H-3287.2

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**HOUSE BILL 2353**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Orwall, Van Werven, Goodman, McCabe, Hansen, Peterson, Johnson, Morris, Wylie, Kilduff, Chapman, Sells, Kagi, Senn, McDonald, Kirby, Stanford, Blake, Reeves, Macri, Stambaugh, Jinkins, Steele, Appleton, Doglio, Griffey, Kraft, Pollet, Valdez, Riccelli, Young, and Dolan

AN ACT Relating to supporting sexual assault survivors; amending RCW 43.101.272, 70.125.090, and 82.32.145; amending 2017 c 290 s 2 (uncodified); reenacting and amending RCW 43.84.092; adding new sections to chapter 70.125 RCW; adding a new chapter to Title 82 RCW; creating new sections; providing an effective date; and providing an expiration date.

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

**Sec.**  2017 c 290 s 2 (uncodified) is amended to read as follows:

(1)(a) The joint legislative task force on sexual assault forensic examination best practices is established for the purpose of reviewing best practice models for managing all aspects of sexual assault ((~~examinations~~)) investigations and for reducing the number of untested sexual assault examination kits in Washington state ((~~that were collected prior to the effective date of this section~~)).

(i) The caucus leaders from the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The caucus leaders from the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The president of the senate and the speaker of the house of representatives shall jointly appoint:

(A) One member representing each of the following:

(I) The Washington state patrol;

(II) The Washington association of sheriffs and police chiefs;

(III) The Washington association of prosecuting attorneys;

(IV) The Washington defender association or the Washington association of criminal defense lawyers;

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The Washington state forensic investigations council;

(XI) A public institution of higher education as defined in RCW 28B.10.016;

(XII) A private higher education institution as defined in RCW 28B.07.020; ((~~and~~))

(XIII) The office of the attorney general; and

(XIV) A sexual assault nurse examiner; and

(B) Two members representing survivors of sexual assault.

(b) The task force shall choose two cochairs from among its legislative membership. The legislative membership shall convene the initial meeting of the task force.

(2) The duties of the task force include, but are not limited to:

(a) Researching and determining the number of untested sexual assault examination kits in Washington state;

(b) Researching the locations where the untested sexual assault examination kits are stored;

(c) Researching, reviewing, and making recommendations regarding legislative policy options for reducing the number of untested sexual assault examination kits;

(d) Researching the best practice models both in state and from other states for collaborative responses to victims of sexual assault from the point the sexual assault examination kit is collected to the conclusion of the investigation and prosecution of a case, and providing recommendations regarding any existing gaps in Washington and resources that may be necessary to address those gaps; ((~~and~~))

(e) Researching, identifying, and making recommendations for securing nonstate funding for testing the sexual assault examination kits, and reporting on progress made toward securing such funding;

(f) Monitoring implementation of state and federal legislative changes;

(g) Collaborating with the office of the attorney general to implement reforms pursuant to federal grant requirements; and

(h) Making recommendations for institutional reforms necessary to prevent sexual assault and improve the experiences of sexual assault survivors in the criminal justice system.

(3) Staff support for the task force must be provided by the senate committee services and the house of representatives office of program research.

(4) Legislative members of the task force must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force meetings and expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The first meeting of the task force must occur prior to October 1, 2015. The task force shall submit a preliminary report regarding its initial findings and recommendations to the appropriate committees of the legislature and the governor no later than December 1, 2015.

(7) The task force must meet no less than twice annually.

(8) The task force shall report its findings and recommendations to the appropriate committees of the legislature and the governor by September 30, 2016, and by December 1st of ((~~the following~~)) each subsequent year.

(9) This section expires ((~~June~~)) September 30, ((~~2018~~)) 2020.

**Sec.**  RCW 43.101.272 and 2017 c 290 s 3 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault cases involving adult victims. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

(2) The training must: Be based on research-based practices and standards; offer participants an opportunity to practice interview skills and receive feedback from instructors; minimize the trauma of all persons who are interviewed during abuse investigations; provide methods of reducing the number of investigative interviews necessary whenever possible; assure, to the extent possible, that investigative interviews are thorough, objective, and complete; recognize needs of special populations; recognize the nature and consequences of victimization; require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; address record retention and retrieval; ((~~and~~)) address documentation of investigative interviews; and educate investigators on the best practices for notifying victims of the results of forensic analysis of sexual assault kits and other significant events in the investigative process, including for active investigations and cold cases.

(3) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault and the neurobiology of trauma. The commission shall consult with the Washington association of prosecuting attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with sexual assault victims in the criminal justice system.

(4) The commission shall develop the training and begin offering it by July 1, 2018. Officers assigned to regularly investigate sexual assault involving adult victims shall complete the training within one year of being assigned or by July 1, 2020, whichever is later.

**Sec.**  RCW 70.125.090 and 2015 c 247 s 1 are each amended to read as follows:

(1) When a law enforcement agency receives a sexual assault examination kit, the law enforcement agency must, within thirty days of its receipt, submit a request for laboratory examination to the Washington state patrol crime laboratory for prioritization for testing by it or another accredited laboratory that holds an outsourcing agreement with the Washington state patrol if:

(a) Consent has been given by the victim; or

(b) The victim is a person under the age of eighteen who is not emancipated pursuant to chapter 13.64 RCW.

(2) Subject to available funding, the Washington state patrol crime laboratory must give priority to the laboratory examination of sexual assault examination kits at the request of a local law enforcement agency for:

(a) Active investigations and cases with impending court dates;

(b) Active investigations where public safety is an immediate concern;

(c) Violent crimes investigations, including active sexual assault investigations;

(d) Postconviction cases; and

(e) Other crimes' investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

(3) The failure of a law enforcement agency to submit a request for laboratory examination within the time prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault examination kit may not be excluded by a court on those grounds.

(4) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

(5) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

(6) This section applies prospectively only and not retroactively. It only applies to sexual assault examinations performed on or after July 24, 2015.

(7)(a) Until June 30, ((~~2018~~)) 2022, the Washington state patrol shall compile the following information related to the sexual assault examination kits identified in this section and section 4 of this act:

(i) The number of requests for laboratory examination made for sexual assault examination kits and the law enforcement agencies that submitted the requests; and

(ii) The progress made towards testing the sexual assault examination kits, including the status of requests for laboratory examination made by each law enforcement agency.

(b) The Washington state patrol shall make recommendations for increasing the progress on testing any untested sexual assault examination kits.

(c) Beginning in 2015, the Washington state patrol shall report its findings and recommendations annually to the appropriate committees of the legislature and the governor by December 1st of each year.

NEW SECTION. **Sec.**  A new section is added to chapter 70.125 RCW to read as follows:

(1) Law enforcement agencies shall submit requests for forensic analysis of all sexual assault kits collected prior to July 24, 2015, and in the possession of the agencies to the Washington state patrol crime laboratory by January 1, 2019, except submission for forensic analysis is not required when: (a) Forensic analysis has previously been conducted; (b) there is documentation of an adult victim or emancipated minor victim expressing that he or she does not want his or her sexual assault kit submitted for forensic analysis; or (c) a sexual assault kit is noninvestigatory and held by a law enforcement agency pursuant to an agreement with a hospital or other medical provider. The requirements of this subsection apply regardless of the statute of limitations or the status of any related investigation.

(2) The Washington state patrol crime laboratory may consult with local law enforcement agencies to coordinate the efficient submission of requests for forensic analysis under this section in conjunction with the implementation of the statewide tracking system under RCW 43.43.545, provided that all requests are submitted by January 1, 2019. The Washington state patrol crime laboratory shall facilitate the forensic analysis of all sexual assault kits submitted under this section by December 1, 2021. The analysis may be conducted by the Washington state patrol laboratory or an accredited laboratory holding a contract or agreement with the Washington state patrol. The Washington state patrol shall process the forensic analysis of sexual assault kits in accordance with the priorities in RCW 70.125.090(2).

(3) The failure of a law enforcement agency to submit a request for laboratory examination within the time prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault kit may not be excluded by a court on those grounds.

(4) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

(5) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

NEW SECTION. **Sec.**  A new section is added to chapter 70.125 RCW to read as follows:

(1) In addition to all other rights provided in law, a sexual assault survivor has the right to:

(a) Receive a medical forensic examination at no cost;

(b) Consult with a sexual assault survivor's advocate during any medical evidentiary examination and during any interview by law enforcement officers, prosecuting attorneys, or defense attorneys, unless an advocate cannot be summoned in a timely manner, and regardless of whether a survivor has waived the right in a previous examination or interview;

(c) Be informed, upon the request of a survivor, of when the forensic analysis of his or her sexual assault kit and other related physical evidence will be or was completed, the results of the forensic analysis, and whether the analysis yielded a DNA profile and match, provided that the disclosure is made at an appropriate time so as to not impede or compromise an ongoing investigation;

(d) Receive notice prior to the destruction or disposal of his or her sexual assault kit;

(e) Receive a copy of the police report related to the investigation without charge; and

(f) Review his or her statement before law enforcement refers a case to the prosecuting attorney.

(2) A sexual assault survivor retains all the rights of this section regardless of whether the survivor agrees to participate in the criminal justice system and regardless of whether the survivor agrees to receive a forensic examination to collect evidence.

(3) Nothing contained in this section may be construed to provide grounds for error in favor of a criminal defendant in a criminal proceeding, nor may anything in this section be construed to grant a new cause of action or remedy against the state, its political subdivisions, law enforcement agencies, or prosecuting attorneys. The failure of a person to make a reasonable effort to protect or adhere to the rights enumerated in this section may not result in civil liability against that person. This section does not limit other civil remedies or defenses of the sexual assault survivor or the offender.

(4) For the purposes of this section:

(a) "Law enforcement officer" means a general authority Washington peace officer, as defined in RCW 10.93.020, or any person employed by a private police agency at a public school as described in RCW 28A.150.010 or an institution of higher education, as defined in RCW 28B.10.016.

(b) "Sexual assault survivor" means any person who is a victim, as defined in RCW 7.69.020, of sexual assault. However, if a victim is incapacitated, deceased, or a minor, sexual assault survivor also includes any lawful representative of the victim, including a parent, guardian, spouse, or other designated representative, unless the person is an alleged perpetrator or suspect.

(c) "Sexual assault survivor's advocate" means any person who is defined in RCW 5.60.060 as a sexual assault advocate, or a crime victim advocate.

NEW SECTION. **Sec.**  The office of the attorney general is authorized and encouraged to facilitate the hosting of the sexual assault kit initiative summit in conjunction with any conditions of federal funds granted to the state through the sexual assault kit initiative. The attorney general may use its contracting authority and use, when appropriate, public and private moneys for the purpose of hosting the summit.

NEW SECTION. **Sec.**  The legislature finds the state has a substantial interest in protecting and preserving the quality of life for its communities against the adverse secondary effects of live adult entertainment. The legislature recognizes local governments have an important role in regulating businesses engaged in live adult entertainment, including reasonable location and licensing restrictions, for the purpose of minimizing adverse secondary effects. However, the adoption of a statewide fee can provide further assistance to the victims of crimes directly and indirectly resulting from these businesses.

The legislature finds that in Washington state, sexually oriented businesses featuring live adult entertainment earn more than twenty-five million dollars per year in revenue. Of the millions of female victims of human trafficking, seventy percent are trafficked into the commercial sex industry, including being recruited to work as hostesses, waitresses, or exotic dancers in sexually oriented businesses featuring adult entertainment. Exotic dancers are more likely to be victims of sexual violence, including sexual assault and rape. In addition to the extensive research literature finding a connection between the industry and sexual violence, the legislature has received reports of exotic dancers paying the security staff of these businesses to escort them to and from their vehicles. This is just one of many practices highlighting the serious risks for women working in this industry.

The legislature hereby establishes the sexually oriented live entertainment patron fee to fund policies and programming for investigating sex crimes and supporting trafficking and sex crime victims in Washington. The sexually oriented live entertainment patron fee does not regulate or prohibit any kind of speech. The legislature's interest in preventing harmful secondary effects is not related to the suppression of expression in nude dancing. Citizens are still free to engage in such forms of expression to the extent it complies with other legally established time, place, and manner restrictions. Instead, the sexually oriented live entertainment patron fee offsets the impacts of crime and the other deleterious effects caused by the presence of sexually oriented live adult entertainment establishments in Washington.

NEW SECTION. **Sec.**  (1) There is levied and collected a fee upon the admission to a sexually oriented live adult entertainment establishment, in an amount equal to four dollars. The fee imposed under this section must be paid by the patron to the operator of the establishment. Each operator must collect from the patron the full amount of the fee in respect to each admission and without respect to any cover charges that the operator may charge. The fee collected from the patron by the operator must be paid to the department of revenue in accordance with RCW 82.32.045.

(2) All other applicable provisions of chapter 82.32 RCW have full force and application with respect to the fee imposed under this section. The department of revenue must administer this section.

(3) Receipts from the fee imposed in this section must be deposited into the sexually oriented live entertainment patron fee account established in section 10 of this act.

(4) For the purposes of this section:

(a) "Adult entertainment" means:

(i) Any live exhibition, performance, or dance of any type conducted by an individual who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals;

(ii) Any performance of the following acts or of acts which simulate, or use artificial devices or inanimate objects which depict:

(A) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts that are prohibited by law;

(B) The touching, caressing, or fondling of the breast, buttocks, anus, or genitals; or

(C) The displaying of the pubic hair, anus, vulva, or genitals.

(b) "Cover charge" means a charge, regardless of its label, to enter a sexually oriented live adult entertainment establishment or added to the patron's bill by an operator of an establishment or otherwise collected after entrance to the establishment, and the patron is provided the opportunity to enter and view adult entertainment in exchange for payment of the charge.

(c) "Operator" means any person who operates, conducts, or maintains a sexually oriented adult entertainment establishment.

(d) "Patron" means any individual who is admitted to a sexually oriented live adult entertainment establishment.

(e) "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

(f) "Sexually oriented live adult entertainment establishment" means an adult cabaret, erotic dance venue, strip club, or any other commercial premises where live adult entertainment is provided during at least thirty days within a calendar year or a proportional number of days if the establishment was not open for a full calendar year.

NEW SECTION. **Sec.**  (1) The fees required to be collected by the operator under section 8 of this act, are deemed to be held in trust by the operator until paid to the department of revenue, and any operator who appropriates or converts the fees collected to his or her own use or to any use other than the payment of the fees to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any operator fails to collect the fees imposed under section 8 of this act or having collected the fees, fails to pay the collected fees to the department of revenue in the manner prescribed in section 8 of this act, whether such failure is the result of his or her own acts or the result of acts or conditions beyond the operator's control, the operator is nevertheless, personally liable to the state for the amount of the fees.

(3) The amount of the fees, until paid by the patron to the operator or to the department of revenue, constitutes a debt from the patron to the operator. Any operator who fails or refuses to collect the fees as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any patron who refuses to pay any fees due under this chapter is guilty of a misdemeanor.

NEW SECTION. **Sec.**  (1) The sexually oriented live entertainment patron fee account is created in the state treasury. All revenues from the sexually oriented live adult entertainment establishment admission fee established in section 8 of this act must be deposited into the account. Moneys in the account may only be spent after appropriation.

(2) The legislature must prioritize appropriations from the account for: The Washington sexual assault kit initiative project under RCW 36.28A.430; the Washington state patrol for the purpose of funding the statewide sexual assault kit tracking system and the forensic analysis of sexual assault kits; and for the establishment of training for operators and employees of sexually oriented live adult entertainment establishments to improve awareness, reduce the occurrence, and increase reporting of sexual assault and sex trafficking directly or indirectly associated with those establishments.

**Sec.**  RCW 82.32.145 and 2015 c 188 s 121 are each amended to read as follows:

(1) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid trust fund taxes from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid trust fund taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local trust fund taxes.

(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the trust fund taxes due from the limited liability business entity.

(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the department.

(5) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes is due to reasons beyond their control as determined by the department by rule.

(6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

(7) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in RCW 25.15.006.

(e) "Member" has the same meaning as in RCW 25.15.006, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Trust fund taxes" means taxes collected from purchasers and held in trust under RCW 82.08.050, including taxes imposed under RCW 82.08.020 and 82.08.150, and the sexually oriented live entertainment patron fee collected from patrons and held in trust under section 9 of this act.

(i) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

**Sec.**  RCW 43.84.092 and 2017 3rd sp.s. c 25 s 50, 2017 3rd sp.s. c 12 s 12, and 2017 c 290 s 8 are each reenacted and amended to read as follows:

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

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

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

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

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the diesel idle reduction account, the drinking water assistance account, the drinking water assistance administrative account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the Interstate 405 express toll lanes operations account, the education construction fund, the education legacy trust account, the election account, the electric vehicle charging infrastructure account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the high occupancy toll lanes operations account, the hospital safety net assessment fund, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the mobile home park relocation fund, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the sexually oriented live entertainment patron fee account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, the state university permanent fund, and the state reclamation revolving account shall be allocated to their respective beneficiary accounts.

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

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

NEW SECTION. **Sec.**  Sections 8 through 10 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. **Sec.**  Sections 8 through 10 of this act take effect October 1, 2018.

**--- END ---**