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**SUBSTITUTE SENATE BILL 5367**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Agriculture, Water & Rural Economic Development (originally sponsored by Senators Honeyford, Hatfield, King, Nelson, Delvin, and Shin; by request of Governor Inslee)

READ FIRST TIME 06/28/13.

1 AN ACT Relating to Yakima river basin water resource management;  
2 amending RCW 90.38.005, 90.38.010, 90.38.900, and 90.38.902; reenacting  
3 and amending RCW 43.84.092 and 43.84.092; adding new sections to  
4 chapter 90.38 RCW; providing a contingent effective date; providing an  
5 expiration date; and providing a contingent expiration date.

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

7 **Sec. 1.** RCW 90.38.005 and 1989 c 429 s 1 are each amended to read  
8 as follows:

9 (1) The legislature finds that:

10 (a) Under present physical conditions in the Yakima river basin  
11 there is an insufficient supply of ground and surface water to satisfy  
12 the present needs of the basin, and that the general health, welfare,  
13 and safety of the people of the Yakima river basin depend upon the  
14 conservation, management, development, and optimum use of all the  
15 basin's water resources;

16 (b) (~~Pursuant to P.L. 96-162,~~) The future competition for water  
17 among municipal, domestic, industrial, agricultural, and instream water  
18 interests in the Yakima river basin will be intensified by continued  
19 population growth, and by changes in climate and precipitation

1 anticipated to reduce the basin's snow pack and thereby reduce the  
2 total water supply available to existing water users, instream flows,  
3 and carryover storage;

4 (c) To address the challenges described in this subsection,  
5 congress has enacted several bills to promote Yakima river basin water  
6 enhancement, each of which was urged for enactment by this state, the  
7 United States ((is now conducting)) has completed a study of ways to  
8 provide needed waters through improvements of the federal water project  
9 presently existing in the Yakima river basin, and federal, tribal,  
10 state, and local cooperators have developed an integrated water  
11 resource management plan for improving water supply, habitat, and  
12 stream flow conditions in the Yakima river basin;

13 (d) As part of the Yakima river basin water enhancement project,  
14 the United States department of the interior's bureau of reclamation is  
15 now seeking funding to support implementation of the integrated water  
16 resource management plan for the Yakima river basin, which was jointly  
17 prepared by the Washington state department of ecology and the United  
18 States bureau of reclamation and published in a final programmatic  
19 environmental impact statement in March 2012;

20 ((+e)) (e) The interests of the state will be served by developing  
21 programs, in cooperation with the United States and the various water  
22 users in the basin, that increase the overall ability to manage basin  
23 waters in order to better satisfy both present and future needs for  
24 water in the Yakima river basin; and

25 (f) The interests of the state will also be served through  
26 coordination of federal and state policies and procedures in order to  
27 develop and implement projects within the framework of the integrated  
28 water resource management plan for the Yakima river basin. The pace of  
29 integrated plan implementation over the long term depends upon adequate  
30 funding and is subject to the availability of amounts appropriated for  
31 this purpose.

32 (2) It is the purpose of this chapter, consistent with these  
33 findings, to:

34 (a) Improve the ability of the state to work with the United States  
35 and various water users of the Yakima river basin in a program designed  
36 to satisfy both existing rights, and other presently unmet as well as  
37 future needs of the basin; and

1 (b) Establish legislative intent to promote timely and effective  
2 implementation of the integrated plan in the Yakima river basin, and to  
3 promote the aggressive pursuit of water supply solutions that provide  
4 concurrent benefits to both instream and out-of-stream uses in the  
5 Yakima river basin as rapidly as possible.

6 (3) The provisions of this chapter apply only to waters of the  
7 Yakima river basin.

8 **Sec. 2.** RCW 90.38.010 and 1989 c 429 s 2 are each amended to read  
9 as follows:

10 ~~((Unless the context clearly requires otherwise,))~~ The definitions  
11 in this section apply throughout this chapter unless the context  
12 clearly requires otherwise.

13 (1) "Department" means the department of ecology.

14 (2) "Integrated plan" means the Yakima river basin integrated water  
15 resource management plan developed through a consensus-based approach  
16 by a diverse work group of representatives of the Yakama Nation,  
17 federal, state, county, and city governments, environmental  
18 organizations, and irrigation districts and for which the final  
19 programmatic environmental impact statement was made available for  
20 review through public notice published in the federal register (77 FR  
21 12076 (2012)).

22 (3) "Net water savings" means the amount of water that through  
23 hydrological analysis is determined to be conserved and usable for  
24 other purposes without impairing existing water rights, reducing the  
25 ability to deliver water, or reducing the supply of water that  
26 otherwise would have been available to other water users.

27 ~~((+3))~~ (4) "Trust water right" means that portion of an existing  
28 water right, constituting net water savings, that is no longer required  
29 to be diverted for beneficial use due to the installation of a water  
30 conservation project that improves an existing system. The term "trust  
31 water right" also applies to any other water right acquired by the  
32 department under this chapter for management in the Yakima river basin  
33 trust water rights program.

34 ~~((+4))~~ (5) "Water conservation project" means any project funded  
35 to further the purposes of this chapter and that achieves physical or  
36 operational improvements of efficiency in existing systems for

1 diversion, conveyance, or application of water under existing water  
2 rights.

3 (6) "Yakima river basin water enhancement project" means a series  
4 of congressional enactments, originally initiated by the United States  
5 congress in 1979 under P.L. 96-162, with subsequent federal  
6 implementing legislation being passed in 1984 under section 109 of P.L.  
7 98-381 to promote fish passage improvements, and in 1994 under P.L.  
8 103-434, as amended by P.L. 105-62 in 1997 and P.L. 106-372 in 2000, to  
9 promote water conservation, water supply, habitat, and stream  
10 enhancement improvements in the Yakima river basin.

11 NEW SECTION. Sec. 3. A new section is added to chapter 90.38 RCW  
12 to read as follows:

13 The department is authorized to implement the integrated water  
14 resource management plan in the Yakima river basin, through a  
15 coordinated effort of affected federal, state, and local agencies and  
16 resources, to develop water supply solutions that provide concurrent  
17 benefits to both instream and out-of-stream uses, and to address a  
18 variety of water resource and ecosystem problems affecting fish  
19 passage, habitat functions, and agricultural, municipal, and domestic  
20 water supply in the Yakima river basin, consistent with the integrated  
21 plan.

22 (1) Authorized department actions include, but are not limited to:

23 (a) Accepting funds from any entity, public or private, as  
24 necessary to implement the objectives of this chapter;

25 (b) Assessing, planning, and developing projects under the Yakima  
26 river basin integrated water resource management plan, or for any other  
27 action designed to provide access to new water supplies within the  
28 Yakima river basin, consistent with the integrated plan and including  
29 but not limited to: Enhanced water conservation and efficiency  
30 measures, water reallocation markets, in-basin surface and groundwater  
31 storage facilities, fish passage at existing in-basin reservoirs,  
32 structural and operational modifications to existing facilities,  
33 habitat protection and restoration, and general watershed enhancements  
34 as necessary to implement the objectives of this chapter and the  
35 integrated plan; and

36 (c) Entering into contracts to ensure the effective delivery of

1 water and to provide for the design and construction of facilities  
2 necessary to implement the objectives of the integrated plan and this  
3 chapter.

4 (2) Consistent with the integrated plan, the goals and objectives  
5 of department actions authorized under this chapter include, but are  
6 not limited to:

7 (a) Protection, mitigation, and enhancement of fish and wildlife  
8 through improved water management; improved instream flows; improved  
9 water quality; protection, creation, and enhancement of wetlands;  
10 improved fish passage, and by other appropriate means of habitat  
11 improvement, including the protection and enhancement of natural  
12 wetlands, floodplains, and groundwater storage systems;

13 (b) Improved water availability and reliability, and improved  
14 efficiency of water delivery and use, to enhance basin water supplies  
15 for agricultural irrigation, municipal, commercial, industrial,  
16 domestic, and environmental water uses;

17 (c) Establishment of more efficient water markets and more  
18 effective operational and structural changes to manage variability of  
19 water supplies and to prepare for the uncertainties of climate change,  
20 including but not limited to the facilitation of water banking, water  
21 right transfers, dry year options, the voluntary sale and lease of  
22 land, water, or water rights from any entity or individual willing to  
23 limit or forego water use on a temporary or permanent basis, and any  
24 other innovative water allocation tools used to maximize the utility of  
25 existing Yakima river basin water supplies, as long as the  
26 establishment and use of these tools is consistent with the integrated  
27 plan.

28 (3) Water supplies secured through the development of new storage  
29 facilities or expansion of existing storage facilities made possible  
30 with funding from the Yakima integrated plan implementation account,  
31 the Yakima integrated plan implementation taxable bond account, and the  
32 Yakima integrated plan implementation revenue recovery account must be  
33 allocated for out-of-stream uses and to augment instream flows  
34 consistent with the Yakima river basin integrated water resource  
35 management plan. Water to be made available to benefit out-of-stream  
36 uses under this subsection, but not yet appropriated, must be  
37 temporarily available to augment instream flows to the extent that it

1 does not impair existing water rights and is consistent with the  
2 integrated plan.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.38 RCW  
4 to read as follows:

5 (1) The Yakima integrated plan implementation account is created in  
6 the state treasury. All receipts from direct appropriations from the  
7 legislature, moneys directed to the account pursuant to this chapter,  
8 or moneys directed to the account from any other sources must be  
9 deposited in the account. The account is intended to fund projects  
10 using tax exempt bonds. Moneys in the account may be spent only after  
11 appropriation. Expenditures from the account may be used only as  
12 provided in this section. Interest earned by deposits in the account  
13 will be retained in the account.

14 (2) Expenditures from the account created in this section may be  
15 used to assess, plan, and develop projects under the Yakima river basin  
16 integrated water resource management plan or for any other actions  
17 designed to provide access to new water supplies within the Yakima  
18 river basin for both instream and out-of-stream uses, consistent with  
19 the integrated plan and the authorities, goals, and objectives set  
20 forth in section 3 of this act.

21 (3)(a) Funds may not be expended from the account for the  
22 construction of a new storage facility until the department evaluates  
23 the following:

24 (i) Water uses to be served by the facility;

25 (ii) The quantity of water necessary to meet the needs of those  
26 uses;

27 (iii) The benefits and costs to the state of serving those uses,  
28 including short-term and long-term economic, cultural, and  
29 environmental effects; and

30 (iv) Alternative means of supplying water to meet those uses,  
31 including the costs of those alternatives and an analysis of the extent  
32 to which the long-term water supply needs are able to be met using  
33 those alternatives.

34 (b) The department may rely on studies and information developed  
35 through compliance with other state and federal requirements and other  
36 sources. The department shall compile its findings and conclusions and  
37 provide a summary of the information it reviewed.

1 (c) Before finalizing its evaluation under the provisions of this  
2 subsection, the department shall make the preliminary evaluation  
3 available to the public. Public comment may be made to the department  
4 within thirty days of the date the preliminary evaluation is made  
5 public.

6 (4) For water supplies developed under the integrated plan to  
7 support future municipal and domestic water needs, the department shall  
8 give preference to other entities in managing water service contracts.  
9 Where the department determines that the management of such contracts  
10 by other entities is not feasible or suitable, the department may enter  
11 into water service contracts with applicants receiving water from the  
12 program to recover all or a portion of the cost of developing water  
13 supplies made possible with funding from the account created in this  
14 section. The department may deny an application if the applicant does  
15 not enter into a water service contract. Revenue collected from water  
16 service contracts must be deposited into the Yakima integrated plan  
17 implementation revenue recovery account created in section 6 of this  
18 act. The department may adopt rules describing the methodology as to  
19 how charges will be established and direct costs recovered for water  
20 supply developed under the Yakima river basin integrated water resource  
21 management plan implementation program.

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 90.38 RCW  
23 to read as follows:

24 (1) The Yakima integrated plan implementation taxable bond account  
25 is created in the state treasury. All receipts from direct  
26 appropriations from the legislature, moneys directed to the account  
27 pursuant to this chapter, or moneys directed to the account from any  
28 other sources must be deposited in the account. The account is  
29 intended to fund projects using taxable bonds. Moneys in the account  
30 may be spent only after appropriation. Expenditures from the account  
31 may be used only as provided in this section. Interest earned by  
32 deposits in the account will be retained in the account.

33 (2) Expenditures from the account created in this section may be  
34 used to assess, plan, and develop projects under the Yakima river basin  
35 integrated water resource management plan or for any other actions  
36 designed to provide access to new water supplies within the Yakima

1 river basin for both instream and out-of-stream uses, consistent with  
2 the integrated plan and the authorities, goals, and objectives set  
3 forth in section 3 of this act.

4 (3)(a) Funds may not be expended from the account for the  
5 construction of a new storage facility until the department evaluates  
6 the following:

7 (i) Water uses to be served by the facility;

8 (ii) The quantity of water necessary to meet the needs of those  
9 uses;

10 (iii) The benefits and costs to the state of serving those uses,  
11 including short-term and long-term economic, cultural, and  
12 environmental effects; and

13 (iv) Alternative means of supplying water to meet those uses,  
14 including the costs of those alternatives and an analysis of the extent  
15 to which the long-term water supply needs are able to be met using  
16 those alternatives.

17 (b) The department may rely on studies and information developed  
18 through compliance with other state and federal requirements and other  
19 sources. The department shall compile its findings and conclusions and  
20 provide a summary of the information it reviewed.

21 (c) Before finalizing its evaluation under the provisions of this  
22 subsection, the department shall make the preliminary evaluation  
23 available to the public. Public comment may be made to the department  
24 within thirty days of the date the preliminary evaluation is made  
25 public.

26 (4) For water supplies developed under the integrated plan to  
27 support future municipal and domestic water needs, the department shall  
28 give preference to other entities in managing water service contracts.  
29 Where the department determines that the management of such contracts  
30 by other entities is not feasible or suitable, the department may enter  
31 into water service contracts with applicants receiving water from the  
32 program to recover all or a portion of the cost of developing water  
33 supplies made possible with funding from the account created in this  
34 section. The department may deny an application if the applicant does  
35 not enter into a water service contract. Revenue collected from water  
36 service contracts must be deposited into the Yakima integrated plan  
37 implementation revenue recovery account created in section 6 of this  
38 act. The department may adopt rules describing the methodology as to

1 how charges will be established and direct costs recovered for water  
2 supply developed under the Yakima river basin integrated water resource  
3 management plan implementation program.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 90.38 RCW  
5 to read as follows:

6 (1) The Yakima integrated plan implementation revenue recovery  
7 account is created in the state treasury. All receipts from direct  
8 appropriations from the legislature, moneys directed to the account  
9 pursuant to this chapter, or moneys directed to the account from any  
10 other sources must be deposited in the account. The account is  
11 intended to fund projects using revenues from water service contracts  
12 as authorized in this chapter. Moneys in the account may be spent only  
13 after appropriation. Expenditures from the account may be used only as  
14 provided in this section. Interest earned by deposits in the account  
15 will be retained in the account.

16 (2) Expenditures from the account created in this section may be  
17 used to assess, plan, and develop projects under the Yakima river basin  
18 integrated water resource management plan or for any other actions  
19 designed to provide access to new water supplies within the Yakima  
20 river basin for both instream and out-of-stream uses, consistent with  
21 the integrated plan and the authorities, goals, and objectives set  
22 forth in section 3 of this act.

23 (3)(a) Funds may not be expended from the account for the  
24 construction of a new storage facility until the department evaluates  
25 the following:

26 (i) Water uses to be served by the facility;

27 (ii) The quantity of water necessary to meet the needs of those  
28 uses;

29 (iii) The benefits and costs to the state of serving those uses,  
30 including short-term and long-term economic, cultural, and  
31 environmental effects; and

32 (iv) Alternative means of supplying water to meet those uses,  
33 including the costs of those alternatives and an analysis of the extent  
34 to which the long-term water supply needs are able to be met using  
35 those alternatives.

36 (b) The department may rely on studies and information developed

1 through compliance with other state and federal requirements and other  
2 sources. The department shall compile its findings and conclusions and  
3 provide a summary of the information it reviewed.

4 (c) Before finalizing its evaluation under the provisions of this  
5 subsection, the department shall make the preliminary evaluation  
6 available to the public. Public comment may be made to the department  
7 within thirty days of the date the preliminary evaluation is made  
8 public.

9 (4) For water supplies developed under the integrated plan to  
10 support future municipal and domestic water needs in the Yakima basin,  
11 the department shall give preference to other entities in managing  
12 water service contracts. Where the department determines that the  
13 management of such contracts by other entities is not feasible or  
14 suitable, the department may enter into water service contracts with  
15 applicants receiving water from the program to recover all or a portion  
16 of the cost of developing water supplies made possible with funding  
17 from the account created in this section. The department may deny an  
18 application if the applicant does not enter into a water service  
19 contract. Revenue collected from water service contracts must be  
20 deposited into the Yakima integrated plan implementation revenue  
21 recovery account created in this section. The department may adopt  
22 rules describing the methodology as to how charges will be established  
23 and direct costs recovered for water supply developed under the Yakima  
24 river basin integrated water resource management plan implementation  
25 program.

26 **Sec. 7.** RCW 90.38.900 and 1989 c 429 s 7 are each amended to read  
27 as follows:

28 The policies and purposes of this chapter shall not be construed as  
29 replacing or amending the policies or the purposes for which funds  
30 available under chapter 43.83B (~~or~~), 43.99E, or 90.90 RCW may be used  
31 within or without the Yakima river basin.

32 **Sec. 8.** RCW 90.38.902 and 1989 c 429 s 9 are each amended to read  
33 as follows:

34 (1) Nothing in this chapter shall authorize the impairment of, or  
35 operate to impair, any existing water rights.

1       (2) Nothing in this chapter may be construed to limit, impair,  
2 waive, abrogate, or diminish:

3       (a) Any treaty or other rights of the Yakama Nation;

4       (b) Any powers, rights, or authorities conferred upon irrigation  
5 districts under existing law;

6       (c) Any rights or jurisdictions of the United States, the state of  
7 Washington, or other person or entity over waters in the Yakima river  
8 basin.

9       **NEW SECTION.**   **Sec. 9.** A new section is added to chapter 90.38 RCW  
10 to read as follows:

11       (1) By December 1, 2015, and by December 1st of every odd-numbered  
12 year thereafter, and in compliance with RCW 43.01.036, the department,  
13 in consultation with the United States bureau of reclamation, the  
14 Yakama Nation, Yakima river basin local governments, and key basin  
15 stakeholders, shall provide a Yakima river basin integrated water  
16 resource management plan implementation status report to the  
17 legislature and to the governor that includes: A description of  
18 measures that have been funded and implemented in the Yakima river  
19 basin and their effectiveness in meeting the objectives of this act, a  
20 project funding list that represents the state's percentage cost share  
21 to implement the integrated plan measures for the current biennium and  
22 cost estimates for subsequent biennia, a description of progress toward  
23 concurrent realization of the integrated plan's fish passage, watershed  
24 enhancement, and water supply goals, and an annual summary of all  
25 associated costs to develop and implement projects within the framework  
26 of the integrated water resource management plan for the Yakima river  
27 basin.

28       (2) This section expires December 31, 2045.

29       **Sec. 10.** RCW 43.84.092 and 2012 c 198 s 2, 2012 c 196 s 7, 2012 c  
30 187 s 14, and 2012 c 83 s 4 are each reenacted and amended to read as  
31 follows:

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

35       (2) The treasury income account shall be utilized to pay or receive  
36 funds associated with federal programs as required by the federal cash

1 management improvement act of 1990. The treasury income account is  
2 subject in all respects to chapter 43.88 RCW, but no appropriation is  
3 required for refunds or allocations of interest earnings required by  
4 the cash management improvement act. Refunds of interest to the  
5 federal treasury required under the cash management improvement act  
6 fall under RCW 43.88.180 and shall not require appropriation. The  
7 office of financial management shall determine the amounts due to or  
8 from the federal government pursuant to the cash management improvement  
9 act. The office of financial management may direct transfers of funds  
10 between accounts as deemed necessary to implement the provisions of the  
11 cash management improvement act, and this subsection. Refunds or  
12 allocations shall occur prior to the distributions of earnings set  
13 forth in subsection (4) of this section.

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

22 (4) Monthly, the state treasurer shall distribute the earnings  
23 credited to the treasury income account. The state treasurer shall  
24 credit the general fund with all the earnings credited to the treasury  
25 income account except:

26 (a) The following accounts and funds shall receive their  
27 proportionate share of earnings based upon each account's and fund's  
28 average daily balance for the period: The aeronautics account, the  
29 aircraft search and rescue account, the Alaskan Way viaduct replacement  
30 project account, the budget stabilization account, the capital vessel  
31 replacement account, the capitol building construction account, the  
32 Cedar River channel construction and operation account, the Central  
33 Washington University capital projects account, the charitable,  
34 educational, penal and reformatory institutions account, the cleanup  
35 settlement account, the Columbia river basin water supply development  
36 account, the Columbia river basin taxable bond water supply development  
37 account, the Columbia river basin water supply revenue recovery  
38 account, the common school construction fund, the county arterial

1 preservation account, the county criminal justice assistance account,  
2 the deferred compensation administrative account, the deferred  
3 compensation principal account, the department of licensing services  
4 account, the department of retirement systems expense account, the  
5 developmental disabilities community trust account, the drinking water  
6 assistance account, the drinking water assistance administrative  
7 account, the drinking water assistance repayment account, the Eastern  
8 Washington University capital projects account, the Interstate 405  
9 express toll lanes operations account, the education construction fund,  
10 the education legacy trust account, the election account, the energy  
11 freedom account, the energy recovery act account, the essential rail  
12 assistance account, The Evergreen State College capital projects  
13 account, the federal forest revolving account, the ferry bond  
14 retirement fund, the freight congestion relief account, the freight  
15 mobility investment account, the freight mobility multimodal account,  
16 the grade crossing protective fund, the public health services account,  
17 the high capacity transportation account, the state higher education  
18 construction account, the higher education construction account, the  
19 highway bond retirement fund, the highway infrastructure account, the  
20 highway safety (~~(account-[fund])~~) fund, the high occupancy toll lanes  
21 operations account, the hospital safety net assessment fund, the  
22 industrial insurance premium refund account, the judges' retirement  
23 account, the judicial retirement administrative account, the judicial  
24 retirement principal account, the local leasehold excise tax account,  
25 the local real estate excise tax account, the local sales and use tax  
26 account, the marine resources stewardship trust account, the medical  
27 aid account, the mobile home park relocation fund, the motor vehicle  
28 fund, the motorcycle safety education account, the multimodal  
29 transportation account, the municipal criminal justice assistance  
30 account, the natural resources deposit account, the oyster reserve land  
31 account, the pension funding stabilization account, the perpetual  
32 surveillance and maintenance account, the public employees' retirement  
33 system plan 1 account, the public employees' retirement system combined  
34 plan 2 and plan 3 account, the public facilities construction loan  
35 revolving account beginning July 1, 2004, the public health  
36 supplemental account, the public transportation systems account, the  
37 public works assistance account, the Puget Sound capital construction  
38 account, the Puget Sound ferry operations account, the Puyallup tribal

1 settlement account, the real estate appraiser commission account, the  
2 recreational vehicle account, the regional mobility grant program  
3 account, the resource management cost account, the rural arterial trust  
4 account, the rural mobility grant program account, the rural Washington  
5 loan fund, the site closure account, the skilled nursing facility  
6 safety net trust fund, the small city pavement and sidewalk account,  
7 the special category C account, the special wildlife account, the state  
8 employees' insurance account, the state employees' insurance reserve  
9 account, the state investment board expense account, the state  
10 investment board commingled trust fund accounts, the state patrol  
11 highway account, the state route number 520 civil penalties account,  
12 the state route number 520 corridor account, the state wildlife  
13 account, the supplemental pension account, the Tacoma Narrows toll  
14 bridge account, the teachers' retirement system plan 1 account, the  
15 teachers' retirement system combined plan 2 and plan 3 account, the  
16 tobacco prevention and control account, the tobacco settlement account,  
17 the toll facility bond retirement account, the transportation 2003  
18 account (nickel account), the transportation equipment fund, the  
19 transportation fund, the transportation improvement account, the  
20 transportation improvement board bond retirement account, the  
21 transportation infrastructure account, the transportation partnership  
22 account, the traumatic brain injury account, the tuition recovery trust  
23 fund, the University of Washington bond retirement fund, the University  
24 of Washington building account, the volunteer firefighters' and reserve  
25 officers' relief and pension principal fund, the volunteer  
26 firefighters' and reserve officers' administrative fund, the Washington  
27 judicial retirement system account, the Washington law enforcement  
28 officers' and firefighters' system plan 1 retirement account, the  
29 Washington law enforcement officers' and firefighters' system plan 2  
30 retirement account, the Washington public safety employees' plan 2  
31 retirement account, the Washington school employees' retirement system  
32 combined plan 2 and 3 account, the Washington state economic  
33 development commission account, the Washington state health insurance  
34 pool account, the Washington state patrol retirement account, the  
35 Washington State University building account, the Washington State  
36 University bond retirement fund, the water pollution control revolving  
37 fund, (~~and~~) the Western Washington University capital projects  
38 account, the Yakima integrated plan implementation account, the Yakima

1 integrated plan implementation revenue recovery account, and the Yakima  
2 integrated plan implementation taxable bond account. Earnings derived  
3 from investing balances of the agricultural permanent fund, the normal  
4 school permanent fund, the permanent common school fund, the scientific  
5 permanent fund, the state university permanent fund, and the state  
6 reclamation revolving account shall be allocated to their respective  
7 beneficiary accounts.

8 (b) Any state agency that has independent authority over accounts  
9 or funds not statutorily required to be held in the state treasury that  
10 deposits funds into a fund or account in the state treasury pursuant to  
11 an agreement with the office of the state treasurer shall receive its  
12 proportionate share of earnings based upon each account's or fund's  
13 average daily balance for the period.

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

17 **Sec. 11.** RCW 43.84.092 and 2012 c 198 s 2, 2012 c 196 s 7, 2012 c  
18 187 s 14, 2012 c 83 s 4, and 2012 c 36 s 5 are each reenacted and  
19 amended to read as follows:

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

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

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

9 (4) Monthly, the state treasurer shall distribute the earnings  
10 credited to the treasury income account. The state treasurer shall  
11 credit the general fund with all the earnings credited to the treasury  
12 income account except:

13 (a) The following accounts and funds shall receive their  
14 proportionate share of earnings based upon each account's and fund's  
15 average daily balance for the period: The aeronautics account, the  
16 aircraft search and rescue account, the Alaskan Way viaduct replacement  
17 project account, the budget stabilization account, the capital vessel  
18 replacement account, the capitol building construction account, the  
19 Cedar River channel construction and operation account, the Central  
20 Washington University capital projects account, the charitable,  
21 educational, penal and reformatory institutions account, the cleanup  
22 settlement account, the Columbia river basin water supply development  
23 account, the Columbia river basin taxable bond water supply development  
24 account, the Columbia river basin water supply revenue recovery  
25 account, the Columbia river crossing project account, the common school  
26 construction fund, the county arterial preservation account, the county  
27 criminal justice assistance account, the deferred compensation  
28 administrative account, the deferred compensation principal account,  
29 the department of licensing services account, the department of  
30 retirement systems expense account, the developmental disabilities  
31 community trust account, the drinking water assistance account, the  
32 drinking water assistance administrative account, the drinking water  
33 assistance repayment account, the Eastern Washington University capital  
34 projects account, the Interstate 405 express toll lanes operations  
35 account, the education construction fund, the education legacy trust  
36 account, the election account, the energy freedom account, the energy  
37 recovery act account, the essential rail assistance account, The  
38 Evergreen State College capital projects account, the federal forest

1 revolving account, the ferry bond retirement fund, the freight  
2 congestion relief account, the freight mobility investment account, the  
3 freight mobility multimodal account, the grade crossing protective  
4 fund, the public health services account, the high capacity  
5 transportation account, the state higher education construction  
6 account, the higher education construction account, the highway bond  
7 retirement fund, the highway infrastructure account, the highway safety  
8 (~~(account-[fund])~~) fund, the high occupancy toll lanes operations  
9 account, the hospital safety net assessment fund, the industrial  
10 insurance premium refund account, the judges' retirement account, the  
11 judicial retirement administrative account, the judicial retirement  
12 principal account, the local leasehold excise tax account, the local  
13 real estate excise tax account, the local sales and use tax account,  
14 the marine resources stewardship trust account, the medical aid  
15 account, the mobile home park relocation fund, the motor vehicle fund,  
16 the motorcycle safety education account, the multimodal transportation  
17 account, the municipal criminal justice assistance account, the natural  
18 resources deposit account, the oyster reserve land account, the pension  
19 funding stabilization account, the perpetual surveillance and  
20 maintenance account, the public employees' retirement system plan 1  
21 account, the public employees' retirement system combined plan 2 and  
22 plan 3 account, the public facilities construction loan revolving  
23 account beginning July 1, 2004, the public health supplemental account,  
24 the public transportation systems account, the public works assistance  
25 account, the Puget Sound capital construction account, the Puget Sound  
26 ferry operations account, the Puyallup tribal settlement account, the  
27 real estate appraiser commission account, the recreational vehicle  
28 account, the regional mobility grant program account, the resource  
29 management cost account, the rural arterial trust account, the rural  
30 mobility grant program account, the rural Washington loan fund, the  
31 site closure account, the skilled nursing facility safety net trust  
32 fund, the small city pavement and sidewalk account, the special  
33 category C account, the special wildlife account, the state employees'  
34 insurance account, the state employees' insurance reserve account, the  
35 state investment board expense account, the state investment board  
36 commingled trust fund accounts, the state patrol highway account, the  
37 state route number 520 civil penalties account, the state route number  
38 520 corridor account, the state wildlife account, the supplemental

1 pension account, the Tacoma Narrows toll bridge account, the teachers'  
2 retirement system plan 1 account, the teachers' retirement system  
3 combined plan 2 and plan 3 account, the tobacco prevention and control  
4 account, the tobacco settlement account, the toll facility bond  
5 retirement account, the transportation 2003 account (nickel account),  
6 the transportation equipment fund, the transportation fund, the  
7 transportation improvement account, the transportation improvement  
8 board bond retirement account, the transportation infrastructure  
9 account, the transportation partnership account, the traumatic brain  
10 injury account, the tuition recovery trust fund, the University of  
11 Washington bond retirement fund, the University of Washington building  
12 account, the volunteer firefighters' and reserve officers' relief and  
13 pension principal fund, the volunteer firefighters' and reserve  
14 officers' administrative fund, the Washington judicial retirement  
15 system account, the Washington law enforcement officers' and  
16 firefighters' system plan 1 retirement account, the Washington law  
17 enforcement officers' and firefighters' system plan 2 retirement  
18 account, the Washington public safety employees' plan 2 retirement  
19 account, the Washington school employees' retirement system combined  
20 plan 2 and 3 account, the Washington state economic development  
21 commission account, the Washington state health insurance pool account,  
22 the Washington state patrol retirement account, the Washington State  
23 University building account, the Washington State University bond  
24 retirement fund, the water pollution control revolving fund, ((and))  
25 the Western Washington University capital projects account, the Yakima  
26 integrated plan implementation account, the Yakima integrated plan  
27 implementation revenue recovery account, and the Yakima integrated plan  
28 implementation taxable bond account. Earnings derived from investing  
29 balances of the agricultural permanent fund, the normal school  
30 permanent fund, the permanent common school fund, the scientific  
31 permanent fund, the state university permanent fund, and the state  
32 reclamation revolving account shall be allocated to their respective  
33 beneficiary accounts.

34 (b) Any state agency that has independent authority over accounts  
35 or funds not statutorily required to be held in the state treasury that  
36 deposits funds into a fund or account in the state treasury pursuant to  
37 an agreement with the office of the state treasurer shall receive its

1 proportionate share of earnings based upon each account's or fund's  
2 average daily balance for the period.

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

6 NEW SECTION. **Sec. 12.** Section 10 of this act expires if the  
7 requirements set out in section 7, chapter 36, Laws of 2012 are met.

8 NEW SECTION. **Sec. 13.** Section 11 of this act takes effect if the  
9 requirements set out in section 7, chapter 36, Laws of 2012 are met.

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