

This brief is intended to provide background information related to the Education Legacy Trust Account (ELTA) and how the capital gains tax and other revenues deposited into ELTA are used to support early learning and other educational priorities in Washington state.

**BACKGROUND:** ELTA was established in 2005. Originally funded with portions of estate tax and cigarette taxes, the account was created to support common schools and to expand access to higher education.<sup>1</sup> The Legislature has added and removed revenue sources over the years, and added early learning and child care as temporary allowable uses in the 2015-17, 2017-19, and 2019-21 Biennia, before permanently adding these uses through the Fair Start for Kids Act in 2021.

The capital gains tax is a 7 percent excise tax imposed by the state on gains over \$262,000 generated from the sale or exchange of long-term capital assets.<sup>2</sup> This tax was authorized in 2021 and imposed beginning January 1, 2022, with capital gains tax revenues first “booked” by the state in fiscal year (FY) 2023.<sup>3</sup> The revenue from the capital gains tax is distributed according to a formula set in statute, with the first \$500 million per fiscal year deposited into ELTA, plus an inflationary increase beginning in calendar year (CY) 2024. Any capital gains tax revenue that exceeds the ELTA deposit is deposited into the Common School Construction Account (CSCA), a capital budget fund source.<sup>4</sup>

**CAPITAL GAINS TAX REVENUE IN THE 2024 SUPPLEMENTAL BUDGET:** The February 2024 Economic and Revenue Forecast Council (ERFC) forecast, which forms the basis for the 2024 Supplemental Budget (the state’s most recent budget), assumed actual capital gains tax revenue of \$846.8 million in FY2023, and projected a total of \$1.5 billion in capital gains revenue for the 23-25 Biennium. The operating budget assumed \$1 billion for deposit into ELTA, with the remainder designated for school construction. See Exhibit 1 below for the amounts received in the 21-23 Biennium and projected in the February 2024 forecast.

Exhibit 1. Capital Gains Tax Revenue (\$ millions). Actual (21-23 Biennium) and February Forecast (23-25 Biennium)<sup>5</sup>

	FY22	FY23	FY24	FY25
Education Legacy Trust Account	-	500.0	524.0	537.0
Common Schools Construction Account	-	346.8	149.0	295.9*
February Forecast	-	846.8	673.0	832.9

*\*Not assumed in the 2024 Supplemental capital budget*

<sup>1</sup> ELTA was created in an omnibus revenue bill, HB 2314 (2005) and funded with portions of an increase in the cigarette tax.

<sup>2</sup> Excise taxes are taxes imposed on certain goods, services, and activities. In the case of the capital gains tax, the activity subject to tax is the exchange of long-term capital assets such as stocks, bonds, investments, and other assets as defined under federal code. The standard and charitable deduction thresholds were \$250,000 in 2022 and are adjusted for inflation per RCW 82.87.150. The tax year 2023 threshold is \$262,000, per the Department of Revenue. <https://dor.wa.gov/taxes-rates/other-taxes/capital-gains-tax>

<sup>3</sup> FY23 extended from July 2022 to June 2023; FY24 from July 2023 to June 2024, and so on.

<sup>4</sup> RCW 82.87.030 contains the statutory formula for distribution of capital gains tax revenue.

<sup>5</sup> Sources: Legislative Evaluation & Accountability Program reports, the Economic and Revenue Forecast Council.

The Legislature took different approaches to the forecast in the operating and capital 2024 Supplemental budgets. The ERFC forecasted \$673 million in capital gains revenues in FY24 and \$832.9 million in FY25. Of that, the operating budget assumes the full amounts of revenue both years in ELTA, but the capital budget reflects a more conservative approach, assuming \$149 million in revenue for common schools in FY24, and nothing in FY25. Because of this, there will be different impacts to the two funds as the revenue forecast is revised.<sup>6</sup>

**CAPITAL GAINS TAX REVENUE RECEIVED TO DATE:** According to the ERFC’s June 2024 revenue review, capital gains tax revenue is over \$300 million short of what was assumed in February for the 23-25 Biennium, and over \$900 million short of the February forecast for the 25-27 Biennium.<sup>7</sup> The revised forecast for FY2023 is due to late filings and refunds, and the even more substantial downward revision in FY2024 and beyond may be due to taxpayers adjusting their behavior to adapt to the new tax.<sup>8</sup> Except for the first year of the tax, the June 2024 forecast is underperforming the fiscal note for the capital gains tax authorizing legislation, which projected \$527 million in FY23 with inflationary increases from there.<sup>9</sup> See Exhibit 2 below for a comparison of the original fiscal note with the February and June 2024 forecasts.

Exhibit 2. Capital Gains Tax Revenue (\$ millions). SSB 5096 Fiscal Note, Feb 2024 and June 2024 Forecasts<sup>10</sup>

Fiscal Year	ESSB 5096 Fiscal Note	Feb 2024 Forecast	June 2024 Forecast
2022	-	-	-
2023	\$527	\$847	
2024	\$560	\$673	\$363
2025	\$602	\$833	\$374
2026	\$620	\$873	\$398
2027	\$638	\$919	\$422

In the 23-25 Biennium, the revised forecast means **\$324 million less for ELTA** than what the 2024 Supplemental Operating budget assumed, though this shortfall is offset by increased forecasts for other sources of revenue.<sup>11</sup>

<sup>6</sup> Legislative Evaluation & Accountability Program reports, the Economic and Revenue Forecast Council. Also “Capital gains tax revenues for tax year 2023 dropped by almost half,” by Emily Makings for the Washington Research Council. May 21, 2024. <https://researchcouncil.org/capital-gains-tax-revenues-for-tax-year-2023-dropped-by-almost-half/>.

<sup>7</sup> Page 21, slide 21 of the Economic and Revenue Forecast Council June 2024 Revenue Review. <https://erfc.wa.gov/sites/default/files/public/documents/meetings/rev20240626.pdf>.

<sup>8</sup> “Capital gains tax revenues for tax year 2023 dropped by almost half,” by Emily Makings for the Washington Research Council. May 21, 2024. <https://researchcouncil.org/capital-gains-tax-revenues-for-tax-year-2023-dropped-by-almost-half/>. The DOR reported actuals of \$786 million in 2023 and \$433 million in 2024. In the June 26, 2024, ERFC June Revenue Forecast Review meeting, Dr. Dave Reich stated that the revised forecast was due to “taxpayer behavior.”

<sup>9</sup> Fiscal note for capital gains tax authorizing legislation, ESSB 5096 (2021). <https://fnspublic.ofm.wa.gov/FNSPublicSearch/GetPDF?packageID=63363>.

<sup>10</sup> Sources: the Economic and Revenue Forecast Council, ESSB 5096 PL fiscal note, Washington Research Council (citing DOR actual collections).

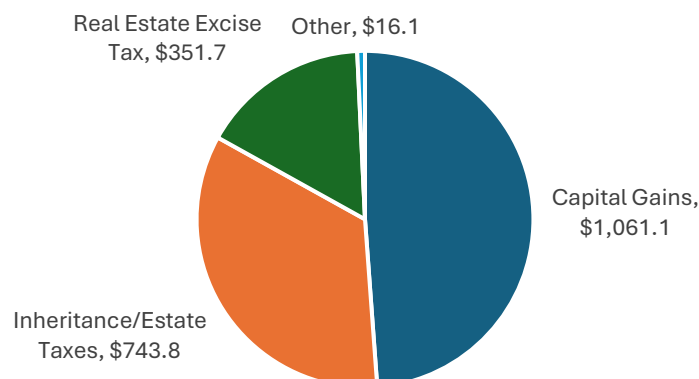
<sup>11</sup> Page 21, slide 22 of the Economic and Revenue Forecast Council June 2024 Revenue Review. <https://erfc.wa.gov/sites/default/files/public/documents/meetings/rev20240626.pdf>.

**OTHER REVENUE SOURCES IN THE EDUCATION LEGACY TRUST ACCOUNT:** The capital gains tax is only one source of revenue in the Education Legacy Trust Account. The 23-25 Biennial Budget assumes the full \$500+ million annual statutory deposit of capital gains revenues, approximately half of the total ELTA funding. The other two sources of funding are **estate taxes**, forecasted to make up about one third of funding, and the **real estate excise tax (REET)**, which were projected to comprise about 16 percent of funding. These three revenue sources are currently the only statutorily required sources of funding for the account. See Exhibit 3 below for a chart of ELTA revenue sources in the 23-25 Biennial Budget.

The estate tax and REET forecasts were higher in June than in February 2024, partially offsetting the declines in capital gains tax revenue. Still, the June forecast projects that ELTA will be **about \$188 million short of the forecast in the 23-25 Biennium, and \$119 million short in the 25-27 Biennium.**<sup>12</sup>

In response to the shortfall, the Legislature could reduce spending from or deposit additional funding into the account through budget actions or, more permanently, through statutory changes in the 2025 Legislative Session or beyond. See the Appendix for a chart showing ELTA appropriations and funding sources since the account was created.

Exhibit 3. ELTA Projected Revenues, 23-25 Biennium (\$ millions). Based on the February 2024 forecast



**USES OF ELTA FUNDING:** In the 23-25 Budget, ELTA is budgeted to provide \$2.6 billion in funding for public schools, higher education, and investments in the early learning and child care space. More than \$1.8 billion, or 70 percent of this funding, is for public schools, and of the \$1.8 billion, almost 90 percent is K-12 general apportionment (basic education) funding. DCYF and higher education programs receive about 15 percent of funds each. The 23-25 Budget represented a large increase in the appropriation from ELTA for early learning programs, which were only about 1 percent of ELTA in 21-23.<sup>13</sup> (See Exhibit 4 for the breakout by agency or program area.)

<sup>12</sup> The June forecast assumes that no capital gains tax revenue will be available for deposit into the Common School Construction Account.

<sup>13</sup> There were no changes to the ELTA appropriation for DCYF in the 2024 Supplemental budget.

Exhibit 4. ELTA Appropriations by Program Area in the 21-23 and 23-25 Budgets (\$ millions)<sup>14</sup>

	21-23	23-25
Public Schools	1,663.8	1,830.1
Department of Children, Youth, and Families	28.1	386.1
Higher Education	369.8	378.4
Health Care Authority	-	0.4
<b>Total</b>	<b>2,061.7</b>	<b>2,595.0</b>

There is no statutory formula for distribution of ELTA revenues; appropriation occurs at the discretion of the Legislature. However, there are requirements in statute – and in the case of public schools, in the Constitution – for the state to provide many of the services that are funded in part by ELTA. For example, the state is required to fund basic education, but state law does not specify the specific funding source. Currently, ELTA supports early learning primarily by funding portions of the Fair Start for Kids Act including enhancements to Working Connections Child Care and ECEAP, many of which were initially funded with federal stimulus dollars.

In the 2023-25 budget, DCYF’s \$386 million ELTA appropriation is distributed across a number of programs, but the bulk of funding (a combined 86 percent) goes to subsidy child care (called Working Connections Child Care) and ECEAP (the Early Childhood Education and Assistance Program). The funds are budgeted toward the expansion of income eligibility and the reduction of family copayments for Working Connections, child care provider rate increases, an infant rate enhancement, and other costs to DCYF for implementing the Fair Start for Kids Act.

For ECEAP, ELTA pays for additional slots and a provider rate increase added in the 21-23 Biennium. As shown in Exhibit 5 below, ELTA also includes funding for the Early Childhood Intervention and Prevention Services (ECLIPSE) and Early ECEAP for children 0-3. Provider supports include mental health consultation supports, equity grants, dual language grants, language access programs, facilitated playgroups, and trauma-informed care supports, all designed to support providers in offering quality care.

Exhibit 5. 23-25 Revised ELTA Appropriation Subtotals for DCYF (\$ millions)<sup>15</sup>

	FY24	FY25	23-25 Total
Working Connections Child Care	\$101.6	\$139.0	<b>\$240.6</b>
ECEAP	\$45.9	\$45.9	<b>\$91.8</b>
ECLIPSE	\$4.8	\$4.8	<b>\$9.6</b>
Early ECEAP	\$2.2	\$2.2	<b>\$4.4</b>
Provider Supports	\$14.2	\$19.5	<b>\$33.8</b>
Other	\$3.1	\$3.2	<b>\$6.3</b>
<b>Total</b>	<b>\$171.80</b>	<b>\$214.66</b>	<b>\$386.5</b>

<sup>14</sup> Legislative Evaluation and Accountability Program (LEAP) report.

<sup>15</sup> Start Early analysis of DCYF budget documents and the 2024 Supplemental Budget.

ELTA is the second largest source of state funding in the DYCF budget for early learning, and funds recent expansions or investments the state has made in early learning and child care. See the previous [Start Early summary](#) of investments made using federal stimulus dollars in the 21-23 Biennium. With stimulus dollars expiring, the Legislature made these investments ongoing in part with ELTA funds, leading to the increase in the share of ELTA appropriated to early learning (from 1% of the 21-23 Budget to 15% of the 23-25 Budget).

**OTHER CONSIDERATIONS FOR THE ELTA:** As the state enters a new budget process for the 25-27 Biennium, budget writers face important choices about ELTA. ELTA is a “near-general fund” account, which means that in general, over the biennium, the appropriation must balance to forecasted revenues.<sup>16</sup> If the revenue going into ELTA continues to decline from budgeted amounts, then budget writers will need to add more revenues to the account or reduce the appropriation from the account. Reducing ELTA appropriation does not necessarily mean that programming will be cut; the Legislature may instead choose to pay for reduced expenditures with another source of funds.

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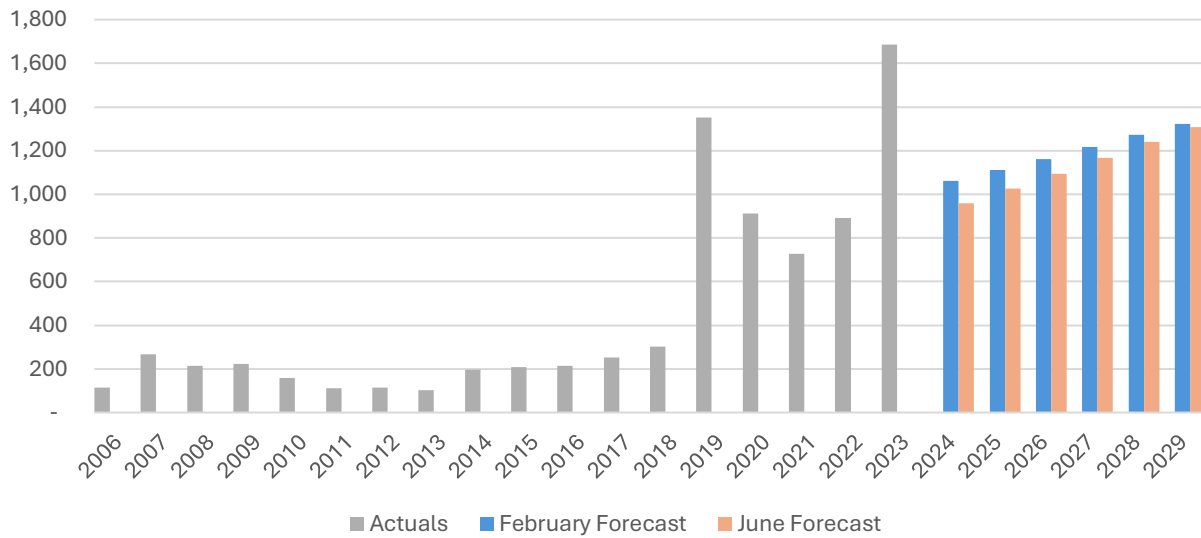
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<sup>16</sup> Legislative balanced budget requirements for near general funds subject to outlook are in [RCW 43.88.055](#). In practice, expenditure appropriations may not always exactly balance to the revenue forecast because budget writers may assume other resources such as beginning fund balances as well.

## APPENDIX

Education Legacy Trust Account Revenues, Actuals (2006 – 2023) and Forecasts  
Sources: Economic and Revenue Forecast Council; Start Early analysis of RCW and prior budgets.

*Over the years, the Legislature has added and removed various ELTA revenue sources. Notable recent changes or developments: in 2019, there was a one-time deposit of \$935 million in property taxes. In 2020, the real estate excise tax (REET) rate and the distribution of REET to ELTA were increased.<sup>17</sup> In 2023, there was a windfall in estate taxes due to the processing of a small number of substantial estates.*



<sup>17</sup> "A Legislative Guide to Washington's Tax Structure," Senate Ways and Means Committee, 2021. Property tax information, page 54. REET information, page 16. Accessed at: <https://www.wastatepta.org/wp-content/uploads/2021/07/2021-Guide-to-Washington-State-Tax-Structure.pdf>.