

ESSB 5096 - H COMM AMD
By Committee on Finance

ADOPTED AS AMENDED 04/20/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** INTENT. The legislature finds that it is
4 the paramount duty of the state to amply provide every child in the
5 state with an education, creating the opportunity for the child to
6 succeed in school and thrive in life. The legislature further finds
7 that high quality early learning and child care is critical to a
8 child's success in school and life, as it supports the development of
9 the child's social-emotional, physical, cognitive, and language
10 skills. Therefore, the legislature will invest in the ongoing support
11 of K-12 education and early learning and child care by dedicating
12 revenues from this act to the education legacy trust account.

13 The legislature intends to levy a seven percent tax on the
14 privilege of voluntarily selling or exchanging stocks, bonds, and
15 other capital assets where the profit is in excess of \$250,000
16 annually to fund K-12 education, early learning, and child care, and
17 advance our paramount duty to amply provide an education to every
18 child in the state.

19 The legislature further intends to exempt certain assets from the
20 tax including, but not limited to, qualified family-owned small
21 businesses, all residential and other real property, and retirement
22 accounts.

23 NEW SECTION. **Sec. 2.** REVENUES DEPOSITED INTO EDUCATION LEGACY
24 TRUST ACCOUNT. All taxes, interest, and penalties collected under
25 this chapter must be deposited into the education legacy trust
26 account created in RCW 83.100.230.

27 **Sec. 3.** RCW 83.100.230 and 2019 c 415 s 990 are each amended to
28 read as follows:

1 The education legacy trust account is created in the state
2 treasury. Money in the account may be spent only after appropriation.
3 Expenditures from the account may be used only for support of the
4 common schools, and for expanding access to higher education through
5 funding for new enrollments and financial aid, early learning and
6 child care programs, and other educational improvement efforts.
7 (~~During the 2015-2017, 2017-2019, and 2019-2021 fiscal biennia~~
8 ~~appropriations from the account may be made for support of early~~
9 ~~learning programs. It is the intent of the legislature that this~~
10 ~~policy will be continued in subsequent fiscal biennia.~~)

11 NEW SECTION. **Sec. 4.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

14 (1) "Adjusted capital gain" means federal net long-term capital
15 gain:

16 (a) Plus any amount of long-term capital loss from a sale or
17 exchange that is exempt from the tax imposed in this chapter, to the
18 extent such loss was included in calculating federal net long-term
19 capital gain;

20 (b) Plus any amount of long-term capital loss from a sale or
21 exchange that is not allocated to Washington under section 10 of this
22 act, to the extent such loss was included in calculating federal net
23 long-term capital gain;

24 (c) Plus any amount of loss carryforward from a sale or exchange
25 that is not allocated to Washington under section 10 of this act, to
26 the extent such loss was included in calculating federal net long-
27 term capital gain;

28 (d) Less any amount of long-term capital gain from a sale or
29 exchange that is not allocated to Washington under section 10 of this
30 act, to the extent such gain was included in calculating federal net
31 long-term capital gain; and

32 (e) Less any amount of long-term capital gain from a sale or
33 exchange that is exempt from the tax imposed in this chapter, to the
34 extent such gain was included in calculating federal net long-term
35 capital gain.

36 (2) "Capital asset" has the same meaning as provided by Title 26
37 U.S.C. Sec. 1221 of the internal revenue code and also includes any
38 other property if the sale or exchange of the property results in a

1 gain that is treated as a long-term capital gain under Title 26
2 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

3 (3) "Federal net long-term capital gain" means the net long-term
4 capital gain reportable for federal income tax purposes determined as
5 if Title 26 U.S.C. Secs. 55 through 59, 1400Z-1, and 1400Z-2 of the
6 internal revenue code did not exist.

7 (4) "Individual" means a natural person.

8 (5) "Internal revenue code" means the United States internal
9 revenue code of 1986, as amended, as of the effective date of this
10 section, or such subsequent date as the department may provide by
11 rule consistent with the purpose of this chapter.

12 (6) "Long-term capital asset" means a capital asset that is held
13 for more than one year.

14 (7) "Long-term capital gain" means gain from the sale or exchange
15 of a long-term capital asset.

16 (8) "Long-term capital loss" means a loss from the sale or
17 exchange of a long-term capital asset.

18 (9) "Real estate" means land and fixtures affixed to land. "Real
19 estate" also includes used mobile homes, used park model trailers,
20 used floating homes, and improvements constructed upon leased land.

21 (10)(a) "Resident" means an individual:

22 (i) Who is domiciled in this state during the taxable year,
23 unless the individual (A) maintained no permanent place of abode in
24 this state during the entire taxable year, (B) maintained a permanent
25 place of abode outside of this state during the entire taxable year,
26 and (C) spent in the aggregate not more than 30 days of the taxable
27 year in this state; or

28 (ii) Who is not domiciled in this state during the taxable year,
29 but maintained a place of abode and was physically present in this
30 state for more than 183 days during the taxable year.

31 (b) For purposes of this subsection, "day" means a calendar day
32 or any portion of a calendar day.

33 (c) An individual who is a resident under (a) of this subsection
34 is a resident for that portion of a taxable year in which the
35 individual was domiciled in this state or maintained a place of abode
36 in this state.

37 (11) "Taxable year" means the taxpayer's taxable year as
38 determined under the internal revenue code.

39 (12) "Taxpayer" means an individual subject to tax under this
40 chapter.

1 (13) "Washington capital gains" means an individual's adjusted
2 capital gain less \$250,000, as provided in section 7 of this act and
3 adjusted annually under section 16 of this act, for each return filed
4 under this chapter.

5 NEW SECTION. **Sec. 5.** TAX IMPOSED. (1) Beginning January 1,
6 2022, an excise tax is imposed on the sale or exchange of long-term
7 capital assets. Only individuals are subject to payment of the tax,
8 which equals seven percent multiplied by an individual's Washington
9 capital gains.

10 (2) The tax levied in subsection (1) of this section is necessary
11 for the support of the state government and its existing public
12 institutions.

13 (3) If an individual's Washington capital gains are less than
14 zero for a taxable year, no tax is due under this section and no such
15 amount is allowed as a carryover for use in the calculation of that
16 individual's adjusted capital gain, as defined in section 4(1) of
17 this act, for any taxable year. To the extent that a loss
18 carryforward is included in the calculation of an individual's
19 federal net long-term capital gain and that loss carryforward is
20 directly attributable to losses from sales or exchanges allocated to
21 this state under section 10 of this act, the loss carryforward is
22 included in the calculation of that individual's adjusted capital
23 gain for the purposes of this chapter. An individual may not include
24 any losses carried back for federal income tax purposes in the
25 calculation of that individual's adjusted capital gain for any
26 taxable year.

27 (4)(a) The tax imposed in this section applies to the sale or
28 exchange of long-term capital assets owned by the taxpayer, whether
29 the taxpayer was the legal or beneficial owner of such assets at the
30 time of the sale or exchange. The tax applies when the Washington
31 capital gains are recognized by the taxpayer in accordance with this
32 chapter.

33 (b) For purposes of this chapter:

34 (i) An individual is considered to be a beneficial owner of long-
35 term capital assets held by an entity that is a pass-through or
36 disregarded entity for federal tax purposes, such as a partnership,
37 limited liability company, S corporation, or grantor trust, to the
38 extent of the individual's ownership interest in the entity as
39 reported for federal income tax purposes.

1 (ii) A nongrantor trust is deemed to be a grantor trust if the
2 trust does not qualify as a grantor trust for federal tax purposes,
3 and the grantor's transfer of assets to the trust is treated as an
4 incomplete gift under Title 26 U.S.C. Sec. 2511 of the internal
5 revenue code and its accompanying regulations. A grantor of such
6 trust is considered the beneficial owner of the capital assets of the
7 trust for purposes of the tax imposed in this section and must
8 include any long-term capital gain or loss from the sale or exchange
9 of a capital asset by the trust in the calculation of that
10 individual's adjusted capital gain, if such gain or loss is allocated
11 to this state under section 10 of this act.

12 NEW SECTION. **Sec. 6.** EXEMPTIONS. This chapter does not apply to
13 the sale or exchange of:

14 (1) All real estate transferred by deed, real estate contract,
15 judgment, or other lawful instruments that transfer title to real
16 property and are filed as a public record with the counties where
17 real property is located;

18 (2) (a) An interest in a privately held entity only to the extent
19 that any long-term capital gain or loss from such sale or exchange is
20 directly attributable to the real estate owned directly by such
21 entity.

22 (b) (i) Except as provided in (b) (ii) and (iii) of this
23 subsection, the value of the exemption under this subsection is equal
24 to the fair market value of the real estate owned directly by the
25 entity less its basis, at the time that the sale or exchange of the
26 individual's interest occurs, multiplied by the percentage of the
27 ownership interest in the entity which is sold or exchanged by the
28 individual.

29 (ii) If a sale or exchange of an interest in an entity results in
30 an amount directly attributable to real property and that is
31 considered as an amount realized from the sale or exchange of
32 property other than a capital asset under Title 26 U.S.C. Sec. 751 of
33 the internal revenue code, such amount must not be considered in the
34 calculation of an individual's exemption amount under (b) (i) of this
35 subsection (2).

36 (iii) Real estate not owned directly by the entity in which an
37 individual is selling or exchanging the individual's interest must
38 not be considered in the calculation of an individual's exemption
39 amount under (b) (i) of this subsection (2).

1 (c) Fair market value of real estate may be established by a fair
2 market appraisal of the real estate or an allocation of assets by the
3 seller and the buyer made under Title 26 U.S.C. Sec. 1060 of the
4 internal revenue code, as amended. However, the department is not
5 bound by the parties' agreement as to the allocation of assets,
6 allocation of consideration, or fair market value, if such
7 allocations or fair market value do not reflect the fair market value
8 of the real estate. The assessed value of the real estate for
9 property tax purposes may be used to determine the fair market value
10 of the real estate, if the assessed value is current as of the date
11 of the sale or exchange of the ownership interest in the entity
12 owning the real estate and the department determines that this method
13 is reasonable under the circumstances.

14 (d) The value of the exemption under this subsection (2) may not
15 exceed the individual's long-term capital gain or loss from the sale
16 or exchange of an interest in an entity for which the individual is
17 claiming this exemption;

18 (3) Assets held under a retirement savings account under Title 26
19 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered
20 annuity or custodial account described in Title 26 U.S.C. Sec. 403(b)
21 of the internal revenue code, a deferred compensation plan under
22 Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an
23 individual retirement account or individual retirement annuity
24 described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a
25 Roth individual retirement account described in Title 26 U.S.C. Sec.
26 408A of the internal revenue code, an employee defined contribution
27 program, an employee defined benefit plan, or a similar retirement
28 savings vehicle;

29 (4) Assets pursuant to, or under imminent threat of, condemnation
30 proceedings by the United States, the state or any of its political
31 subdivisions, or a municipal corporation;

32 (5) Cattle, horses, or breeding livestock if for the taxable year
33 of the sale or exchange, more than 50 percent of the taxpayer's gross
34 income for the taxable year, including from the sale or exchange of
35 capital assets, is from farming or ranching;

36 (6) Property depreciable under Title 26 U.S.C. Sec. 167(a)(1) of
37 the internal revenue code, or that qualifies for expensing under
38 Title 26 U.S.C. Sec. 179 of the internal revenue code;

39 (7) Timber, timberland, or the receipt of Washington capital
40 gains as dividends and distributions from real estate investment

1 trusts derived from gains from the sale or exchange of timber and
2 timberland. "Timber" means forest trees, standing or down, on
3 privately or publicly owned land, and includes Christmas trees and
4 short-rotation hardwoods. The sale or exchange of timber includes the
5 cutting or disposal of timber qualifying for capital gains treatment
6 under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue
7 code;

8 (8) (a) Commercial fishing privileges.

9 (b) For the purposes of this subsection (8), "commercial fishing
10 privilege" means a right, held by a seafood harvester or processor,
11 to participate in a limited access fishery. "Commercial fishing
12 privilege" includes and is limited to:

13 (i) In the case of federally managed fisheries, quota and access
14 to fisheries assigned pursuant to individual fishing quota programs,
15 limited entry and catch share programs, cooperative fishing
16 management agreements, or similar arrangements; and

17 (ii) In the case of state-managed fisheries, quota and access to
18 fisheries assigned under fishery permits, limited entry and catch
19 share programs, or similar arrangements; and

20 (9) Goodwill received from the sale of an auto dealership
21 licensed under chapter 46.70 RCW whose activities are subject to
22 chapter 46.96 RCW.

23 NEW SECTION. **Sec. 7.** DEDUCTIONS. In computing tax, there may be
24 deducted from the measure of tax:

25 (1) A standard deduction of \$250,000 per individual, or in the
26 case of spouses or domestic partners, their combined standard
27 deduction is limited to \$250,000, regardless of whether they file
28 joint or separate returns. The amount of the standard deduction shall
29 be adjusted pursuant to section 16 of this act;

30 (2) Amounts that the state is prohibited from taxing under the
31 Constitution of this state or the Constitution or laws of the United
32 States; and

33 (3) The amount of adjusted capital gain derived from the sale or
34 transfer of the taxpayer's interest in a qualified family-owned small
35 business pursuant to section 8 of this act.

36 NEW SECTION. **Sec. 8.** QUALIFIED FAMILY-OWNED SMALL BUSINESS
37 DEDUCTION. (1) In computing tax under this chapter for a taxable
38 year, a taxpayer may deduct from the measure of tax the amount of

1 adjusted capital gain derived in the taxable year from the sale of
2 substantially all of the fair market value of the assets of, or the
3 transfer of substantially all of the taxpayer's interest in, a
4 qualified family-owned small business, to the extent that such
5 adjusted capital gain would otherwise be included in the taxpayer's
6 Washington capital gains.

7 (2) For purposes of this section, the following definitions
8 apply:

9 (a) "Assets" means real property and personal property, including
10 tangible personal property and intangible property.

11 (b) "Family" means the same as "member of the family" in RCW
12 83.100.046.

13 (c) (i) "Materially participated" means an individual was involved
14 in the operation of a business on a basis that is regular,
15 continuous, and substantial.

16 (ii) The term "materially participated" must be interpreted
17 consistently with the applicable treasury regulations for Title 26
18 U.S.C. Sec. 469 of the internal revenue code, to the extent that such
19 interpretation does not conflict with any provision of this section.

20 (d) "Qualified family-owned small business" means a business:

21 (i) In which the taxpayer held a qualifying interest for at least
22 eight years immediately preceding the sale or transfer described in
23 subsection (1) of this section;

24 (ii) In which either the taxpayer or members of the taxpayer's
25 family, or both, materially participated in operating the business
26 for at least five of the eight years immediately preceding the sale
27 or transfer described in subsection (1) of this section, unless such
28 sale or transfer was to a qualified heir; and

29 (iii) That had worldwide gross revenue of \$10,000,000 or less in
30 the 12-month period immediately preceding the sale or transfer
31 described in subsection (1) of this section. The worldwide gross
32 revenue amount under this subsection (2)(d)(iii) shall be adjusted
33 annually as provided in section 16 of this act.

34 (e) "Qualified heir" means a member of the taxpayer's family.

35 (f) "Qualifying interest" means:

36 (i) An interest as a proprietor in a business carried on as a
37 sole proprietorship; or

38 (ii) An interest in a business if at least:

1 (A) Fifty percent of the business is owned, directly or
2 indirectly, by any combination of the taxpayer or members of the
3 taxpayer's family, or both;

4 (B) Thirty percent of the business is owned, directly or
5 indirectly, by any combination of the taxpayer or members of the
6 taxpayer's family, or both, and at least:

7 (I) Seventy percent of the business is owned, directly or
8 indirectly, by members of two families; or

9 (II) Ninety percent of the business is owned, directly or
10 indirectly, by members of three families.

11 (g) "Substantially all" means at least 90 percent.

12 NEW SECTION. **Sec. 9.** OTHER TAXES. The tax imposed under this
13 chapter is in addition to any other taxes imposed by the state or any
14 of its political subdivisions, or a municipal corporation, with
15 respect to the same sale or exchange, including the taxes imposed in,
16 or under the authority of, chapter 82.04, 82.08, 82.12, 82.14, 82.45,
17 or 82.46 RCW.

18 NEW SECTION. **Sec. 10.** ALLOCATION OF GAINS AND LOSSES. (1) For
19 purposes of the tax imposed under this chapter, long-term capital
20 gains and losses are allocated to Washington as follows:

21 (a) Long-term capital gains or losses from the sale or exchange
22 of tangible personal property are allocated to this state if the
23 property was located in this state at the time of the sale or
24 exchange. Long-term capital gains or losses from the sale or exchange
25 of tangible personal property are also allocated to this state even
26 though the property was not located in this state at the time of the
27 sale or exchange if:

28 (i) The property was located in the state at any time during the
29 taxable year in which the sale or exchange occurred or the
30 immediately preceding taxable year;

31 (ii) The taxpayer was a resident at the time the sale or exchange
32 occurred; and

33 (iii) The taxpayer is not subject to the payment of an income or
34 excise tax legally imposed on the long-term capital gains or losses
35 by another taxing jurisdiction.

36 (b) Long-term capital gains or losses derived from intangible
37 personal property are allocated to this state if the taxpayer was
38 domiciled in this state at the time the sale or exchange occurred.

1 (2) (a) A credit is allowed against the tax imposed in section 5
2 of this act equal to the amount of any legally imposed income or
3 excise tax paid by the taxpayer to another taxing jurisdiction on
4 capital gains derived from capital assets within the other taxing
5 jurisdiction to the extent such capital gains are included in the
6 taxpayer's Washington capital gains. The amount of credit under this
7 subsection may not exceed the total amount of tax due under this
8 chapter, and there is no carryback or carryforward of any unused
9 credits.

10 (b) As used in this section, "taxing jurisdiction" means a state
11 of the United States other than the state of Washington, the District
12 of Columbia, the Commonwealth of Puerto Rico, any territory or
13 possession of the United States, or any foreign country or political
14 subdivision of a foreign country.

15 NEW SECTION. **Sec. 11.** FILING OF RETURNS. (1) (a) Except as
16 otherwise provided in this section or RCW 82.32.080, taxpayers owing
17 tax under this chapter must file, on forms prescribed by the
18 department, a return with the department on or before the date the
19 taxpayer's federal income tax return for the taxable year is required
20 to be filed.

21 (b) (i) Except as provided in (b) (ii) of this subsection (1),
22 returns and all supporting documents must be filed electronically
23 using the department's online tax filing service or other method of
24 electronic reporting as the department may authorize.

25 (ii) The department may waive the electronic filing requirement
26 in this subsection for good cause as provided in RCW 82.32.080.

27 (2) In addition to the Washington return required to be filed
28 under subsection (1) of this section, taxpayers owing tax under this
29 chapter must file with the department on or before the date the
30 federal return is required to be filed a copy of the federal income
31 tax return along with all schedules and supporting documentation.

32 (3) Each taxpayer required to file a return under this section
33 must, without assessment, notice, or demand, pay any tax due thereon
34 to the department on or before the date fixed for the filing of the
35 return, regardless of any filing extension. The tax must be paid by
36 electronic funds transfer as defined in RCW 82.32.085 or by other
37 forms of electronic payment as may be authorized by the department.
38 The department may waive the electronic payment requirement for good
39 cause as provided in RCW 82.32.080. If any tax due under this chapter

1 is not paid by the due date, interest and penalties as provided in
2 chapter 82.32 RCW apply to the deficiency.

3 (4) (a) In addition to the Washington return required to be filed
4 under subsection (1) of this section, an individual claiming an
5 exemption under section 6(2) of this act must file documentation
6 substantiating the following:

7 (i) The fair market value and basis of the real estate held
8 directly by the entity in which the interest was sold or exchanged;

9 (ii) The percentage of the ownership interest sold or exchanged
10 in the entity owning real estate; and

11 (iii) The methodology, if any, established by the entity in which
12 the interest was sold or exchanged, for allocating gains or losses to
13 the owners, partners, or shareholders of the entity from the sale of
14 real estate.

15 (b) The department may by rule prescribe additional filing
16 requirements to substantiate an individual's claim for an exemption
17 under section 6(2) of this act. Prior to adopting any rule under this
18 subsection (4)(b), the department must allow for an opportunity for
19 participation by interested parties in the rule-making process in
20 accordance with the administrative procedure act, chapter 34.05 RCW.

21 (5) The department may by rule require that certain individuals
22 and other persons file, at times and on forms prescribed by the
23 department, informational returns for any period.

24 (6) If a taxpayer has obtained an extension of time for filing
25 the federal income tax return for the taxable year, the taxpayer is
26 entitled to the same extension of time for filing the return required
27 under this section if the taxpayer provides the department, before
28 the due date provided in subsection (1) of this section, the
29 extension confirmation number or other evidence satisfactory to the
30 department confirming the federal extension. An extension under this
31 subsection for the filing of a return under this chapter is not an
32 extension of time to pay the tax due under this chapter.

33 (7) (a) If any return due under subsection (1) of this section,
34 along with a copy of the federal income tax return, is not filed with
35 the department by the due date or any extension granted by the
36 department, the department must assess a penalty in the amount of
37 five percent of the tax due for the taxable year covered by the
38 return for each month or portion of a month that the return remains
39 unfiled. The total penalty assessed under this subsection may not
40 exceed 25 percent of the tax due for the taxable year covered by the

1 delinquent return. The penalty under this subsection is in addition
2 to any penalties assessed for the late payment of any tax due on the
3 return.

4 (b) The department must waive or cancel the penalty imposed under
5 this subsection if:

6 (i) The department is persuaded that the taxpayer's failure to
7 file the return by the due date was due to circumstances beyond the
8 taxpayer's control; or

9 (ii) The taxpayer has not been delinquent in filing any return
10 due under this section during the preceding five calendar years.

11 NEW SECTION. **Sec. 12.** JOINT FILERS. (1) If the federal income
12 tax liabilities of both spouses are determined on a joint federal
13 return for the taxable year, they must file a joint return under this
14 chapter.

15 (2) Except as otherwise provided in this subsection, if the
16 federal income tax liability of either spouse is determined on a
17 separate federal return for the taxable year, they must file separate
18 returns under this chapter. State registered domestic partners may
19 file a joint return under this chapter even if they filed separate
20 federal returns for the taxable year.

21 (3) The liability for tax due under this chapter of each spouse
22 or state registered domestic partner is joint and several, unless:

23 (a) The spouse is relieved of liability for federal tax purposes
24 as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue
25 code; or

26 (b) The department determines that the domestic partner qualifies
27 for relief as provided by rule of the department. Such rule, to the
28 extent possible without being inconsistent with this chapter, must
29 follow Title 26 U.S.C. Sec. 6015.

30 NEW SECTION. **Sec. 13.** ADMINISTRATION OF TAXES. Except as
31 otherwise provided by law and to the extent not inconsistent with the
32 provisions of this chapter, chapter 82.32 RCW applies to the
33 administration of taxes imposed under this chapter.

34 NEW SECTION. **Sec. 14.** CRIMINAL ACTIONS. (1) Any taxpayer who
35 knowingly attempts to evade payment of the tax imposed under this
36 chapter is guilty of a class C felony as provided in chapter 9A.20
37 RCW.

1 (2) Any taxpayer who knowingly fails to pay tax, make returns,
2 keep records, or supply information, as required under this title, is
3 guilty of a gross misdemeanor as provided in chapter 9A.20 RCW.

4 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.04
5 RCW to read as follows:

6 BUSINESS AND OCCUPATION TAX CREDIT. (1) To avoid taxing the same
7 sale or exchange under both the business and occupation tax and
8 capital gains tax, a credit is allowed against taxes due under this
9 chapter on a sale or exchange that is also subject to the tax imposed
10 under section 5 of this act. The credit is equal to the amount of tax
11 imposed under this chapter on such sale or exchange.

12 (2) The credit may be used against any tax due under this
13 chapter.

14 (3) The credit under this section is earned in regards to a sale
15 or exchange, and may be claimed against taxes due under this chapter,
16 for the tax reporting period in which the sale or exchange occurred.
17 The credit claimed for a tax reporting period may not exceed the tax
18 otherwise due under this chapter for that tax reporting period.
19 Unused credit may not be carried forward or backward to another tax
20 reporting period. No refunds may be granted for unused credit under
21 this section.

22 (4) The department must apply the credit first to taxes deposited
23 into the general fund. If any remaining credit reduces the amount of
24 taxes deposited into the workforce education investment account
25 established in RCW 43.79.195, the department must notify the state
26 treasurer of such amounts monthly, and the state treasurer must
27 transfer those amounts from the general fund to the workforce
28 education investment account.

29 NEW SECTION. **Sec. 16.** ANNUAL ADJUSTMENTS. (1) Beginning
30 December 2023 and each December thereafter, the department must
31 adjust the applicable amounts by multiplying the current applicable
32 amounts by one plus the percentage by which the most current consumer
33 price index available on December 1st of the current year exceeds the
34 consumer price index for the prior 12-month period, and rounding the
35 result to the nearest \$1,000. If an adjustment under this subsection
36 (1) would reduce the applicable amounts, the department must not
37 adjust the applicable amounts for use in the following year. The
38 department must publish the adjusted applicable amounts on its public

1 website by December 31st. The adjusted applicable amounts calculated
2 under this subsection (1) take effect for taxes due and distributions
3 made, as the case may be, in the following calendar year.

4 (2) For purposes of this section, the following definitions
5 apply:

6 (a) "Applicable amounts" means:

7 (i) The standard deduction amount in sections 4(13) and 7(1) of
8 this act; and

9 (ii) The worldwide gross revenue amount under section 8 of this
10 act.

11 (b) "Consumer price index" means the consumer price index for all
12 urban consumers, all items, for the Seattle area as calculated by the
13 United States bureau of labor statistics or its successor agency.

14 (c) "Seattle area" means the geographic area sample that includes
15 Seattle and surrounding areas.

16 NEW SECTION. **Sec. 17.** The provisions of RCW 82.32.805 and
17 82.32.808 do not apply to this act.

18 NEW SECTION. **Sec. 18.** Sections 1, 2, 4 through 14, and 16 of
19 this act constitute a new chapter in Title 82 RCW.

20 NEW SECTION. **Sec. 19.** (1) If a court of competent jurisdiction,
21 in a final judgment not subject to appeal, adjudges section 5 of this
22 act unconstitutional, or otherwise invalid, in its entirety, section
23 15 of this act is null and void in its entirety. Any credits
24 previously claimed under section 15 of this act must be repaid within
25 30 days of the department of revenue's notice to the taxpayer of the
26 amount due.

27 (2) If the taxpayer fails to repay the credit by the due date,
28 interest and penalties as provided in chapter 82.32 RCW apply to the
29 deficiency.

30 NEW SECTION. **Sec. 20.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected."

34 Correct the title.

EFFECT: Directs the proceeds from the tax imposed on the sale or exchange of long-term capital assets to be deposited into the education legacy trust account. Provides clarifications regarding the exemptions applying to the sale of real estate. Provides an exemption for commercial fishing privileges. Updates the intent section. Reorders some sections and adds section captions. Clarifies that the tax imposed is necessary for the support of state government and its existing institutions. Clarifies the application of a standard deduction to individuals, spouses, and registered domestic partners. Amends the Education Legacy Trust Account to permanently allow funds to be used for early learning and child care programs.

--- END ---