

1 game of political theater and to make a statement.
2 And when somebody tells me that they care about
3 their children -- I have children. I have a wife
4 who's a teacher. We chose to write a budget that
5 was good for education. We chose to prioritize
6 education first in our budget. We didn't choose
7 to say, oh, sorry, if we could just get a two
8 thirds vote, we'd fund education.

9 We're not taking the cop out today. We
10 worked hard to make sure our budget was right.
11 And then to come tonight before we're almost
12 finished and say, we're going to put this bill up
13 when we know this is just an effort to create
14 drama, to create theater and to fail this bill--

15 PRESIDING OFFICER: Representative Greene.

16 REP. GREENE: A point of order.

17 PRESIDING OFFICER: Please state your point.

18 REP. GREENE: I believe the good gentleman
19 is inflaming rather than engendering debate.

20 PRESIDING OFFICER: Please don't assign
21 motives and inflame the debate. Representative,
22 please continue.

23 REP. DEBOLT: Thank you, Mr. Speaker. It's
24 really disappointing as we finish up here tonight
25 with this bill, because the one thing about it, we

1 have seen tax exemptions pass all year. We have
2 seen democrats pass tax exemptions.

3 You're choosing to pick winners and losers.
4 First time homeowners will be the losers this
5 time. You are saying that you can't prioritize
6 without a tax increase. That's what this vote is
7 saying tonight, that you want a tax increase. You
8 can't prioritize. You don't know how to fund
9 education, because you are not willing to make
10 tough decisions. I think this is an
11 embarrassment.

12 Thank you, Mr. Speaker.

13 PRESIDING OFFICER: Other remarks?

14 Representative Billig.

15 REP. BILLIG: Thank you, Mr. Speaker. Just
16 to address the comments of the previous speaker, I
17 don't know that this is going to fail. I don't
18 know that this is going to fail. I'm speaking
19 today to urge support for this bill.

20 Mr. Speaker, earlier in the special session
21 I had the opportunity to go back to my district in
22 Spokane for a few days to see my family and
23 friends and constituents face to face. I saw real
24 fear in those faces about the coming budget cuts.
25 But the strongest impression that I had of that

1 visit home was when I dropped my daughter Isabella
2 off at her school. I didn't see fear. I saw
3 eagerness and hope on the faces of those students
4 and teachers.

5 Those students and that hope is why I came
6 to the House of Representatives. Too many of
7 those students are losing their teachers because
8 of our current revenue crisis. Too many of those
9 students will have larger class sizes.

10 As we balance the budget, Mr. Speaker, we
11 scoured every line item and made tough cuts. And
12 we need to look at big tax breaks just as hard as
13 we look at big spending items. And a hundred
14 million dollars, that's big to me. It's big to
15 kindergarten teachers who are getting laid off.
16 It's big to five year olds in Spokane who won't
17 have their teacher anymore. It's big to six year
18 olds in Yakima and moms and dads in Aberdeen and
19 Bellingham who want the best possible education
20 for their children.

21 I can't justify a hundred million dollars to
22 out of state banks instead of those children. Do
23 we choose funding for big banks or for children?
24 Mr. Speaker, I choose children. And I urge
25 everybody in this body to join me in voting for

1 this bill. Thank you.

2 PRESIDING OFFICER: Representative Orcutt.

3 REP. ORCUTT: Thank you, Mr. Speaker.

4 I choose children too. What I choose more
5 than to just have children have a place to go to
6 school, I choose to make sure that children have a
7 home that they can come home to after school. A
8 place that they can be safe at night.

9 Mr. Speaker, have you looked at what's going
10 on in the economy right now? Have you looked at
11 what's happening with the housing crisis in this
12 state and all around the nation? Mr. Speaker, the
13 very last thing that our citizens need right now
14 is more expense in trying to get into a home.
15 That is all this bill will do, is it will add
16 expense.

17 How in the world, Mr. Speaker, can anyone
18 with a straight face stand up and say that banks
19 are greedy, and then somehow think they are not
20 going to pass this new tax on to the citizens that
21 they serve? How can we say that they are so
22 greedy that they will do anything to make their
23 profits, and think they won't pass these costs on
24 to their customers? How do we do that with a
25 straight face, Mr. Speaker? I can't.

1 We have seen it with what's happened in
2 Washington, DC on the credit cards. What happened
3 when they got regulated? What happened when costs
4 were added to them? All of the credit card
5 holders got bigger fees. Those costs were passed
6 on to the consumer. This will do nothing more
7 than hurt homeownership in our state. It will
8 cost those who wish to get into a home more money.
9 Money they cannot afford. And with lending
10 tightened up, it's already harder for them to get
11 into a home. This adds another barrier for them
12 to get over. Another cost they can't get past.

13 Mr. Speaker, yes, I care about kids. I care
14 about them having a home. That's why this bill
15 should be defeated.

16 PRESIDING OFFICER: Representative
17 Ladenburg.

18 REP. LADENBURG: Thank you, Mr. Speaker.

19 So right about now, this time of the
20 session, I think a lot of us are sitting here
21 wondering why we ran. And I was actually going to
22 get up and say the reason I ran was because of
23 education. But actually the reason I ran was
24 because of kids.

25 As the good gentleman from the 42nd has

1 often said, he has five children. I also have
2 five children. All of them attended public
3 schools and are now successful adults, if I say so
4 myself. I also have nine and a half -- we just
5 found out -- nine and a half grandchildren. The
6 three oldest the ones that are school age are also
7 attending public schools. I believe in and have
8 always supported public schools. I have been
9 active in PTA, on PTA counsel as a volunteer in
10 the schools, on school district committees. And
11 my work has given me an understanding of the needs
12 in our schools. My heart is with public
13 education.

14 So when I see teachers getting lay off
15 notices, good teachers, it breaks my heart. And
16 teachers are getting laid off all over the state.
17 And this is tragic. Tragic for the teachers going
18 to the unemployment line and tragic for the kids
19 that they used to teach reading and writing,
20 science and math.

21 And then people told me about an idea to
22 save the jobs of teachers in our schools, in our
23 public schools. So we freshmen found a tax break
24 for Wall Street banks that costs taxpayers 100
25 million dollars. What are we getting for that 100

1 million dollars? It turns out we don't get
2 anything at all. We don't get anything at all.

3 I don't represent Park Avenue. I don't
4 represent Manhattan. I represent the good people
5 of Tacoma. I represent moms and dads who work
6 hard to give their sons and daughters a better
7 life. And the best way to do that is by giving
8 their kids the best possible education.

9 I can't vote to keep on sending a hundred
10 million dollars to Wall Street while we get
11 nothing in return. I couldn't sleep at night or
12 look at laid off teachers in the eye. Wasting a
13 hundred million dollars like that is a nightmare
14 to me.

15 This is my hope, that we pass this bill,
16 that we say yes to our schools and yes to our
17 kids. It is my hope that I'll run into a
18 kindergarten teacher at the grocery store. The
19 teacher has gotten a lay off notice that she--

20 PRESIDING OFFICER: Representative
21 Ladenburg, please conclude your remarks. Your
22 three minutes are up.

23 Please state your point, Representative
24 Chris.

25 REP. CHRIS: Thank you, Mr. Speaker. It

1 just appears that speakers are reading from text
2 and not giving a speech.

3 PRESIDING OFFICER: Point well taken.
4 Please conclude your remarks.

5 REP. LADENBURG: Thank you, Mr. Speaker.
6 I'm asking all of us here to please vote for this,
7 to do this for the kids.

8 PRESIDING OFFICER: Representative Chandler.

9 REP. CHANDLER: Thank you, Mr. Speaker.

10 I think, Mr. Speaker, that there's several
11 things that it's important for all of us to keep
12 in mind here. One is that we had one opportunity
13 to vote for education. And that occurred earlier
14 today.

15 When this is all said and done, and we have
16 all gone home, I hope it will be in this month,
17 people won't remember the action we're taking here
18 at this moment. Our constituents will remember
19 the vote we took earlier today. I think that you
20 and I would agree that it is through the budget
21 that we speak of the true legislative intent in
22 any given session in any biennium. And I would
23 say that our constituents are not that easily
24 influenced.

25 Last fall, there were clever attempts to

1 adopt tax increases on items IN ways that it was
2 believed that it wouldn't really bother anybody,
3 or it was only a little bit on what some would
4 call unessential products. But, in fact, trying
5 to pull that on the voters, the voters said no,
6 they weren't going to go for that. They weren't
7 impressed.

8 And now when we take this action tonight,
9 Mr. Speaker, the voters aren't going to be
10 impressed. I mean, they understand that it's one
11 thing to always demonize some individual or some
12 organization or some industry, and say they have
13 something that we don't have, so we ought to
14 punish them, penalize them, I should say, and make
15 them pay for a public service, a constitutional
16 responsibility, or close to it. This isn't
17 actually a constitutional obligation.

18 But, you know, what it's important too to
19 remember, when this initiative was passed, it was
20 passed on a promise, a promise that was given from
21 the highest political leaders of this state that
22 it would not cost the taxpayers anything, that a
23 growing economy and a growing tax base would pay
24 for it. We have almost never fully funded it,
25 along with so many other promises.

1 This year can be, should be a year in which
2 we put aside for good making promises we can't
3 keep. And I don't think that they will-- I think
4 they will have a skeptical eye toward the House
5 tonight saying we will tax the other guy. We
6 shouldn't be passing a tax increase that-- that
7 every one of us, who, taken as a House, fairly
8 represent the demographics and the culture of the
9 state, if we aren't willing to pay the tax and
10 take that burden on, if we aren't willing to adopt
11 it on behalf of our constituents, we shouldn't be
12 imposing it on somebody else.

13 So I would urge you, Mr. Speaker, to defer
14 action on this bill, to table it. It does not
15 deserve a vote.

16 PRESIDING OFFICER: The speaker would like
17 to remind people that there is a three minute time
18 limit. I gave you a little latitude there,
19 Representative Chandler.

20 Representative Reykdal.

21 REP. REYKDAL: I rise in support of this
22 bill tonight. And I ask that my colleagues in
23 this chamber do the same.

24 I speak tonight on behalf of Ms. Gilbertson,
25 a first grade teacher in Tumwater, Washington, a

1 graduate of Central Washington University, a
2 passionate teacher, a first year teacher, somebody
3 planning her wedding. And I get a little choked
4 up, because my first teaching with my spouse was
5 the year we planned our wedding. And it was a
6 tough year, but we made it.

7 That teacher is at risk in this state,
8 because we couldn't find resources. And I want to
9 thank the gentleman from the 20th district who
10 wrote two budgets this year as he mentioned
11 earlier to go along with at least three budgets
12 written on this side, none of which found the
13 resources for class size reduction in K-3.

14 We all struggled with that this year. It is
15 a real financial crisis. But we have an
16 opportunity to turn that around, Mr. Speaker.
17 This is our moment to dig deep inside of
18 ourselves, to check our values, and to ask
19 ourselves if there's something we can do for kids
20 and for Ms. Gilbertson and for my seven-year-old
21 son who's in first grade and my daughter who will
22 be a kindergartener next year.

23 This is our moment. Two buttons in front of
24 us. The red one says, we value Wall Street. The
25 red one says, we value the people who put us in

1 this crisis. The green button is for kids. I ask
2 all of you to join me in pushing that green
3 button.

4 PRESIDING OFFICER: Representative Parker.

5 REP. PARKER: Thank you Mr. Speaker.

6 You know, tonight is an interesting night in
7 the chamber, because we all have come here with
8 the idea that kids should be a high priority. We
9 believe kids should be the highest priority in our
10 state budget. You see, this is being coined as a
11 tax on big banks. But it's really a tax on
12 mortgage products. And some of these financial
13 institutions reside in Washington. In fact, even
14 one of them resides in Spokane.

15 Essentially what this is, this is a tax on
16 people who buy first mortgages. And statistics
17 show who buys first mortgages, young married
18 couples. This is not a big bank tax. This is a
19 newlywed tax. That's who this legislature is
20 trying to tax.

21 Let me lay out the facts here. Four billion
22 dollars more money than before. Four billion
23 dollars. Four billion dollars more. Education
24 has been cut by 1.7 billion dollars. This is a
25 hundred million dollar solution. And the reason

1 it's a hundred million dollar solution, because I
2 ask this chamber tonight to vote for kids and make
3 education the number one priority, not the last
4 priority. No more a hundred million dollar
5 solutions for 1.7 billion dollar problems. The
6 other facts. 249 million dollars have been raided
7 from accounts that support education. 1.7 billion
8 dollars in cuts, yet four billion dollars more.

9 The good representative of the 27th talked
10 about this should mean something to kids. I
11 couldn't agree more. Let's do something that does
12 mean something for kids. Let's together say
13 tonight, this is a new course. Education is our
14 number one priority. Victor Hugo said nothing is
15 more powerful than an idea whose time has come. I
16 can't imagine with four billion dollars more, a
17 1.7 billion dollar problem, with a hundred million
18 dollar solution, the idea has come that education
19 must be the number one priority of this
20 legislature. This must mean something to kids.

21 You see, I ran because, like so many of you,
22 my heart goes, because kids are our future. They
23 are Washington's future. Our future should be our
24 number one priority. These savings were not even
25 assumed in the budget. Very interesting to me.

1 So tonight, let's not accept this. Let's ask for
2 something more. Let's not move from something to
3 nothing. Let's move from something to something
4 more as a legislature and vote to make education
5 the number one priority.

6 PRESIDING OFFICER: Representative Ryu.

7 REP RYU: Thank you, Mr. Speaker. Like many
8 of you, my parents worked very hard for their
9 children to succeed in Washington state public
10 schools. So my three brothers and I, we are proud
11 products of public education with eight college
12 and postgraduate degrees among the four of us.

13 My children also received great public
14 education at schools in Edmonds and in Shoreline.
15 And one of us -- one of them is a middle school
16 teacher.

17 PRESIDING OFFICER: Representative Chris.

18 REP. CHRIS: Thank you, Mr. Speaker. Again,
19 it seems like we're reading from a script, rather
20 than from the heart.

21 PRESIDING OFFICER: Point well taken.

22 REP RYU: Yes. Thank you very much. I'm a
23 freshman, so I'm new at this.

24 And one of my daughters is a middle school
25 teacher, and she's been in the classroom the last

1 five years. Many of us spoke eloquently and
2 passionately on behalf of education today and even
3 just now. So I ask for your collaboration in
4 helping our teachers and our parents of the K-3
5 children in our state succeed in their efforts to
6 give our Washington's children a great start in
7 their public education. And I urge you for your
8 support. Thank you very much.

9 PRESIDING OFFICER: Representative
10 Armstrong.

11 REP. ARMSTRONG: Thank you, Mr. Speaker.

12 I rise in opposition to the bill tonight.
13 You know, the dream of America is to own your own
14 home. I think that's what keeps us a little bit
15 unique in this country. And this bill is an
16 attack on that. It's an attack on people trying
17 to get a first mortgage.

18 We have seen, Mr. Speaker in the last year,
19 from March of 2010 to March of 2011, 6,800 people
20 lose their jobs in construction. 4,200 of them,
21 Mr. Speaker, have lost their jobs in construction
22 just since last fall. We have 320 thousand and
23 some odd people in the state of Washington
24 unemployed. Construction is a big part of that.
25 So here we are looking at a bill that's going to

1 limit new home constructions, limit new mortgage
2 owners. And to what avail?

3 And the real question, Mr. Speaker, is, if
4 we pass this bill, what industry is next on the
5 target? What industry are we going to look at
6 next, Mr. Speaker, and say we should tax them more
7 for whatever special interest we have. Are we
8 going to start isolating industry by industry by
9 industry and start taxing them individually more
10 so that we can, in this body, determine what
11 special interest moves forward?

12 I think you will find, Mr. Speaker, on this
13 side of the aisle, we are all for education. We
14 want education to be first and our paramount
15 responsibility, but not at the expense of
16 individual industries and pick them off one by
17 one, Mr. Speaker.

18 That's the trouble with this bill. It's
19 overreaching. And it's putting first time home
20 buyers in jeopardy. I urge a no vote, Mr.
21 Speaker. Thank you.

22 PRESIDING OFFICER: Representative Eddy.

23 REP. EDDY: Thank you, Mr. Speaker, for
24 recognizing me.

25 I'm not a freshman, not do I have any

1 prepared notes, however --

2 PRESIDING OFFICER: Thank you very much.

3 REP. EDDY: In their defense, I will say, my
4 first year on this floor, I never got up without
5 having very large notes propped up against my
6 computer in about 28 point type, because it's very
7 daunting to stand here in front of 98 people and
8 these TV cameras, and think, holy Moses, what if I
9 forget what I'm going to say?

10 I stand in support of this bill because I
11 have believed, and I have articulated to you,
12 Mr. Speaker, and many of our colleagues, my belief
13 that we needed to prepare and vote out of here a
14 budget that reflected the revenue that we have
15 available to us. Many of us didn't like a lot of
16 what was in that budget that we sent out of here,
17 but it did match the revenue that we had
18 available.

19 So having accomplished that task, then I
20 believe it is fair to say, okay, having done that,
21 is there anything that we would like to present to
22 the public, something that we would like to buy
23 back? I commend our freshmen legislators for
24 having the energy to sit down and think it through
25 in a logical way and to present us with this

1 opportunity.

2 As many of you know, last year, I did
3 support closing these two particular loopholes. I
4 recognize that there are differing opinions as to
5 the impact on the economy and society as a whole.
6 I think by and large, these are two tax exemptions
7 that should be closed.

8 So I have now concluded anything I could
9 think of. So I simply commend this bill to you.

10 PRESIDING OFFICER: Representative Hinkle.

11 REP. HINKLE: Thank you, Mr. Speaker.

12 I can tell you, if our freshmen did a class
13 project, it wouldn't be raising taxes. Lord have
14 mercy. Is there not a contrast that we have ever
15 seen?

16 This idea that somehow taking away a tax
17 exemption is anything but a tax increase, I wish
18 we could stop it. I hate this idea. Wall
19 Street -- you know, the bailing out Wall Street
20 line that we get all the time from the other side,
21 I don't get that either. Come on, you guys.
22 Let's stop the rhetoric. Let's be honest with
23 people. You don't think people are seeing through
24 it by now? We all do it. Let's be real. Let's
25 talk about what's really happening here.

1 PRESIDING OFFICER: Please don't impugn
2 other people's honesty. Please stick to the
3 subject, please.

4 REP. HINKLE: Forgive me, Speaker. You're
5 right.

6 Everybody here is honest. And the good
7 gentleman from the 22nd, good honest effort
8 talking about digging deep into people's pockets.
9 You get my point. We're digging deep into other
10 people's pockets. Digging deep is not digging
11 into someone else's pockets. It's understanding
12 that this is a sacrifice. We've sacrificed our
13 kids this session, in my opinion. We have
14 sacrificed education.

15 And yet here we are with a bill that the
16 only solution is to raise a tax again. Folks, we
17 can't do this. We have got to stop doing this.
18 We have got to set our priorities, take the
19 opportunity to set a priority, take the
20 opportunity to be real with folks. We all, every
21 one of us, and I'm going to impugn all our
22 motives, so I'm not picking on anybody.

23 PRESIDING OFFICER: It's still wrong.
24 Please get back to the subject.

25 REP. HINKLE: You didn't let me get a chance

1 to bail myself out on that, Mr. Speaker.

2 The reality, we should get together and talk
3 about stuff like this a little more. It shouldn't
4 come up at the last part of the session. If the
5 good freshman -- which your side next year, I
6 don't think there will be many. As a matter of
7 fact, I don't believe there will be any.

8 PRESIDING OFFICER: Please stop referring to
9 elections. Please conclude, please.

10 REP. HINKLE: Okay. But let me just say
11 this, Mr. Speaker, that next year, let's do
12 freshmen projects before an extended session.
13 Thank you, Mr. Speaker.

14 PRESIDING OFFICER: Representative Springer.

15 REP. SPRINGER: Thank you, Mr. Speaker.

16 Always good to hear the comments from my
17 good colleague from the 13th. But I want to focus
18 on one comment that was made. You know, this is
19 in fact truly about sacrifice. I for one, choose
20 to pay a little more credence and a little more
21 honor to the sacrifice that our students make
22 every day as opposed to the sacrifice that banks
23 such as-- and I won't name them, but they all
24 reside on Park Avenue -- the sacrifices that they
25 make. I would choose the former.

1 Thank you, Mr. Speaker.

2 PRESIDING OFFICER: Representative
3 Alexander.

4 REP. ALEXANDER: Thank you, Mr. Speaker.

5 This has been very interesting. Mr.
6 Speaker, I provide you with an option. If you can
7 find anyone on the prevailing side of 1087 that
8 would change their vote, we can open up the
9 budget, and I can sit down with the gentleman from
10 the 48th district, and we can put together an
11 amendment to add one million dollars for K-3
12 education by reprioritizing the budget.

13 PRESIDING OFFICER: Further remarks?
14 Representative Frockt.

15 REP. FROCKT: Thank you, Mr. Speaker.

16 I'm going to be brief, just to note that
17 every budget that was introduced in this body by
18 any party or circulated in the media or what have
19 you cut roughly the same amount from these class
20 size initiatives as the budget that was passed
21 earlier today. The problem that we have in this
22 state is not unique. It is not unique to any
23 solution that was proposed by any of the caucuses
24 in this body, including the bipartisan caucus in
25 the Senate.

1 Thank you, Mr. Speaker.

2 PRESIDING OFFICER: Further remarks?

3 Representative Klippert.

4 REP. KLIPPERT: Thank you, Mr. Speaker.

5 I too stand for children. I stand for
6 teachers. I stand for education, which is exactly
7 why I'm going to vote against this bill in final
8 passage. Because when we passed the budget --
9 well, I didn't pass it. I voted against the
10 budget proposal. In that budget proposal, was a
11 housing voucher expansion, a housing voucher
12 expansion for felons being released from prison.
13 Those who passed out that budget chose to give
14 housing voucher expansions to felons being
15 released from prison, instead of putting that
16 money into the education of our students.

17 That's where that money should have gone to.
18 That's the choice we had when we passed the
19 budget, was to put that money into funding K-3
20 class sizes. But, no, we chose, or those who
21 voted for that budget chose to put that money into
22 housing voucher expansion for felons being
23 released from prison.

24 That's why I'm voting no on this. We had
25 the chance to vote right and put money into

1 education, instead of expanding housing vouchers
2 for prisoners being released from prison. I vote
3 no, because I vote yes for kids, students, and
4 teachers.

5 PRESIDING OFFICER: Further remarks?
6 Representative Dickerson?

7 REP. DICKERSON: Mr. Speaker, in ways and
8 means, of course we had a hearing on this bill.
9 And we had a representative from First Federal
10 speaking to us. And we had an opportunity to ask
11 questions of this gentleman. As you know, of
12 course, there have been claims tonight that this
13 bill will result in increased first mortgage fees
14 on the people of this state.

15 We asked this gentleman from the bank that
16 let out first mortgages, would that in fact be the
17 case? And his answer was, no, that first mortgage
18 fees were based on competitive rates. And our
19 action here would not affect those rates.

20 So I wanted to clarify that for the body.

21 PRESIDING OFFICER: Further remarks?
22 Representative Sullivan.

23 REP. SULLIVAN: Thank you, Mr. Speaker.

24 And rising in support of this legislation
25 today. You know, I know that everyone, everyone

1 on this House floor cares deeply about K-12
2 education regardless of what party you are from or
3 what part of the state you are from. And I think
4 everyone here also knows or wants to put more
5 money into K-12 education.

6 As was pointed out when we went through the
7 ways and means process, and the good gentleman
8 from the 48th introduced his budget, and the good
9 gentleman from the 20th introduced his budget,
10 they were remarkably similar when it came to K-12
11 education. They were separated by about 15
12 million dollars. Both of them cut the K-3 class
13 size enhancement, not because they wanted to do
14 so, but because in these difficult times, there
15 was a struggle to find a way to pay for the
16 services and the things that the citizens of this
17 state need, and also pay for that K-3 class size
18 enhancement.

19 We all set our priorities about wanting to
20 make the K-12 education the highest priority. We
21 made sure that we fully funded basic education.
22 But this is an enhancement that helps lower those
23 class sizes, that helps districts that are
24 struggling to provide the class sizes that our
25 students can thrive in. This is about a period in

1 our state's history where we are struggling to
2 provide the services that our citizens need, an
3 economic downturn that we haven't seen since the
4 Great Depression. Pink slips are going out to
5 teachers right now, not because we here in the
6 legislature want that to happen, or because it's a
7 lesser priority. It's because the revenue to the
8 state is lower than what it was in 1997. This is
9 about trying to get through a difficult period of
10 time, and at the same time, provide an atmosphere
11 for our kids where they can be successful in our
12 schools.

13 Mr. Speaker, I know this takes a two thirds
14 vote in order to pass. That's what the voters
15 wanted when they passed Initiative 1053. They
16 wanted this debate that we're having on the House
17 floor today, so that we could make a decision
18 about whether, despite our best efforts in
19 whatever budget that's been put forward, that
20 there is a time when the conditions are so
21 difficult, that we can bind together and vote to
22 support a fee or a tax that will help provide a
23 service, or in this case, a class size that our
24 students deserve.

25 PRESIDING OFFICER: Questions before the

1 House has final passage -- excuse me.

2 Representative Ross.

3 REP. ROSS: Thank you, Mr. Speaker. May I
4 be recognized for closing remarks?

5 PRESIDING OFFICER: Please proceed.

6 REP. ROSS: Thank you, Mr. Speaker.

7 I think tonight is illustrative of how
8 everybody feels about this whole session and the
9 whole process.

10 I remember several years ago hearing an
11 amazing debate on this floor about a tax for 911
12 services. That was the last time when I have been
13 sitting here when we tested the whole theory of
14 does a tax pass or does it not. And it pains me
15 to think that the legislature puts those questions
16 up first for public safety. I heard horror
17 stories from the former majority leader about how
18 that would do terrible things if we didn't pass
19 that tax. I wonder about that now. Tonight I'm
20 standing here hearing horror stories about kids.
21 I'm being asked point blank to push a button for
22 kids or against kids.

23 You know, this is the number one issue that
24 pains people in their own neighborhood when they
25 see signs about vote for kids. This amazing guilt

1 complex that we create that, if you don't support
2 this, you're hurting kids is not fair. I heard a
3 statement tonight that our hearts are with our
4 teachers. Yeah, well, so is mine. My kid gets on
5 a bus and rides it to a school, where I think he's
6 getting a good education.

7 The budget as we know is swept all the time.
8 I don't think it's fair to say that we're going to
9 allocate money specifically for any one function.
10 And lastly, I want to say to you, that we have put
11 up other solutions that were similar in nature,
12 that removed loopholes for other businesses that
13 were voluntary spend, in other words, it was not
14 an outright tax, and we talked about expanding
15 businesses in the communities that would help
16 yield money to the state. We had put up arguments
17 and created mechanisms that would have shared the
18 revenue across K-12, the most vulnerable, and the
19 social service network. That bill was bipartisan
20 supported and never moved forward.

21 Mr. Speaker, tonight's vote, when we vote
22 no, is not no for kids. Mr. Speaker, it's a vote
23 that says, no, we are not going to engage in new
24 taxes. We're going to live within the means,
25 which are four billion dollars more than was

1 provided. And we have put the best budget
2 together that we could. Therefore, Mr. Speaker, I
3 cannot vote for this tonight, not because I don't
4 love the children of this state, but I cannot
5 support a new tax.

6 PRESIDING OFFICER: Question before the
7 House is final passage of Substitute House Bill
8 2078. Speaker is about to open the roll call
9 machine. Speaker has opened the roll call
10 machine. Has every member voted? Does any member
11 wish to change his or her vote?

12 Representative Kirby and Klippert.
13 Representative Klippert.

14 Speaker is about to lock to roll call
15 machine. Speaker has locked the roll call
16 machine. Clerk will take the record please.

17 THE CLERK: Mr. Speaker, there are 52 aye,
18 42 nay, 4 excused or not voting.

19 PRESIDING OFFICER: Having received a
20 constitutional majority, but having failed to
21 receive a two thirds super majority as required by
22 RCW 43.135.034, Substitute House Bill 2078 is
23 declared failed.

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C E R T I F I C A T E

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State of Washington)
) ss.
County of King)

I, the undersigned Registered Professional Reporter and Washington Certified Court Reporter, hereby certify that the foregoing proceedings were transcribed under my direction from video recording;

That the transcript of the proceedings is a full, true, and correct transcript to the best of my ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this date, June 13, 2011:

/S/Yvonne A. Gillette

Yvonne A. Gillette

Washington Certified Court Reporter
License No. 2129

EXHIBIT 6

HB 2078 - 2011-12 (What is this?)

Funding K-3 class size reductions by narrowing and repealing certain tax exemptions.

History of Bill

as of Thursday, July 21, 2011 12:56 PM

Sponsors: Representatives Jinkins, Reykdal, Lytton, Billig, Frockt, Moscoso, Fitzgibbon, Tharinger, Ryu, Ladenburg, Stanford, Sullivan, Green, Van De Wege, Moeller, Springer, Pettigrew, Maxwell, Dickerson, Kagi, Ormsby, Upthegrove, Hasegawa, Appleton, Rolfes, McCoy, Carlyle, Liias, Kenney, Eddy, Darneille, Pedersen, Orwall, Hunt, Cody, Kirby, Roberts, Takko, Blake, Seaquist, Goodman, Haigh, Hudgins, Dunshee, Sells, Finn, Clibborn, Morris

2011 REGULAR SESSION

Apr 12 First reading, referred to Ways & Means. (View Original Bill)

Apr 21 Public hearing in the House Committee on Ways & Means at 3:30 PM. (Committee Materials)

2011 1ST SPECIAL SESSION

Apr 26 By resolution, reintroduced and retained in present status.

May 11 Executive action taken in the House Committee on Ways & Means at 9:00 AM.
(Committee Materials)

WAYS - Executive action taken by committee.

WAYS - Majority; 1st substitute bill be substituted, do pass. (View 1st Substitute) (Majority Report)
Minority; do not pass. (Minority Report)

May 16 Passed to Rules Committee for second reading.

May 23 Rules Committee relieved of further consideration. Placed on second reading.

May 24 **1st substitute bill substituted (WAYS 11).** (View 1st Substitute)

Rules suspended. Placed on Third Reading.

Third reading, failed; yeas, 52; nays, 42; absent, 0; excused, 4. (View Roll Calls)

Failed to receive a two-thirds majority vote.