

1 **HB 2958** - H AMD

2 By Representative ____

3 Strike everything after the enacting clause and insert:

4 "**Sec. 1.** RCW 11.02.005 and 2001 c 320 s 1 are each amended to
5 read as follows:

6 When used in this title, unless otherwise required from the
7 context:

8 (1) "Personal representative" includes executor, administrator,
9 special administrator, and guardian or limited guardian and special
10 representative.

11 (2) "Net estate" refers to the real and personal property of a
12 decedent exclusive of homestead rights, exempt property, the family
13 allowance and enforceable claims against, and debts of, the deceased or
14 the estate.

15 (3) "Representation" refers to a method of determining
16 distribution in which the takers are in unequal degrees of kinship with
17 respect to the intestate, and is accomplished as follows: After first
18 determining who, of those entitled to share in the estate, are in the
19 nearest degree of kinship, the estate is divided into equal shares, the
20 number of shares being the sum of the number of persons who survive the
21 intestate who are in the nearest degree of kinship and the number of
22 persons in the same degree of kinship who died before the intestate but
23 who left issue surviving the intestate; each share of a deceased person
24 in the nearest degree shall be divided among those of the deceased
25 person's issue who survive the intestate and have no ancestor then
26 living who is in the line of relationship between them and the
27 intestate, those more remote in degree taking together the share which
28 their ancestor would have taken had he or she survived the intestate.
29 Posthumous children are considered as living at the death of their
30 parent.

31 (4) "Issue" includes all the lawful lineal descendants of the
32 ancestor and all lawfully adopted children.

33 (5) "Degree of kinship" means the degree of kinship as computed
34 according to the rules of the civil law; that is, by counting upward
35 from the intestate to the nearest common ancestor and then downward to
36 the relative, the degree of kinship being the sum of these two counts.

1 (6) "Heirs" denotes those persons, including the surviving spouse,
2 who are entitled under the statutes of intestate succession to the real
3 and personal property of a decedent on the decedent's death intestate.

4 (7) "Real estate" includes, except as otherwise specifically
5 provided herein, all lands, tenements, and hereditaments, and all
6 rights thereto, and all interest therein possessed and claimed in fee
7 simple, or for the life of a third person.

8 (8) "Will" means an instrument validly executed as required by RCW
9 11.12.020.

10 (9) "Codicil" means a will that modifies or partially revokes an
11 existing earlier will. A codicil need not refer to or be attached to
12 the earlier will.

13 (10) "Guardian" or "limited guardian" means a personal
14 representative of the person or estate of an incompetent or disabled
15 person as defined in RCW 11.88.010 and the term may be used in lieu of
16 "personal representative" wherever required by context.

17 (11) "Administrator" means a personal representative of the estate
18 of a decedent and the term may be used in lieu of "personal
19 representative" wherever required by context.

20 (12) "Executor" means a personal representative of the estate of
21 a decedent appointed by will and the term may be used in lieu of
22 "personal representative" wherever required by context.

23 (13) "Special administrator" means a personal representative of
24 the estate of a decedent appointed for limited purposes and the term
25 may be used in lieu of "personal representative" wherever required by
26 context.

27 (14) "Trustee" means an original, added, or successor trustee and
28 includes the state, or any agency thereof, when it is acting as the
29 trustee of a trust to which chapter 11.98 RCW applies.

30 (15) "Nonprobate asset" means those rights and interests of a
31 person having beneficial ownership of an asset that pass on the
32 person's death under a written instrument or arrangement other than the
33 person's will. "Nonprobate asset" includes, but is not limited to, a
34 right or interest passing under a joint tenancy with right of
35 survivorship, joint bank account with right of survivorship, payable on
36 death or trust bank account, transfer on death security or security
37 account, deed or conveyance if possession has been postponed until the
38 death of the person, trust of which the person is grantor and that
39 becomes effective or irrevocable only upon the person's death,

1 community property agreement, individual retirement account or bond, or
2 note or other contract the payment or performance of which is affected
3 by the death of the person. "Nonprobate asset" does not include: A
4 payable-on-death provision of a life insurance policy, annuity, or
5 other similar contract, or of an employee benefit plan; a right or
6 interest passing by descent and distribution under chapter 11.04 RCW;
7 a right or interest if, before death, the person has irrevocably
8 transferred the right or interest, the person has waived the power to
9 transfer it or, in the case of contractual arrangement, the person has
10 waived the unilateral right to rescind or modify the arrangement; or a
11 right or interest held by the person solely in a fiduciary capacity.
12 For the definition of "nonprobate asset" relating to revocation of a
13 provision for a former spouse upon dissolution of marriage or
14 declaration of invalidity of marriage, RCW 11.07.010(5) applies. For
15 the definition of "nonprobate asset" relating to revocation of a
16 provision for a former spouse upon dissolution of marriage or
17 declaration of invalidity of marriage, see RCW 11.07.010(5). For the
18 definition of "nonprobate asset" relating to testamentary disposition
19 of nonprobate assets, see RCW 11.11.010(7).

20 (16) "Internal Revenue Code" (~~((means the United States Internal~~
21 ~~Revenue Code of 1986, as amended or renumbered as of January 1, 2001))~~)
22 has the meaning given in RCW 83.100.020.

23 (17) References to "section 2033A" of the Internal Revenue Code in
24 wills, trust agreements, powers of appointment, beneficiary
25 designations, and other instruments governed by or subject to this
26 title shall be deemed to refer to the comparable or corresponding
27 provisions of section 2057 of the Internal Revenue Code, as added by
28 section 6006(b) of the Internal Revenue Service Restructuring Act of
29 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A
30 "exclusion" shall be deemed to mean the section 2057 deduction.

31 Words that import the singular number may also be applied to the
32 plural of persons and things.

33 Words importing the masculine gender only may be extended to
34 females also.

35 **Sec. 2.** RCW 83.100.020 and 2001 c 320 s 15 are each amended to
36 read as follows:

37 As used in this chapter:

38 (1) "Decedent" means a deceased individual;

1 (2) "Department" means the department of revenue, the director of
2 that department, or any employee of the department exercising authority
3 lawfully delegated to him by the director;

4 (3) "Federal credit" means (a) for a transfer, the maximum amount
5 of the credit for state taxes allowed by section 2011 of the Internal
6 Revenue Code; and (b) for a generation-skipping transfer, the maximum
7 amount of the credit for state taxes allowed by section 2604 of the
8 Internal Revenue Code;

9 (4) "Federal return" means any tax return required by chapter 11
10 or 13 of the Internal Revenue Code;

11 (5) "Federal tax" means (a) for a transfer, a tax under chapter 11
12 of the Internal Revenue Code; and (b) for a generation-skipping
13 transfer, the tax under chapter 13 of the Internal Revenue Code;

14 (6) "Generation-skipping transfer" means a "generation-skipping
15 transfer" as defined and used in section 2611 of the Internal Revenue
16 Code;

17 (7) "Gross estate" means "gross estate" as defined and used in
18 section 2031 of the Internal Revenue Code;

19 (8) "Nonresident" means a decedent who was domiciled outside
20 Washington at his death;

21 (9) "Person" means any individual, estate, trust, receiver,
22 cooperative association, club, corporation, company, firm, partnership,
23 joint venture, syndicate, or other entity and, to the extent permitted
24 by law, any federal, state, or other governmental unit or subdivision
25 or agency, department, or instrumentality thereof;

26 (10) "Person required to file the federal return" means any person
27 required to file a return required by chapter 11 or 13 of the Internal
28 Revenue Code, such as the personal representative of an estate; or a
29 transferor, trustee, or beneficiary of a generation-skipping transfer;
30 or a qualified heir with respect to qualified real property, as defined
31 and used in section 2032A(c) of the Internal Revenue Code;

32 (11) "Property" means (a) for a transfer, property included in the
33 gross estate; and (b) for a generation-skipping transfer, all real and
34 personal property subject to the federal tax;

35 (12) "Resident" means a decedent who was domiciled in Washington
36 at time of death;

37 (13) "Transfer" means "transfer" as used in section 2001 of the
38 Internal Revenue Code, or a disposition or cessation of qualified use
39 as defined and used in section 2032A(c) of the Internal Revenue Code;

1 (14) "Trust" means "trust" under Washington law and any
2 arrangement described in section 2652 of the Internal Revenue Code; and

3 (15) "Internal Revenue Code" means, for the purposes of this
4 chapter and RCW 83.110.010, the United States Internal Revenue Code of
5 1986, as amended or renumbered as of ((January)) December 1, 2001.

6 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act apply
7 retroactively to December 1, 2001.

8 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 immediately."

EFFECT: Fully conforms to federal estate tax phase out.