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HOUSE BILL 3078

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State of Washington

61st Legislature

2010 Regular Session

By Representative Rolfes

Read first time 01/22/10. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to marine waters planning and management, including  
2 marine spatial planning; reenacting and amending RCW 43.84.092; adding  
3 a new section to chapter 43.21F RCW; adding a new chapter to Title 43  
4 RCW; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) Native American tribes have depended on the state's marine  
8 waters and its resources for countless generations and continue to do  
9 so for cultural, spiritual, economic, and subsistence purposes.

10 (b) The state has long demonstrated a strong commitment to  
11 protecting the state's marine waters, which are abundant in natural  
12 resources, contain a treasure of biological diversity, and are a source  
13 of multiple uses by the public supporting the economies of nearby  
14 communities as well as the entire state, including: Marine-based  
15 industries and activities such as cargo, fuel, and passenger  
16 transportation; commercial, recreational, and tribal fishing;  
17 aquaculture; seafood processing; tourism; scientific research; and many  
18 related goods and services. These multiple uses as well as new

1 emerging uses, such as renewable ocean energy, constitute a management  
2 challenge for sustaining resources and coordinating state decision  
3 making in a proactive, comprehensive and ecosystem-based manner.

4 (c) Washington's marine waters are part of a west coast-wide large  
5 marine ecosystem known as the California current, and the Puget Sound  
6 and Columbia river estuaries constitute two of the three largest  
7 estuaries that are part of this large marine ecosystem. Puget Sound  
8 and the Columbia river are estuaries of national significance under the  
9 national estuary program, and the outer coast includes the Olympic  
10 national marine sanctuary.

11 (d) Washington is working in cooperation with the states of Oregon  
12 and California and federal agencies on ocean and ocean health  
13 management issues through the west coast governors' agreement on ocean  
14 health, and with the government of British Columbia on shared waters  
15 management issues through the British Columbia-Washington coastal and  
16 ocean task force.

17 (e) Washington has initiated comprehensive management programs to  
18 protect and promote compatible uses of these waters. These include:  
19 The development of a comprehensive ecosystem-based management plan  
20 known as the Puget Sound action agenda; shoreline plans for shorelines  
21 around the state; management plans for state-owned aquatic lands and  
22 their associated waters statewide; and watershed and salmon recovery  
23 management plans in the upland areas of Puget Sound, the coast, and the  
24 Columbia river. Data and data management tools have also been  
25 developed to support these management and planning activities, such as  
26 the coastal atlas managed by the department of ecology and the shore  
27 zone database managed by the department of natural resources.

28 (f) For marine waters specifically, Washington has formed several  
29 mechanisms to improve coordination and management. A legislatively  
30 authorized task force formed by the governor identified priority  
31 recommendations for improving state management of ocean resources  
32 through Washington's ocean action plan in 2006. The governor further  
33 formed an ongoing interagency team that assists the department of  
34 ecology in implementing these recommendations. There is an extensive  
35 network of marine resources committees within Puget Sound and on the  
36 outer coast and the Columbia river to promote and support local  
37 involvement identifying and conducting local priority marine projects  
38 and some have been involved in local planning and management. Through

1 the Olympic coast intergovernmental policy council, the state has also  
2 formalized its working relationship with coastal tribes and the federal  
3 government in the management of the Olympic coast national marine  
4 sanctuary.

5 (g) Reports by the United States commission on oceans policy, the  
6 Pew oceans commission, and the joint oceans commission initiative  
7 recommend the adoption of a national ocean policy under which states  
8 and coastal communities would have a principal role in developing and  
9 implementing ecosystem-based management of marine waters. Acting on  
10 these recommendations, the president of the United States recently  
11 formed an interagency task force charged with developing a national  
12 ocean policy and a framework for marine spatial planning that involves  
13 all governmental levels, including state, tribal, and local  
14 governments. To further develop and implement such a planning  
15 framework, it is anticipated that federal cooperation and support will  
16 be available to coastal states that are engaged in marine and coastal  
17 resource management and planning, including marine spatial planning.

18 (2) The purpose of this chapter is to build upon existing statewide  
19 Puget Sound, coastal, and Columbia river efforts. When resources  
20 become available, the state intends to augment the marine spatial  
21 component of existing plans and to improve the coordination among state  
22 agencies in the development and implementation of marine management  
23 plans.

24 (3) It is also the purpose of this chapter to establish policies to  
25 guide state agencies and local governments when exercising jurisdiction  
26 over proposed uses and activities in these waters. Specifically, in  
27 conducting marine spatial planning, and in augmenting existing marine  
28 management plans with marine spatial planning components, the state  
29 must:

30 (a) Continue to recognize the rights of native American tribes  
31 regarding marine natural resources;

32 (b) Base all planning on sufficient science. This includes  
33 identifying gaps in existing information, recommend a strategy for  
34 acquiring science needed to strengthen marine spatial plans, and create  
35 a process to adjust plans once additional scientific information is  
36 available;

37 (c) Coordinate with all stakeholders, including nongovernmental

1 organizations, that are significantly involved in the collection of  
2 scientific information, ecosystem protection and restoration, or other  
3 activities related to marine spatial planning;

4 (d) Recognize that marine ecosystems span tribal, state, and  
5 international boundaries and that planning has to be coordinated with  
6 all entities with jurisdiction or authority in order to be effective;

7 (e) Establish or further promote an ecosystem-based management  
8 approach including linking marine spatial plans to adjacent nearshore  
9 and upland spatial or ecosystem-based plans;

10 (f) Ensure that all marine spatial plans are linked to measurable  
11 environmental outcomes;

12 (g) Establish a performance management system to monitor  
13 implementation of any new marine spatial plan;

14 (h) Establish an ocean stewardship policy that takes into account  
15 the existing natural, social, cultural, historic, and economic uses;

16 (i) Recognize that commercial, tribal, and recreational fisheries  
17 are an integral part of our state's culture and contribute substantial  
18 economic benefits;

19 (j) Value biodiversity and ecosystem health, and protect special,  
20 sensitive, or unique estuarine and marine life and habitats, including  
21 important spawning, rearing, and migration areas for finfish and  
22 productive shellfish habitats;

23 (k) Integrate this planning with existing plans and ongoing  
24 planning in the same marine waters and provide additional mechanisms  
25 for improving coordination and aligning management;

26 (l) Promote recovery of listed species under state and federal  
27 endangered species acts plans pursuant to those plans; and

28 (m) Fulfill the state's public trust and tribal treaty trust  
29 responsibilities in managing the state's ocean waters in a sustainable  
30 manner for current and future generations.

31 NEW SECTION. **Sec. 2.** The definitions in this section apply  
32 throughout this chapter unless the context clearly requires otherwise.

33 (1) "Aquatic lands" includes all tidelands, shorelands, harbor  
34 areas, and the beds of navigable waters, and must be construed to be  
35 coextensive with the term "aquatic lands" as defined in RCW 79.105.060.

36 (2) "Aquatic lands habitat conservation plan" means a legally

1 binding plan developed by the department of natural resources and  
2 agreed to by the appropriate federal agencies, to protect the habitat  
3 of threatened and endangered species on state-owned aquatic lands.

4 (3) "Exclusive economic zone waters" means marine waters from the  
5 offshore state boundary to the boundary of the exclusive economic zone,  
6 over which the United States government has primary jurisdiction.

7 (4) "Marine counties" includes Clallam, Jefferson, Grays Harbor,  
8 Wahkiakum, San Juan, Whatcom, Skagit, Island, Snohomish, King, Pierce,  
9 Thurston, Mason, Kitsap, and Pacific counties.

10 (5) "Marine ecosystem" means the physical, biological, and chemical  
11 components and processes and their interactions in marine waters and  
12 aquatic lands, including humans.

13 (6) "Marine interagency team" or "team" means the marine  
14 interagency team created under section 3 of this act.

15 (7) "Marine management plan" and "marine waters management plan"  
16 means any plan guiding activities on and uses of the state's marine  
17 waters, and may include a marine spatial plan or element.

18 (8) "Marine resources committees" means those committees organized  
19 by coastal local governments under RCW 36.125.020.

20 (9) "Marine spatial planning" means a public process of analyzing  
21 and allocating the spatial and temporal distribution of human  
22 activities in marine areas to achieve ecological, economic, and social  
23 objectives. Often this type of planning is done to reduce conflicts  
24 among uses, to reduce environmental impacts, to facilitate compatible  
25 uses, to align management decisions, and to meet other objectives  
26 determined by the planning process. Marine spatial planning ensures  
27 environmental protection and facilitates uses that do no harm to the  
28 environment.

29 (10) "Marine waters" means aquatic lands and waters under tidal  
30 influence, including saltwaters and estuaries to the ordinary high  
31 water mark lying within the boundaries of the state. This definition  
32 also includes the Columbia river estuary to the extent of tidal  
33 influence.

34 (11) "Outer coast" has the same meaning as the term "coastal  
35 waters" as defined in RCW 43.143.020.

36 NEW SECTION. **Sec. 3.** (1) The office of the governor shall chair  
37 a marine interagency team that is composed of representatives of each

1 of the agencies in the governor's natural resources cabinet with  
2 management responsibilities for marine waters, including the  
3 independent agencies. A representative from a federal agency with lead  
4 responsibility for marine spatial planning must be invited to serve as  
5 a liaison to the team to help ensure consistency with federal actions  
6 and policy. The team must conduct the assessment authorized in section  
7 4 of this act, assist state agencies under section 5 of this act with  
8 the review and coordination of such planning with their existing and  
9 ongoing planning, and conduct the marine spatial planning authorized in  
10 section 6 of this act.

11 (2) The team may not commence any activities authorized under  
12 sections 5 and 6 of this act until federal, private, or other nonstate  
13 funding is secured specifically for these activities.

14 NEW SECTION. **Sec. 4.** (1) The marine interagency team created in  
15 section 3 of this act must assess and recommend a potential framework  
16 for conducting marine spatial planning and integrating the planning  
17 into existing management plans. The assessment must include, but not  
18 be limited to, recommendations for:

19 (a) Including a marine spatial component into the Puget Sound  
20 action agenda;

21 (b) Integrating marine spatial planning into management efforts for  
22 the Columbia river estuary, working with the state of Oregon; and

23 (c) Developing a marine management plan containing a marine spatial  
24 component for the outer coast, to be incorporated within the  
25 comprehensive marine spatial plan authorized under section 6 of this  
26 act.

27 (2) The assessment authorized under subsection (1) of this section  
28 must also:

29 (a) Summarize existing goals and objectives for: Plans in Puget  
30 Sound, the Columbia river estuary, and the outer coast, including the  
31 Puget Sound action agenda; shoreline plans for shorelines around the  
32 state; management plans for state-owned aquatic lands and their  
33 associated waters statewide; and watershed and salmon recovery  
34 management plans. The state aquatic lands habitat conservation plan,  
35 once approved by the federal government, must also be included;

36 (b) Develop recommended goals and objectives for marine spatial  
37 planning that integrate with existing policies and regulations, and

1 recommend a schedule to develop marine ecosystem health indicators,  
2 considering the views and recommendations of affected stakeholders and  
3 governmental agencies;

4 (c) Summarize how the existing goals and objectives as well as  
5 recommended goals and objectives are consistent or inconsistent with  
6 those adopted by other states for the west coast large marine  
7 ecosystem, and with those goals and objectives articulated in relevant  
8 national oceans policies and the national framework for marine spatial  
9 planning;

10 (d) Identify the existing management activities and spatial data  
11 related to these priorities and objectives and the key needs for  
12 incorporating marine spatial planning into existing statewide plans;  
13 and

14 (e) Provide recommendations on achieving a unified approach to  
15 database management and delivery that would support marine spatial  
16 planning throughout the state.

17 (3) The results of this assessment must be provided to the  
18 appropriate legislative committees by December 15, 2010.

19 (4) This section expires June 30, 2011.

20 NEW SECTION. **Sec. 5.** (1) Concurrently or prior to the assessment  
21 and planning activities provided in sections 4 and 6 of this act, and  
22 subject to available funding for this purpose, all state agencies with  
23 marine waters planning and management responsibilities are authorized  
24 to include marine spatial data and marine spatial planning elements  
25 into their existing plans and ongoing planning.

26 (2) The director of the Puget Sound partnership under the direction  
27 of the leadership council created in RCW 90.71.220 may integrate marine  
28 spatial information and planning provisions into the action agenda.  
29 The information may be used to address gaps or improve the  
30 effectiveness of the spatial planning component of the action agenda,  
31 such as in addressing potential new uses such as renewable energy  
32 projects.

33 (3) The governor and the commissioner of public lands, working with  
34 appropriate marine management and planning agencies, are authorized to  
35 work cooperatively with the applicable west coast states, Canadian  
36 provinces, and with federal agencies, through existing cooperative  
37 entities such as the west coast governor's agreement, the coastal and

1 oceans task force, the Pacific coast collaborative, the Puget Sound  
2 federal caucus, and the United States and Canada cooperative agreement  
3 working group, to explore the benefits of developing joint marine  
4 spatial plans or planning frameworks in the shared waters of the Salish  
5 Sea, the Columbia river estuary, and in the exclusive economic zone  
6 waters. The governor and commissioner may approve the adoption of  
7 shared marine spatial plans or planning frameworks where they determine  
8 it would further policies of this chapter and chapter 43.143 RCW.

9 (4) On an ongoing basis, the director of the department of ecology  
10 shall work with other state agencies with marine management  
11 responsibilities, tribal governments, marine resources committees,  
12 local and federal agencies, and marine waters stakeholders to compile  
13 marine spatial information and to incorporate this information into  
14 ongoing plans. This work may be integrated with the comprehensive  
15 marine spatial plan authorized under section 6 of this act when that  
16 planning process is initiated.

17 NEW SECTION. **Sec. 6.** (1) Upon the receipt of federal, private, or  
18 other nonstate funding for this purpose, together with any required  
19 match of state funding that may be specifically provided for this  
20 purpose, the marine interagency team shall coordinate the development  
21 of a comprehensive marine spatial plan for the state's marine waters,  
22 including recommendations to the appropriate federal agencies regarding  
23 the exclusive economic zone waters. The plan may be developed in  
24 geographic segments, and may incorporate or be developed as an element  
25 of existing marine plans, such as the Puget Sound action agenda and the  
26 aquatic lands habitat conservation plan. The chair of the team may  
27 designate a state agency with marine management responsibilities to  
28 take the lead in developing and recommending particular segments or  
29 elements of the comprehensive marine spatial plan.

30 (2) The marine spatial plan must be developed and implemented in a  
31 manner that:

- 32 (a) Recognizes and respects existing uses and tribal treaty rights;  
33 (b) Promotes protection and restoration of ecosystem processes to  
34 a level that will enable long-term sustainable production of ecosystem  
35 goods and services;  
36 (c) Addresses potential impacts of climate change and sea level



1 rise upon current and projected marine waters uses and shoreline and  
2 coastal impacts;

3 (d) Fosters and encourages sustainable uses that provide economic  
4 opportunity without significant adverse environmental impacts;

5 (e) Preserves and enhances public access;

6 (f) Protects and encourages working waterfronts and supports the  
7 infrastructure necessary to sustain marine industry, commercial  
8 shipping, and other water-dependent uses;

9 (g) Fosters public participation in decision making and significant  
10 involvement of communities adjacent to the state's marine waters; and

11 (h) Integrates existing management plans and authorities and makes  
12 recommendations for aligning plans to the extent practicable.

13 (3) To ensure the effective stewardship of the state's marine  
14 waters held in trust for the benefit of the people, the marine spatial  
15 plan must rely upon existing data and resources, but also identify data  
16 gaps and, as possible, procure missing data necessary for planning.

17 (4) The marine spatial plan must include but not be limited to:

18 (a) An ecosystem assessment that analyzes the health and status of  
19 Washington marine waters including key social, economic, and ecological  
20 characteristics and incorporates the best available scientific  
21 information, including relevant marine data. This assessment should  
22 seek to identify key threats to plan goals, analyze risk and management  
23 scenarios, and develop key ecosystem indicators. In addition, the plan  
24 should incorporate existing adaptive management strategies underway by  
25 local, state, or federal entities and provide an adaptive management  
26 element to incorporate new information and consider revisions to the  
27 plan based upon research, monitoring, and evaluation;

28 (b) Using and relying upon existing plans and processes and  
29 additional management measures to guide decisions among uses proposed  
30 for specific geographic areas of the state's marine and estuarine  
31 waters consistent with applicable state laws and programs that control  
32 or address developments in the state's marine waters;

33 (c) A series of maps that, at a minimum, summarize available data  
34 on: The key ecological aspects of the marine ecosystem, including  
35 physical and biological characteristics, as well as areas that are  
36 environmentally sensitive or contain unique or sensitive species or  
37 biological communities that must be conserved and warrant protective  
38 measures; human uses of marine waters, particularly areas with high

1 value for fishing; and appropriate locations with high potential for  
2 renewable energy production with minimal potential for conflicts with  
3 other existing uses or sensitive environments;

4 (d) An element that sets forth the state's recommendations to the  
5 federal government for use priorities and limitations, siting criteria,  
6 and protection of unique and sensitive biota and ocean floor features  
7 within the exclusive economic zone waters consistent with the policies  
8 and management criteria contained in this chapter and chapter 43.143  
9 RCW;

10 (e) An implementation strategy describing how the plan's management  
11 measures and other provisions will be considered and implemented  
12 through existing state and local authorities; and

13 (f) A framework for coordinating state agency and local government  
14 review of proposed renewable energy development uses requiring multiple  
15 permits and other approvals that provide for the timely review and  
16 action upon renewable energy development proposals while ensuring  
17 protection of sensitive resources and minimizing impacts to other  
18 existing or projected uses in the area.

19 (5) If the director of the department of fish and wildlife  
20 determines that a fisheries management element is appropriate for  
21 inclusion in the marine management plan, this element may include the  
22 incorporation of existing management plans and procedures and standards  
23 for consideration in adopting and revising fisheries management plans  
24 in cooperation with the appropriate tribal governments.

25 (6) Any provision of the marine management plan that does not have  
26 as its primary purpose the management of commercial or recreational  
27 fishing but that has an impact on this fishing must minimize the  
28 negative impacts on the fishing. The team must accord substantial  
29 weight to recommendations from the director of the department of fish  
30 and wildlife for plan revisions to minimize the negative impacts.

31 (7) The marine management plan must recognize existing uses.

32 (8) The plan must identify any provisions of existing management  
33 plans that are substantially inconsistent with the plan.

34 (9) In developing the marine spatial plan, the team shall implement  
35 a strong public participation strategy that seeks input from throughout  
36 the state and particularly from communities adjacent to ocean waters.  
37 Public review and comment must be sought and incorporated with regard

1 to planning the scope of work as well as in regard to significant  
2 drafts prior to finalizing the plan.

3 (10) The team must complete the plan within twenty-four months of  
4 the initiation of planning under this section.

5 (11) The director of the department of ecology shall submit the  
6 completed marine spatial plan, or elements of such a plan not  
7 previously submitted, to the appropriate federal agency for review and  
8 incorporation into the state's federally approved coastal zone  
9 management plan.

10 (12) Subsequent to the adoption of the marine spatial plan, the  
11 team may periodically review and adopt revisions to the plan to  
12 incorporate new information and to recognize and incorporate provisions  
13 in other marine management plans. The team must accord the public an  
14 opportunity to review and comment upon significant proposed revisions  
15 to the marine spatial plan.

16 NEW SECTION. **Sec. 7.** (1) Upon the adoption of the marine spatial  
17 plan under section 6 of this act, each state agency and local  
18 government must make decisions in a manner that ensures conformance  
19 with the applicable provisions of the marine spatial plan.

20 (2) The director of the department of ecology, in consultation with  
21 the department of natural resources and the Puget Sound partnership,  
22 shall periodically review existing management plans maintained by state  
23 agencies and local governments that cover the same marine waters as the  
24 marine spatial plan, and for any substantial inconsistency with the  
25 marine spatial plan the director shall make recommendations to the  
26 agency or to the local government for revisions to eliminate the  
27 inconsistency.

28 (3) Not later than four years following adoption of the marine  
29 spatial plan under section 6 of this act, the directors of the  
30 department of ecology and the Puget Sound partnership, jointly with the  
31 commissioner of public lands, shall report to the appropriate marine  
32 waters committees in the senate and house of representatives describing  
33 provisions of existing management plans that are substantially  
34 inconsistent with the marine spatial plan, and making recommendations  
35 for eliminating the inconsistency.

1        NEW SECTION.    **Sec. 8.** No authority is created under this act to  
2 affect in any way any project, use, or activity in the state's marine  
3 waters existing prior to or during the development and review of the  
4 marine spatial plan. No authority is created under this chapter to  
5 supersede the current authority of any state agency or local  
6 government.

7        NEW SECTION.    **Sec. 9.** A new section is added to chapter 43.21F RCW  
8 to read as follows:

9        (1) In addition to the duties prescribed in RCW 43.21F.045, the  
10 department must develop guidance applicable to all state agencies for  
11 achieving a unified state position upon matters involving the siting  
12 and operation of renewable energy facilities in the state's coastal and  
13 estuarine marine waters. The guidance must provide procedures for  
14 coordinating the views and responsibilities of any state agency with  
15 jurisdiction or expertise over the matter under consideration, which  
16 may include federal policy proposals, activities, permits, licenses, or  
17 the extension of funding for activities in or affecting the state's  
18 marine waters. In developing the guidance, the director must consult  
19 with agencies with primary responsibilities for permitting and  
20 management of marine waters and bedlands, including the departments of  
21 natural resources, ecology, transportation, and fish and wildlife, and  
22 the state parks and recreation commission, the Puget Sound partnership,  
23 and the energy facility site evaluation council. The director must  
24 also consult and incorporate relevant information from the regional  
25 activities related to renewable energy siting in marine waters,  
26 including those under the west coast governors' agreement on ocean  
27 health.

28        (2) The director must adopt the guidance by June 30, 2011.

29        (3) This section is intended to promote consistency and multiple  
30 agency coordination in developing positions and exercising jurisdiction  
31 in matters involving the siting and operation of renewable energy  
32 facilities and does not diminish or abrogate the authority or  
33 jurisdiction of any state agency over such matters established under  
34 any other law.

35        NEW SECTION.    **Sec. 10.** (1) The marine resources stewardship trust  
36 account is created in the state treasury. All receipts from income

1 derived from the investment of amounts credited to the account, any  
2 grants, gifts, or donations to the state for the purposes of marine  
3 spatial planning, data compilation, research, or monitoring, and any  
4 appropriations made to the account must be deposited in the account.  
5 Moneys in the account may be spent only after appropriation.

6 (2) Expenditures from the account may be used for the purposes of  
7 marine spatial planning, research, monitoring, and for the restoration  
8 or enhancement of marine habitat or resources.

9 **Sec. 11.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and  
10 2009 c 451 s 8 are each reenacted and amended to read as follows:

11 (1) All earnings of investments of surplus balances in the state  
12 treasury shall be deposited to the treasury income account, which  
13 account is hereby established in the state treasury.

14 (2) The treasury income account shall be utilized to pay or receive  
15 funds associated with federal programs as required by the federal cash  
16 management improvement act of 1990. The treasury income account is  
17 subject in all respects to chapter 43.88 RCW, but no appropriation is  
18 required for refunds or allocations of interest earnings required by  
19 the cash management improvement act. Refunds of interest to the  
20 federal treasury required under the cash management improvement act  
21 fall under RCW 43.88.180 and shall not require appropriation. The  
22 office of financial management shall determine the amounts due to or  
23 from the federal government pursuant to the cash management improvement  
24 act. The office of financial management may direct transfers of funds  
25 between accounts as deemed necessary to implement the provisions of the  
26 cash management improvement act, and this subsection. Refunds or  
27 allocations shall occur prior to the distributions of earnings set  
28 forth in subsection (4) of this section.

29 (3) Except for the provisions of RCW 43.84.160, the treasury income  
30 account may be utilized for the payment of purchased banking services  
31 on behalf of treasury funds including, but not limited to, depository,  
32 safekeeping, and disbursement functions for the state treasury and  
33 affected state agencies. The treasury income account is subject in all  
34 respects to chapter 43.88 RCW, but no appropriation is required for  
35 payments to financial institutions. Payments shall occur prior to  
36 distribution of earnings set forth in subsection (4) of this section.

1 (4) Monthly, the state treasurer shall distribute the earnings  
2 credited to the treasury income account. The state treasurer shall  
3 credit the general fund with all the earnings credited to the treasury  
4 income account except:

5 The following accounts and funds shall receive their proportionate  
6 share of earnings based upon each account's and fund's average daily  
7 balance for the period: The aeronautics account, the aircraft search  
8 and rescue account, the budget stabilization account, the capitol  
9 building construction account, the Cedar River channel construction and  
10 operation account, the Central Washington University capital projects  
11 account, the charitable, educational, penal and reformatory  
12 institutions account, the cleanup settlement account, the Columbia  
13 river basin water supply development account, the common school  
14 construction fund, the county arterial preservation account, the county  
15 criminal justice assistance account, the county sales and use tax  
16 equalization account, the data processing building construction  
17 account, the deferred compensation administrative account, the deferred  
18 compensation principal account, the department of licensing services  
19 account, the department of retirement systems expense account, the  
20 developmental disabilities community trust account, the drinking water  
21 assistance account, the drinking water assistance administrative  
22 account, the drinking water assistance repayment account, the Eastern  
23 Washington University capital projects account, the education  
24 construction fund, the education legacy trust account, the election  
25 account, the energy freedom account, the energy recovery act account,  
26 the essential rail assistance account, The Evergreen State College  
27 capital projects account, the federal forest revolving account, the  
28 ferry bond retirement fund, the freight congestion relief account, the  
29 freight mobility investment account, the freight mobility multimodal  
30 account, the grade crossing protective fund, the public health services  
31 account, the health system capacity account, the personal health  
32 services account, the high capacity transportation account, the state  
33 higher education construction account, the higher education  
34 construction account, the highway bond retirement fund, the highway  
35 infrastructure account, the highway safety account, the high occupancy  
36 toll lanes operations account, the industrial insurance premium refund  
37 account, the judges' retirement account, the judicial retirement  
38 administrative account, the judicial retirement principal account, the

1 local leasehold excise tax account, the local real estate excise tax  
2 account, the local sales and use tax account, the marine resources  
3 stewardship trust account, the medical aid account, the mobile home  
4 park relocation fund, the motor vehicle fund, the motorcycle safety  
5 education account, the multimodal transportation account, the municipal  
6 criminal justice assistance account, the municipal sales and use tax  
7 equalization account, the natural resources deposit account, the oyster  
8 reserve land account, the pension funding stabilization account, the  
9 perpetual surveillance and maintenance account, the public employees'  
10 retirement system plan 1 account, the public employees' retirement  
11 system combined plan 2 and plan 3 account, the public facilities  
12 construction loan revolving account beginning July 1, 2004, the public  
13 health supplemental account, the public transportation systems account,  
14 the public works assistance account, the Puget Sound capital  
15 construction account, the Puget Sound ferry operations account, the  
16 Puyallup tribal settlement account, the real estate appraiser  
17 commission account, the recreational vehicle account, the regional  
18 mobility grant program account, the resource management cost account,  
19 the rural arterial trust account, the rural Washington loan fund, the  
20 site closure account, the small city pavement and sidewalk account, the  
21 special category C account, the special wildlife account, the state  
22 employees' insurance account, the state employees' insurance reserve  
23 account, the state investment board expense account, the state  
24 investment board commingled trust fund accounts, the state patrol  
25 highway account, the state route number 520 corridor account, the  
26 supplemental pension account, the Tacoma Narrows toll bridge account,  
27 the teachers' retirement system plan 1 account, the teachers'  
28 retirement system combined plan 2 and plan 3 account, the tobacco  
29 prevention and control account, the tobacco settlement account, the  
30 transportation 2003 account (nickel account), the transportation  
31 equipment fund, the transportation fund, the transportation improvement  
32 account, the transportation improvement board bond retirement account,  
33 the transportation infrastructure account, the transportation  
34 partnership account, the traumatic brain injury account, the tuition  
35 recovery trust fund, the University of Washington bond retirement fund,  
36 the University of Washington building account, the urban arterial trust  
37 account, the volunteer firefighters' and reserve officers' relief and  
38 pension principal fund, the volunteer firefighters' and reserve

1 officers' administrative fund, the Washington fruit express account,  
2 the Washington judicial retirement system account, the Washington law  
3 enforcement officers' and firefighters' system plan 1 retirement  
4 account, the Washington law enforcement officers' and firefighters'  
5 system plan 2 retirement account, the Washington public safety  
6 employees' plan 2 retirement account, the Washington school employees'  
7 retirement system combined plan 2 and 3 account, the Washington state  
8 health insurance pool account, the Washington state patrol retirement  
9 account, the Washington State University building account, the  
10 Washington State University bond retirement fund, the water pollution  
11 control revolving fund, and the Western Washington University capital  
12 projects account. Earnings derived from investing balances of the  
13 agricultural permanent fund, the normal school permanent fund, the  
14 permanent common school fund, the scientific permanent fund, and the  
15 state university permanent fund shall be allocated to their respective  
16 beneficiary accounts. All earnings to be distributed under this  
17 subsection (4) shall first be reduced by the allocation to the state  
18 treasurer's service fund pursuant to RCW 43.08.190.

19 (5) In conformance with Article II, section 37 of the state  
20 Constitution, no treasury accounts or funds shall be allocated earnings  
21 without the specific affirmative directive of this section.

22 NEW SECTION. **Sec. 12.** Sections 1 through 8 and 10 of this act  
23 constitute a new chapter in Title 43 RCW.

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