
SENATE BILL 5854

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By Senators Kilmer, Pridemore, Ranker, Rockefeller, Marr, Fraser, Kohl-Welles, Kline, Murray, and Keiser

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1 AN ACT Relating to reducing climate pollution in the built
2 environment; amending RCW 19.27A.020, 35.92.360, 54.16.280, 36.94.460,
3 70.164.020, 70.164.040, 70.164.050, and 70.164.060; adding a new
4 section to chapter 35.92 RCW; adding new sections to chapter 19.27A
5 RCW; adding a new section to chapter 82.16 RCW; creating a new section;
6 and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that energy efficiency
9 is the cheapest, quickest, and cleanest way to meet rising energy
10 needs, confront climate change, and boost our economy. More than
11 thirty percent of Washington's greenhouse gas emissions come from
12 energy use in buildings. Making homes, businesses, and public
13 institutions more energy efficient will save money, create good local
14 jobs, enhance energy security, reduce pollution that causes global
15 warming, and speed economic recovery while reducing the need to invest
16 in costly new generation. Washington can spur its economy and assert
17 its regional and national clean energy leadership by putting efficiency
18 first. Washington can accomplish this by: Promoting super efficient,
19 low-energy use building codes; requiring disclosure of buildings'

1 energy use to prospective buyers; making public buildings models of
2 energy efficiency; financing energy saving upgrades to existing
3 buildings; and reducing utility bills for low-income households.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply to
5 sections 1 through 3 and 5 through 8 of this act and RCW 19.27A.020
6 unless the context clearly requires otherwise.

7 (1) "Benchmark" means the energy used by a facility as recorded
8 monthly for at least one year and the facility characteristics
9 information inputs required for a portfolio manager.

10 (2) "Conditioned space" means conditioned space, as defined in the
11 Washington state energy code.

12 (3) "Consumer-owned utility" includes a municipal electric utility
13 formed under Title 35 RCW, a public utility district formed under Title
14 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
15 cooperative formed under chapter 23.86 RCW, a mutual corporation or
16 association formed under chapter 24.06 RCW, a port district formed
17 under Title 53 RCW, or a water-sewer district formed under Title 57
18 RCW, that is engaged in the business of distributing electricity to one
19 or more retail electric customers in the state.

20 (4) "Cost-effectiveness" means energy conservation measures that
21 the investment grade audit concludes will generate savings sufficient
22 to finance a portfolio of energy savings projects for not more than ten
23 years.

24 (5) "Council" means the state building code council.

25 (6) "Department" means the department of community, trade, and
26 economic development.

27 (7) "Energy service company" has the same meaning as in RCW
28 43.19.670.

29 (8) "General administration" means the department of general
30 administration.

31 (9) "Greenhouse gas" and "greenhouse gases" includes carbon
32 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
33 and sulfur hexafluoride.

34 (10) "Investment grade energy audit" means an intensive engineering
35 analysis of energy conservation and management measures for the
36 facility, net energy savings, and a cost-effectiveness determination.

1 (11) "Investor-owned utility" means a corporation owned by
2 investors that meets the definition of "corporation" as defined in RCW
3 80.04.010 and is engaged in distributing either electricity or natural
4 gas, or both, to more than one retail electric customer in the state.

5 (12) "Major facility" means any publicly owned or leased building,
6 or a group of such buildings at a single site, having ten thousand
7 square feet or more of conditioned floor space.

8 (13) "National energy performance rating" means the score provided
9 by the energy star program, to indicate the energy efficiency
10 performance of the building compared to similar buildings in that
11 climate as defined in the United States environmental protection agency
12 "ENERGY STAR® Performance Ratings Technical Methodology."

13 (14) "Net zero energy use" means a building with net energy
14 consumption of zero over a typical year as measured at utility. This
15 is done in part by maximizing energy efficiency.

16 (15) "Portfolio manager" means the United States environmental
17 protection agency's energy star portfolio manager or an equivalent tool
18 adopted by the department.

19 (16) "Preliminary energy audit" means a quick evaluation by an
20 energy service company of the energy savings potential of a building.

21 (17) "Qualifying public agency" includes all state agencies,
22 colleges, universities, and school districts.

23 (18) "Qualifying utility" means a consumer-owned or investor-owned
24 gas or electric utility that serves more than twenty-five thousand
25 customers in the state of Washington.

26 (19) "Reporting public facility" means any of the following:

27 (a) A building or structure, or a group of buildings or structures
28 at a single site, owned by a qualifying public agency, that exceed ten
29 thousand square feet of conditioned space;

30 (b) Buildings, structures, or spaces leased by a qualifying public
31 agency that exceeds ten thousand square feet of conditioned space,
32 where the qualifying public agency purchases energy directly from the
33 energy provider;

34 (c) A wastewater treatment facility owned by a qualifying public
35 agency; or

36 (d) Other facilities selected by the qualifying public agency.

37 (20) "State portfolio manager master account" means a portfolio

1 manager account established to provide a single shared portfolio that
2 includes reports for all the reporting public facilities.

3 NEW SECTION. **Sec. 3.** (1) The department shall develop and
4 implement a strategic plan for enhancing energy efficiency in and
5 reducing greenhouse gas emissions from homes, buildings, districts, and
6 neighborhoods. The strategic plan must be used to direct the future
7 code increases in RCW 19.27A.020, with targets for new buildings
8 consistent with the architecture 2030 challenge schedule. The
9 strategic plan will identify barriers to achieving net zero energy use
10 in homes and buildings and identify how to overcome these barriers in
11 updated energy codes and through complementary policies.

12 (2) The department must complete and release the strategic plan to
13 the legislature and the council by December 31, 2010, and update the
14 plan every three years.

15 (3) The strategic plan must include recommendations to the council
16 on energy code upgrades. At a minimum, the strategic plan must:

17 (a) Consider development of aspirational codes separate from the
18 state energy code that contain economically and technically feasible
19 optional standards that could achieve higher energy efficiency for
20 those builders that elected to follow the optional standards in lieu of
21 or in addition to complying with the standards set forth in the state
22 energy code;

23 (b) Determine the appropriate methodology to measure achievement of
24 state energy code targets using the United States environmental
25 protection agency's target finder program or equivalent methodology;

26 (c) Address the need for enhanced code enforcement;

27 (d) Include state strategies to support research, demonstration,
28 and education programs designed to achieve the targets in section 5 of
29 this act and enhance energy efficiency and on-site renewable energy
30 production in buildings;

31 (e) Develop incentives, education, training programs and
32 certifications, particularly state-approved training or certification
33 programs, joint apprenticeship programs, or labor-management
34 partnership programs that train workers for energy-efficiency projects
35 to ensure proposed programs are designed to increase building
36 professionals' ability to design, construct, and operate buildings that
37 meet the energy efficiency targets in section 5 of this act;

1 (f) Address barriers for utilities to serve net zero energy homes
2 and buildings and policies to overcome those barriers;

3 (g) Address the limits of a prescriptive code in achieving net zero
4 energy use homes and buildings and propose a transition to performance-
5 based codes;

6 (h) Create tax incentives, rebates, innovative or discounted
7 financing, and nonfinancial support in motivating energy consumers to
8 take action to increase energy efficiency and their use of on-site
9 renewable energy. Such incentives, rebates, or financing options may
10 consider the role of government programs as well as utility-sponsored
11 programs;

12 (i) Address the adequacy of education and technical assistance,
13 including school curricula, technical training, and peer-to-peer
14 exchanges for professional and trade audiences;

15 (j) Develop strategies to develop and install district and
16 neighborhood-wide energy systems that help meet net zero energy use in
17 homes and buildings; and

18 (k) Address barriers to one hundred percent carbon free energy
19 consumption in all buildings.

20 (4) The department and the council shall convene a work group to
21 inform the initial development of the strategic plan. Membership of
22 the work group may include, but is not limited to, representatives
23 from:

24 (a) A municipal code enforcement officer employed by a
25 municipality;

26 (b) A residential builder;

27 (c) A commercial builder;

28 (d) An architect licensed in the state who is accredited by a
29 nationally recognized organization that administers credentialing
30 programs related to environmentally sound building practices and
31 standards, recommended by the American institute of architects
32 Washington chapter;

33 (e) A professional engineer licensed in Washington state,
34 recommended by a statewide association of structural engineers;

35 (f) A historic preservation representative, recommended by the
36 Washington historic preservation commission, with experience
37 implementing the state's standards for the treatment of historic
38 properties;

- 1 (g) A conservation group working in energy efficiency;
- 2 (h) The Northwest power planning and conservation council;
- 3 (i) An investor-owned utility providing electricity service;
- 4 (j) An investor-owned utility providing natural gas service;
- 5 (k) A public utility district;
- 6 (l) A municipal electric utility;
- 7 (m) An electric cooperative;
- 8 (n) A representative of the energy services companies industry;
- 9 (o) A representative from the legal profession;
- 10 (p) A representative from a financial institution or entity
- 11 familiar with municipal bonds;
- 12 (q) An electrical engineer licensed in Washington state,
- 13 recommended by a statewide association of electrical engineers;
- 14 (r) A consulting design firm working on building renewable energy
- 15 solutions;
- 16 (s) A representative from a labor union representing workers in
- 17 energy or building and construction industries or labor affiliates
- 18 administering state-approved, joint apprenticeship programs or labor-
- 19 management partnership programs that train workers for these
- 20 industries;
- 21 (t) A representative of an equipment manufacturer; and
- 22 (u) A mechanical HVAC engineer licensed in Washington state,
- 23 recommended by a statewide association of mechanical HVAC engineers.

24 **Sec. 4.** RCW 19.27A.020 and 1998 c 245 s 8 are each amended to read
25 as follows:

26 (1) (~~No later than January 1, 1991,~~) The state building code
27 council shall adopt rules to be known as the Washington state energy
28 code as part of the state building code.

29 (2) The council shall follow the legislature's standards set forth
30 in this section to adopt rules to be known as the Washington state
31 energy code. The (~~Washington~~) state energy code shall be designed
32 to:

33 (a) Accelerate construction of increasingly energy efficient homes
34 and buildings that help achieve the broader goal of building zero
35 fossil-fuel greenhouse gas emission homes and buildings by the year
36 2031;

1 **(b)** Require new buildings to meet a certain level of energy
2 efficiency, but allow flexibility in building design, construction, and
3 heating equipment efficiencies within that framework(~~(. The Washington~~
4 state energy code shall be designed to)); and

5 **(c)** Allow space heating equipment efficiency to offset or
6 substitute for building envelope thermal performance.

7 (3) The Washington state energy code shall take into account
8 regional climatic conditions. Climate zone 1 shall include all
9 counties not included in climate zone 2. Climate zone 2 includes:
10 Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend
11 Oreille, Spokane, Stevens, and Whitman counties.

12 (4) The Washington state energy code for residential buildings
13 shall ~~((require:~~

14 ~~(a) New residential buildings that are space heated with electric~~
15 ~~resistance heating systems to achieve energy use equivalent to that~~
16 ~~used in typical buildings constructed with:~~

17 ~~(i) Ceilings insulated to a level of R-38. The code shall contain~~
18 ~~an exception which permits single rafter or joist vaulted ceilings~~
19 ~~insulated to a level of R-30 (R value includes insulation only);~~

20 ~~(ii) In zone 1, walls insulated to a level of R-19 (R value~~
21 ~~includes insulation only), or constructed with two by four members,~~
22 ~~R-13 insulation batts, R-3.2 insulated sheathing, and other normal~~
23 ~~assembly components; in zone 2 walls insulated to a level of R-24 (R~~
24 ~~value includes insulation only), or constructed with two by six~~
25 ~~members, R-22 insulation batts, R-3.2 insulated sheathing, and other~~
26 ~~normal construction assembly components; for the purpose of determining~~
27 ~~equivalent thermal performance, the wall U-value shall be 0.058 in zone~~
28 ~~1 and 0.044 in zone 2;~~

29 ~~(iii) Below grade walls, insulated on the interior side, to a level~~
30 ~~of R-19 or, if insulated on the exterior side, to a level of R-10 in~~
31 ~~zone 1 and R-12 in zone 2 (R value includes insulation only);~~

32 ~~(iv) Floors over unheated spaces insulated to a level of R-30 (R~~
33 ~~value includes insulation only);~~

34 ~~(v) Slab on grade floors insulated to a level of R-10 at the~~
35 ~~perimeter;~~

36 ~~(vi) Double glazed windows with values not more than U-0.4;~~

37 ~~(vii) In zone 1 the glazing area may be up to twenty one percent of~~
38 ~~floor area and in zone 2 the glazing area may be up to seventeen~~

1 percent of floor area where consideration of the thermal resistance
2 values for other building components and solar heat gains through the
3 glazing result in thermal performance equivalent to that achieved with
4 thermal resistance values for other components determined in accordance
5 with the equivalent thermal performance criteria of (a) of this
6 subsection and glazing area equal to fifteen percent of the floor area.
7 Throughout the state for the purposes of determining equivalent thermal
8 performance, the maximum glazing area shall be fifteen percent of the
9 floor area; and

10 (viii) Exterior doors insulated to a level of R-5; or an exterior
11 wood door with a thermal resistance value of less than R-5 and values
12 for other components determined in accordance with the equivalent
13 thermal performance criteria of (a) of this subsection.

14 (b) New residential buildings which are space heated with all other
15 forms of space heating to achieve energy use equivalent to that used in
16 typical buildings constructed with:

17 (i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in
18 zone 2 the code shall contain an exception which permits single rafter
19 or joist vaulted ceilings insulated to a level of R-30 (R value
20 includes insulation only);

21 (ii) Walls insulated to a level of R-19 (R value includes
22 insulation only), or constructed with two by four members, R-13
23 insulation batts, R-3.2 insulated sheathing, and other normal assembly
24 components;

25 (iii) Below grade walls, insulated on the interior side, to a level
26 of R-19 or, if insulated on the exterior side, to a level of R-10 in
27 zone 1 and R-12 in zone 2 (R value includes insulation only);

28 (iv) Floors over unheated spaces insulated to a level of R-19 in
29 zone 1 and R-30 in zone 2 (R value includes insulation only);

30 (v) Slab on grade floors insulated to a level of R-10 at the
31 perimeter;

32 (vi) Heat pumps with a minimum heating season performance factor
33 (HSPF) of 6.8 or with all other energy sources with a minimum annual
34 fuel utilization efficiency (AFUE) of seventy-eight percent;

35 (vii) Double glazed windows with values not more than U-0.65 in
36 zone 1 and U-0.60 in zone 2. The state building code council, in
37 consultation with the department of community, trade, and economic
38 development, shall review these U-values, and, if economically

1 justified for consumers, shall amend the Washington state energy code
2 to improve the U-values by December 1, 1993. The amendment shall not
3 take effect until July 1, 1994; and

4 (viii) In zone 1, the maximum glazing area shall be twenty one
5 percent of the floor area. In zone 2 the maximum glazing area shall be
6 seventeen percent of the floor area. Throughout the state for the
7 purposes of determining equivalent thermal performance, the maximum
8 glazing area shall be fifteen percent of the floor area.

9 (c) The requirements of (b)(ii) of this subsection do not apply to
10 residences with log or solid timber walls with a minimum average
11 thickness of three and one half inches and with space heat other than
12 electric resistance.

13 (d) The state building code council may approve an energy code for
14 pilot projects of residential construction that use innovative energy
15 efficiency technologies intended to result in savings that are greater
16 than those realized in the levels specified in this section.

17 (5) U-values for glazing shall be determined using the area
18 weighted average of all glazing in the building. U-values for vertical
19 glazing shall be determined, certified, and labeled in accordance with
20 the appropriate national fenestration rating council (NFRC) standard,
21 as determined and adopted by the state building code council.
22 Certification of U-values shall be conducted by a certified,
23 independent agency licensed by the NFRC. The state building code
24 council may develop and adopt alternative methods of determining,
25 certifying, and labeling U-values for vertical glazing that may be used
26 by fenestration manufacturers if determined to be appropriate by the
27 council. The state building code council shall review and consider the
28 adoption of the NFRC standards for determining, certifying, and
29 labeling U-values for doors and skylights when developed and published
30 by the NFRC. The state building code council may develop and adopt
31 appropriate alternative methods for determining, certifying, and
32 labeling U-values for doors and skylights. U-values for doors and
33 skylights determined, certified, and labeled in accordance with the
34 appropriate NFRC standard shall be acceptable for compliance with the
35 state energy code. Sealed insulation glass, where used, shall conform
36 to, or be in the process of being tested for, ASTM E-774-81 class A or
37 better)) be the 2006 edition of the Washington state energy code, as
38 amended by rule by the council.

1 ((+6)) (5) The minimum state energy code for new nonresidential
2 buildings shall be the Washington state energy code, ((1986)) 2006
3 edition, as amended by the council by rule.

4 ((+7)) (6)(a) Except as provided in (b) of this subsection, the
5 Washington state energy code for residential structures shall preempt
6 the residential energy code of each city, town, and county in the state
7 of Washington.

8 (b) The state energy code for residential structures does not
9 preempt a city, town, or county's energy code for residential
10 structures which exceeds the requirements of the state energy code and
11 which was adopted by the city, town, or county prior to March 1, 1990.
12 Such cities, towns, or counties may not subsequently amend their energy
13 code for residential structures to exceed the requirements adopted
14 prior to March 1, 1990.

15 ((+8)) (7) The state building code council shall consult with the
16 department of community, trade, and economic development as provided in
17 RCW 34.05.310 prior to publication of proposed rules. ~~((The department
18 of community, trade, and economic development shall review the proposed
19 rules for consistency with the guidelines adopted in subsection (4) of
20 this section.))~~ The director of the department of community, trade,
21 and economic development shall recommend to the state building code
22 council any changes necessary to conform the proposed rules to the
23 requirements of this section.

24 (8) The definitions in section 2 of this act apply throughout this
25 section.

26 NEW SECTION. **Sec. 5.** (1) The council shall adopt state energy
27 codes that require homes and buildings constructed from 2016 through
28 2031 to meet the following energy efficiency targets, using the adopted
29 2006 Washington state energy code as a baseline:

30 (a) By 2013, new homes and buildings must be designed and
31 constructed to achieve a forty percent reduction in energy use for that
32 building type;

33 (b) By 2016, new homes and buildings must be designed and
34 constructed to achieve a forty-five percent reduction in energy use for
35 that building type;

36 (c) By 2019, new homes and buildings must be designed and

1 constructed to achieve a fifty percent reduction in energy use for that
2 building type;

3 (d) By 2022, new homes and buildings must be designed and
4 constructed to achieve a fifty-five percent reduction in energy use for
5 that building type;

6 (e) By 2025, new homes and buildings must be designed and
7 constructed to achieve a sixty percent reduction in energy use for that
8 building type;

9 (f) By 2028, new homes and buildings must be designed and
10 constructed to achieve a sixty-five percent reduction in energy use for
11 that building type; and

12 (g) By 2031, new homes and buildings must be designed and
13 constructed to achieve a seventy percent reduction in energy use for
14 that building type.

15 (2) If the council determines that economic, technological, or
16 process factors would significantly impede adoption of or compliance
17 with state energy codes incorporating the energy efficiency targets in
18 subsection (1) of this section, the council shall report its findings
19 to the legislature by December 31st of the year prior to the year in
20 which those codes would otherwise be enacted under its proposed action
21 plan.

22 NEW SECTION. **Sec. 6.** (1) On and after January 1, 2010, qualifying
23 utilities shall maintain records of the energy consumption data of all
24 nonresidential and qualifying public agency buildings to which they
25 provide service. This data must be maintained for at least the most
26 recent twelve months in a format compatible for uploading to the
27 portfolio manager.

28 (2) On and after January 1, 2010, upon the written authorization or
29 secure electronic authorization of a nonresidential building owner or
30 operator, a qualifying utility shall upload all of the energy
31 consumption data for the accounts specified for a building to the
32 portfolio manager in a manner that preserves the confidentiality of the
33 customers.

34 (3) In carrying out the requirements of this section, a qualifying
35 utility shall use any method for providing the specified data in order
36 to maximize efficiency and minimize overall program cost. Qualifying

1 utilities are encouraged to consult with the United States
2 environmental protection agency and their customers in developing
3 reasonable reporting options.

4 (4) Disclosure of nonpublic nonresidential building performance
5 data will be phased in as follows:

6 (a) By January 1, 2011, for buildings greater than fifty thousand
7 square feet; and

8 (b) By January 1, 2012, for buildings greater than ten thousand
9 square feet.

10 (5) Based on the size guidelines in subsection (4) of this section,
11 a property owner or operator, or their agent, of a nonresidential
12 building shall complete and disclose the portfolio manager data and
13 ratings for the most recent continuously occupied twelve-month period
14 to a prospective buyer, lessee, or lender. If the data is delivered to
15 a prospective buyer, lessee, or lender, a property owner, operator, or
16 their agent is not required to provide additional information regarding
17 energy consumption, and the information is deemed to be adequate to
18 inform the prospective buyer, lessee, or lender regarding the portfolio
19 manager data and ratings for the most recent twelve-month period for
20 the building that is being sold, leased, financed, or refinanced.

21 (6) Notwithstanding subsections (4) and (5) of this section,
22 nothing in this section increases or decreases the duties, if any, of
23 a property owner, operator, or their agent under this chapter or alters
24 the duty of a seller, agent, or broker to disclose the existence of a
25 material fact affecting the real property.

26 NEW SECTION. **Sec. 7.** By December 31, 2009, the department shall
27 recommend to the legislature a methodology to determine an energy
28 performance score for residential buildings and an implementation
29 strategy to ensure disclosure of that score at the time of sale.

30 NEW SECTION. **Sec. 8.** (1) By July 1, 2010, each qualifying public
31 agency shall:

32 (a) Create an energy benchmark for each reporting public facility
33 using a portfolio manager;

34 (b) Report the environmental protection agency national energy
35 performance rating for each reporting public facility included in the
36 technical requirements for this rating; and

1 (c) Link all portfolio manager accounts to the state portfolio
2 manager master account to facilitate public reporting.

3 (2) By January 1, 2010, general administration shall establish a
4 state portfolio manager master account. The account must be designed
5 to provide shared reporting for all reporting public facilities.

6 (3) By July 1, 2010, general administration shall select a
7 standardized portfolio manager report for reporting public facilities.
8 General administration, in collaboration with the United States
9 environmental protection agency, shall make the standard report of each
10 reporting public facility available to the public through the portfolio
11 manager web site.

12 (4) General administration shall prepare a biennial report
13 summarizing the statewide portfolio manager master account reporting
14 data. The first report must be completed by December 1, 2012.
15 Subsequent reporting shall be completed every two years thereafter.

16 (5) By July 1, 2010, general administration shall develop a
17 technical assistance program to facilitate the implementation of a
18 preliminary audit and the investment grade energy audit. General
19 administration shall design the technical assistance program to utilize
20 no-cost audit services provided by utilities or energy services
21 contracting companies when possible.

22 (6) For each reporting public facility with a national energy
23 performance rating score below fifty, the qualifying public agency, in
24 consultation with general administration, shall undertake a preliminary
25 energy audit by July 1, 2011. If potential cost-effective energy
26 savings are identified, an investment grade energy audit must be
27 completed by July 1, 2012. Implementation of cost-effective energy
28 conservation measures are required by July 1, 2015. For a major
29 facility that is leased by a state agency, college, university, or
30 school district, energy audits and implementation of cost-effective
31 energy conservation measures are required only for that portion of the
32 facility that is leased by the state agency, college, university, or
33 school district.

34 (7) The state may not renew leases with buildings that have a
35 portfolio manager score below fifty.

36 (8) By July 1, 2011, general administration shall conduct a review
37 of facilities not covered by the national energy performance rating.
38 Based on this review, general administration shall develop a portfolio

1 of additional facilities that require preliminary energy audits. For
2 these facilities, the qualifying public agency, in consultation with
3 general administration, shall undertake a preliminary energy audit by
4 July 1, 2012. If potential cost-effective energy savings are
5 identified, an investment grade energy audit must be completed by July
6 1, 2013.

7 NEW SECTION. **Sec. 9.** A new section is added to chapter 35.92 RCW
8 to read as follows:

9 (1) A municipality may construct, purchase, acquire, add to,
10 extend, maintain, and operate a system of conservation facilities,
11 equipment, and programs for the conservation of energy, within or
12 without its limits, for the purpose of providing to its inhabitants and
13 other persons, services that lead to the more efficient consumption of
14 energy resources, from whatever source generated, with full power to
15 regulate and control the use, distribution, and price of such
16 efficiency measures, and to enter into agreements for the maintenance
17 and operation of conservation facilities under terms and conditions
18 determined by the legislative authority of the municipality. A
19 conservation utility may be operated as a separate utility or may be
20 combined with an existing electric, water, wastewater, solid waste,
21 heating or other utility operated by the municipality.

22 (2) For the purposes of meeting the state's goals relating to
23 greenhouse gas emissions in RCW 70.235.020 and reducing the state's
24 dependence on foreign oil, the provision of conservation services and
25 the establishment and operation of conservation utilities by a
26 municipality under this section are declared to be a public use and a
27 public and municipal purpose. A municipality that forms a conservation
28 utility under this section is declared to be engaged in the sale or
29 distribution of energy services for purposes of Article VIII, section
30 10 of the state Constitution, and is authorized to operate the loan
31 programs authorized in RCW 35.92.360 or 54.16.280, as applicable.

32 (3)(a) The legislative authority of the municipality has full
33 authority to control the use, distribution, and rates or charges for
34 energy conservation services and facilities provided to customers of
35 the system if the rates charged are uniform for the same class of
36 customer or service.

1 (b) In classifying customers served or service furnished, the
2 legislative authority may consider:

3 (i) The difference in cost of service to the various customers;

4 (ii) The location of the various customers within or without the
5 municipality;

6 (iii) The difference in cost of maintenance, operation, repair, and
7 replacement of the various parts of the system;

8 (iv) The different character of the service furnished various
9 customers;

10 (v) The quantity and quality of the conservation services
11 furnished; and

12 (vi) Any other matters that present a reasonable difference as a
13 ground for distinction.

14 (4) The legislative authority of the municipality has full
15 authority to regulate and control the conservation services delivered,
16 together with the right to handle and sell or lease any meters, lamps,
17 motors, transformers, and conservation equipment or accessories of any
18 kind, necessary and convenient for the use, distribution, and sale
19 thereof.

20 (5) The associated reductions in greenhouse gas emissions from any
21 energy conservation services and facilities provided by the
22 conservation utility are owned by the conservation utility unless
23 otherwise expressly provided in the rates and charges or contracts for
24 energy conservation.

25 (6) The associated reductions in greenhouse gas emissions from any
26 energy conservation services and facilities provided by the
27 conservation utility may be sold by the conservation utility to:

28 (a) Cities, counties, and public utility districts to mitigate the
29 greenhouse gas emissions of those jurisdictions pursuant to the
30 authority to purchase offsets provided in RCW 35.92.430, 36.01.250, and
31 54.16.390; or

32 (b) Electric utilities as renewable energy credits under chapter
33 19.285 RCW to the extent that the reductions in greenhouse gas
34 emissions result from a reduction in electric energy usage.

35 (7) This authority is in addition to any authority granted in other
36 law and does not limit the ability to provide conservation services
37 through an existing electric, water, wastewater, or heating utility.
38 The election procedures under RCW 35.92.070 and 54.08.070 and chapter

1 80.52 RCW or other law have no application to the formation of a
2 conservation utility formed under this section. Nothing in this
3 section authorizes any municipality to generate, transmit, distribute,
4 or sell electricity. Nothing in this section may be construed to
5 restrain or limit the authority of any individual, partnership,
6 corporation, or private utility from establishing and providing
7 conservation services.

8 (8) For purposes of this section, "municipality" means any city,
9 town, county, or public utility district.

10 **Sec. 10.** RCW 35.92.360 and 2002 c 276 s 2 are each amended to read
11 as follows:

12 (1) Any city or town engaged in the generation, sale, or
13 distribution of energy is hereby authorized, within limits established
14 by the Constitution of the state of Washington, to assist the owners of
15 structures or equipment in financing the acquisition and installation
16 of materials and equipment, for compensation or otherwise, for the
17 conservation or more efficient use of energy in such structures or
18 equipment pursuant to an energy conservation plan adopted by the city
19 or town if the cost per unit of energy saved or produced by the use of
20 such materials and equipment is less than the cost per unit of energy
21 produced by the next least costly new energy resource which the city or
22 town could acquire to meet future demand. Any financing authorized
23 under this chapter shall only be used for conservation purposes in
24 existing structures, and such financing shall not be used for any
25 purpose which results in a conversion from one energy source to
26 another.

27 (2) For the purposes of this section, "conservation purposes in
28 existing structures" may include projects to allow a municipal electric
29 utility's customers to generate all or a portion of their own
30 electricity through the on-site installation of a distributed
31 electricity generation system that uses as its fuel solar, wind,
32 geothermal, or hydropower, or other renewable resource that is
33 available on-site and not from a commercial source. Such projects
34 shall not be considered "a conversion from one energy source to
35 another" which is limited to the change or substitution of one
36 commercial energy supplier for another commercial energy supplier.

1 (3) Except where otherwise authorized, such assistance shall be
2 limited to:

3 (~~(1)~~) (a) Providing an inspection of the structure or equipment,
4 either directly or through one or more inspectors under contract, to
5 determine and inform the owner of the estimated cost of purchasing and
6 installing conservation materials and equipment for which financial
7 assistance will be approved and the estimated life cycle savings in
8 energy costs that are likely to result from the installation of such
9 materials or equipment;

10 (~~(2)~~) (b) Providing a list of businesses who sell and install
11 such materials and equipment within or in close proximity to the
12 service area of the city or town, each of which businesses shall have
13 requested to be included and shall have the ability to provide the
14 products in a workmanlike manner and to utilize such materials in
15 accordance with the prevailing national standards(~~(-)~~);

16 (~~(3)~~) (c) Arranging to have approved conservation materials and
17 equipment installed by a private contractor whose bid is acceptable to
18 the owner of the residential structure and verifying such installation;
19 and

20 (~~(4)~~) (d) Arranging or providing financing for the purchase and
21 installation of approved conservation materials and equipment. Such
22 materials and equipment shall be purchased from a private business and
23 shall be installed by a private business or the owner.

24 (~~(5)~~) (4) Pay back shall be in the form of incremental additions
25 to the utility bill, billed either together with use charge or
26 separately. Loans shall not exceed one hundred twenty months in
27 length. The city or town may make assistance available in the form of
28 grants made under this section for conservation improvements to
29 existing structures owned or occupied by persons qualifying as poor or
30 infirm consistent with the state Constitution.

31 (5) The legislative authority of the city or town shall approve the
32 aggregate amount of such loans and repayment terms by ordinance and
33 may, by ordinance, delegate to staff to approve individual loans
34 consistent with the terms set forth in the ordinance. The city or town
35 and the property owner shall enter into a loan agreement setting forth
36 the terms of the loan, which agreement may provide for acceleration in
37 the event a loan installment is delinquent. In order to secure loans,
38 the city or town must have a statutory lien on the property on which

1 conservation improvements so financed are installed or constructed.
2 The lien is paramount and superior to any other lien or encumbrance
3 theretofore or thereafter created, except a lien for general taxes and
4 special assessment district assessments. The loan is a lien upon
5 property from the time the loan agreement is executed. If the
6 legislative authority of the city or town has acted in good faith and
7 without fraud in granting a loan, the loan is valid and enforceable as
8 such and the lien upon the property is valid.

9 (6) The city or town may foreclose a lien in an action in the
10 superior court. All or any of the tracts subject to such a lien may be
11 proceeded against in a single action, and all parties appearing of
12 record as owning or claiming to own or having an interest in or lien
13 upon the tracts involved must be impleaded in the action as parties
14 defendant. An action to foreclose a lien must be commenced within two
15 years after the date the loan first becomes subject to acceleration
16 under the loan documents. Liens to secure loans may be foreclosed in
17 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

18 (7) Loans may be used to secure and repay general obligation or
19 revenue bonds, notes, or other forms of indebtedness issued by or on
20 behalf of the city or town. For the purpose of securing the payment of
21 the principal of and interest on any bonds or notes, the city or town
22 may create a reserve fund. The principal amount of any loan may
23 include a proportionate share of the costs of issuing the bonds, notes,
24 or other indebtedness, and may include up to an additional ten percent
25 of the loan amount to fund a reserve fund.

26 (8) The amendments to this section made by this act apply
27 prospectively and do not affect the validity of any loan issued under
28 this section prior to the effective date of this section.

29 **Sec. 11.** RCW 54.16.280 and 2002 c 276 s 3 are each amended to read
30 as follows:

31 (1) Any district is hereby authorized, within limits established by
32 the Constitution of the state of Washington, to assist the owners of
33 structures or equipment in financing the acquisition and installation
34 of materials and equipment, for compensation or otherwise, for the
35 conservation or more efficient use of energy in such structures or
36 equipment pursuant to an energy conservation plan adopted by the
37 district if the cost per unit of energy saved or produced by the use of

1 such materials and equipment is less than the cost per unit of energy
2 produced by the next least costly new energy resource which the
3 district could acquire to meet future demand. Any financing authorized
4 under this chapter shall only be used for conservation purposes in
5 existing structures, and such financing shall not be used for any
6 purpose which results in a conversion from one energy source to
7 another.

8 (2) For the purposes of this section, "conservation purposes in
9 existing structures" may include projects to allow a district's
10 customers to generate all or a portion of their own electricity through
11 the on-site installation of a distributed electricity generation system
12 that uses as its fuel solar, wind, geothermal, or hydropower, or other
13 renewable resource that is available on-site and not from a commercial
14 source. Such projects shall not be considered "a conversion from one
15 energy source to another" which is limited to the change or
16 substitution of one commercial energy supplier for another commercial
17 energy supplier.

18 (3) Except where otherwise authorized, such assistance shall be
19 limited to:

20 ~~((+1))~~ (a) Providing an inspection of the structure or equipment,
21 either directly or through one or more inspectors under contract, to
22 determine and inform the owner of the estimated cost of purchasing and
23 installing conservation materials and equipment for which financial
24 assistance will be approved and the estimated life cycle savings in
25 energy costs that are likely to result from the installation of such
26 materials or equipment;

27 ~~((+2))~~ (b) Providing a list of businesses who sell and install
28 such materials and equipment within or in close proximity to the
29 service area of the district, each of which businesses shall have
30 requested to be included and shall have the ability to provide the
31 products in a workmanlike manner and to utilize such materials in
32 accordance with the prevailing national standards~~((+))~~i

33 ~~((+3))~~ (c) Arranging to have approved conservation materials and
34 equipment installed by a private contractor whose bid is acceptable to
35 the owner of the residential structure and verifying such installation;
36 and

37 ~~((+4))~~ (d) Arranging or providing financing for the purchase and

1 installation of approved conservation materials and equipment. Such
2 materials and equipment shall be purchased from a private business and
3 shall be installed by a private business or the owner.

4 ~~((+5))~~ (4) Pay back shall be in the form of incremental additions
5 to the utility bill, billed either together with use charge or
6 separately. Loans shall not exceed one hundred twenty months in
7 length. The district may make assistance available in the form of
8 grants made under this section for conservation improvements to
9 existing structures owned or occupied by persons qualifying as poor or
10 infirm consistent with the state Constitution.

11 (5) The legislative authority of the district shall approve the
12 aggregate amount of such loans and repayment terms by ordinance and
13 may, by ordinance, delegate to staff to approve individual loans
14 consistent with the terms set forth in the ordinance. The district and
15 the property owner shall enter into a loan agreement setting forth the
16 terms of the loan, which agreement may provide for acceleration in the
17 event a loan installment is delinquent. In order to secure loans, the
18 district must have a statutory lien on the property on which
19 conservation improvements so financed are installed or constructed.
20 The lien is paramount and superior to any other lien or encumbrance
21 theretofore or thereafter created, except a lien for general taxes and
22 special assessment district assessments. The loan is a lien upon
23 property from the time the loan agreement is executed. If the
24 legislative authority of the district has acted in good faith and
25 without fraud in granting a loan, the loan is valid and enforceable as
26 such and the lien upon the property is valid.

27 (6) The district may foreclose a lien in an action in the superior
28 court. All or any of the tracts subject to such a lien may be
29 proceeded against in a single action, and all parties appearing of
30 record as owning or claiming to own or having an interest in or lien
31 upon the tracts involved must be impleaded in the action as parties
32 defendant. An action to foreclose a lien must be commenced within two
33 years after the date the loan first becomes subject to acceleration
34 under the loan documents. Liens to secure loans may be foreclosed in
35 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

36 (7) Loans may be used to secure and repay general obligation or
37 revenue bonds, notes, or other forms of indebtedness issued by or on
38 behalf of the city or town. For the purpose of securing the payment of

1 the principal of and interest on any bonds or notes, the district may
2 create a reserve fund. The principal amount of any loan may include a
3 proportionate share of the costs of issuing the bonds, notes, or other
4 indebtedness, and may include up to an additional ten percent of the
5 loan amount to fund a reserve fund.

6 (8) The amendments to this section made by this act apply
7 prospectively and do not affect the validity of any loan issued under
8 this section prior to the effective date of this section.

9 **Sec. 12.** RCW 36.94.460 and 1992 c 25 s 3 are each amended to read
10 as follows:

11 (1) Any county engaged in the sale or distribution of water or in
12 the sale and distribution of energy services through an energy
13 conservation utility formed under section 9 of this act, is hereby
14 authorized, within limits established by the Constitution of the state
15 of Washington, to assist the owners of structures that are provided
16 water or energy conservation services by the county in financing the
17 acquisition and installation of fixtures, systems, and equipment, for
18 compensation or otherwise, for the conservation or more efficient use
19 of water or energy in the structures under a water or energy
20 conservation plan adopted by the county if the cost per unit of water
21 saved or conserved by the use of the fixtures, systems, and equipment
22 is less than the cost per unit of water supplied by the next least
23 costly new water source available to the county to meet future demand.

24 (2) Except where otherwise authorized, assistance shall be limited
25 to:

26 ~~((+1))~~ (a) Providing an inspection of the structure, either
27 directly or through one or more inspectors under contract, to determine
28 and inform the owner of the estimated cost of purchasing and installing
29 conservation fixtures, systems, and equipment for which financial
30 assistance will be approved and the estimated life cycle savings to the
31 water system and the consumer that are likely to result from the
32 installation of the fixtures, systems, or equipment;

33 ~~((+2))~~ (b) Providing a list of businesses that sell and install
34 the fixtures, systems, and equipment within or in close proximity to
35 the service area of the county, each of which businesses shall have
36 requested to be included and shall have the ability to provide the

1 products in a workmanlike manner and to utilize the fixtures, systems,
2 and equipment in accordance with the prevailing national standards;

3 ~~((+3))~~ (c) Arranging to have approved conservation fixtures,
4 systems, and equipment installed by a private contractor whose bid is
5 acceptable to the owner of the structure and verifying the
6 installation; and

7 ~~((+4))~~ (d) Arranging or providing financing for the purchase and
8 installation of approved conservation fixtures, systems, and equipment.
9 The fixtures, systems, and equipment shall be purchased or installed by
10 a private business, the owner, or the utility.

11 (3) Pay back shall be in the form of incremental additions to the
12 utility bill, billed either together with ~~((+the+))~~ the use charge or
13 separately. Loans shall not exceed one hundred twenty months in
14 length. The county may make assistance available in the form of grants
15 made under this section for conservation improvements to existing
16 structures owned or occupied by persons qualifying as poor or infirm
17 consistent with the state Constitution.

18 (4) The legislative authority of the county shall approve the
19 aggregate amount of such loans and repayment terms by ordinance and
20 may, by ordinance, delegate to staff to approve individual loans
21 consistent with the terms set forth in the ordinance. The county and
22 the property owner shall enter into a loan agreement setting forth the
23 terms of the loan, which agreement may provide for acceleration in the
24 event a loan installment is delinquent. In order to secure loans, the
25 county must have a statutory lien on the property on which conservation
26 improvements so financed are installed or constructed. The lien is
27 paramount and superior to any other lien or encumbrance theretofore or
28 thereafter created, except a lien for general taxes and special
29 assessment district assessments. The loan is a lien upon property from
30 the time the loan agreement is executed. If the legislative authority
31 of the county has acted in good faith and without fraud in granting a
32 loan, the loan is valid and enforceable as such and the lien upon the
33 property is valid.

34 (5) The county may foreclose a lien in an action in the superior
35 court. All or any of the tracts subject to such a lien may be
36 proceeded against in a single action, and all parties appearing of
37 record as owning or claiming to own or having an interest in or lien
38 upon the tracts involved must be impleaded in the action as parties

1 defendant. An action to foreclose a lien must be commenced within two
2 years after the date the loan first becomes subject to acceleration
3 under the loan documents. Liens to secure loans may be foreclosed in
4 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

5 (6) Loans may be used to secure and repay general obligation or
6 revenue bonds, notes, or other forms of indebtedness issued by or on
7 behalf of the city or town. For the purpose of securing the payment of
8 the principal of and interest on any bonds or notes, the county may
9 create a reserve fund. The principal amount of any loan may include a
10 proportionate share of the costs of issuing the bonds, notes, or other
11 indebtedness, and may include up to an additional ten percent of the
12 loan amount to fund a reserve fund.

13 (7) The amendments made to this section by this act apply
14 prospectively and do not affect the validity of any loan issued under
15 this section prior to the effective date of this section.

16 **Sec. 13.** RCW 70.164.020 and 1995 c 399 s 199 are each amended to
17 read as follows:

18 ~~((Unless the context clearly requires otherwise,))~~ The definitions
19 in this section apply throughout this chapter unless the context
20 clearly requires otherwise.

21 (1) "Department" means the department of community, trade, and
22 economic development.

23 (2) "Energy ~~((assessment))~~ audit" means an analysis of a dwelling
24 unit to determine the need for cost-effective energy conservation
25 measures as determined by the department.

26 (3) "Household" means an individual or group of individuals living
27 in a dwelling unit as defined by the department.

28 (4) "Low income" means household income ~~((that is at or below one~~
29 ~~hundred twenty five percent of the federally established poverty~~
30 ~~level))~~ as defined by the department.

31 (5) "Nonutility sponsor" means any sponsor other than a public
32 service company, municipality, public utility district, mutual or
33 cooperative, furnishing gas or electricity used to heat low-income
34 residences.

35 (6) "Residence" means a dwelling unit as defined by the department.

36 (7) "Sponsor" means any entity that submits a proposal under RCW
37 70.164.040, including but not limited to any local community action

1 agency, tribal nation, community service agency, or any other
2 participating agency or any public service company, municipality,
3 public utility district, mutual or cooperative, or any combination of
4 such entities that jointly submits a proposal.

5 (8) "Sponsor match" means the share(~~(, if any,)~~) of the cost of
6 weatherization to be paid by the sponsor.

7 (9) "Sustainable residential weatherization" or "weatherization"
8 means (~~(materials or measures, and their installation, that are used to~~
9 ~~improve the thermal efficiency of a residence)~~) using funds
10 administered by the department to preserve a dwelling unit occupied by
11 a low-income household for activities and materials that result in
12 energy and resource conservation and energy efficiency improvements;
13 repair, indoor air quality, and health and safety investments; and
14 client education. To the extent feasible, funds must be used to
15 support and advance sustainable technologies.

16 (10) "Weatherizing agency" means any approved department grantee,
17 tribal nation, or any public service company, municipality, public
18 utility district, mutual or cooperative, or other entity that bears the
19 responsibility for ensuring the performance of weatherization of
20 residences under this chapter and has been approved by the department.

21 **Sec. 14.** RCW 70.164.040 and 1987 c 36 s 4 are each amended to read
22 as follows:

23 (1) The department shall solicit proposals for low-income
24 weatherization programs from potential sponsors. A proposal shall
25 state the amount of the sponsor match, the amount requested (~~(from the~~
26 ~~low-income weatherization assistance account)~~), the name of the
27 weatherizing agency, and any other information required by the
28 department.

29 (2)(a) A sponsor may use its own moneys, including corporate or
30 ratepayer moneys, or moneys provided by landlords, charitable groups,
31 government programs, the Bonneville Power Administration, or other
32 sources to pay the sponsor match.

33 (b) Moneys provided by a sponsor pursuant to requirements in this
34 section shall be in addition to and shall not supplant any funding for
35 low-income weatherization that would otherwise have been provided by
36 the sponsor or any other entity enumerated in (a) of this subsection.

1 (c) No proposal may require any contribution as a condition of
2 weatherization from any household whose residence is weatherized under
3 the proposal.

4 (d) Proposals shall provide that full levels of all cost-effective,
5 structurally feasible, sustainable residential weatherization
6 materials, measures, and practices, as determined by the department,
7 shall be installed when a low-income residence is weatherized.

8 (3)(a) The department may in its discretion accept, accept in part,
9 or reject proposals submitted. The department shall allocate funds
10 appropriated from the low-income weatherization assistance account
11 among proposals accepted or accepted in part so as to:

12 (i) Achieve the greatest possible expected monetary and energy
13 savings by low-income households and other energy consumers ((and))
14 over the longest period of time;

15 (ii) Identify and correct, to the extent practical, health and
16 safety problems for residents of low-income households; and

17 (iii) Leverage, to the extent feasible, environmentally friendly
18 sustainable technologies, practices, and designs.

19 (b) The department shall, to the extent feasible, ensure a balance
20 of participation in proportion to population among low-income
21 households for: ((+a)) (i) Geographic regions in the state; ((+b))
22 (ii) types of fuel used for heating, except that the department shall
23 encourage the use of energy efficient sustainable technologies; ((+c))
24 (iii) owner-occupied and rental residences; and ((+d)) (iv) single-
25 family and multifamily dwellings.

26 (c) The department may allocate funds to a nonutility sponsor
27 without requiring a sponsor match if the department determines that
28 such an allocation is necessary to provide the greatest benefits to
29 low-income residents of the state.

30 (4)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump
31 sum at the time of weatherization, or (ii) make yearly payments to the
32 low-income weatherization assistance account over a period not to
33 exceed ten years. If a sponsor elects to make yearly payments, the
34 value of the payments shall not be less than the value of the lump sum
35 payment that would have been made under (a)(i) of this subsection.

36 (b) The department may permit a sponsor to meet its match
37 requirement in whole or in part through providing labor, materials, or
38 other in-kind expenditures.

1 (5) The department shall adopt rules to carry out this section.

2 **Sec. 15.** RCW 70.164.050 and 1987 c 36 s 5 are each amended to read
3 as follows:

4 (1) The department is responsible for ensuring that sponsors and
5 weatherizing agencies comply with the state laws, the department's
6 rules, and the sponsor's proposal in carrying out proposals.

7 (2) Before a residence is weatherized, the department shall require
8 that an energy (~~assessment~~) audit be conducted.

9 **Sec. 16.** RCW 70.164.060 and 1987 c 36 s 6 are each amended to read
10 as follows:

11 Before a leased or rented residence is weatherized, written
12 permission shall be obtained from the owner of the residence for the
13 weatherization. The department shall adopt rules to ensure that: (1)
14 The benefits of weatherization assistance (~~in connection with a leased~~
15 ~~or rented residence~~), including utility bill reduction, and
16 preservation of affordable housing stock, accrue primarily to low-
17 income tenants occupying a leased or rented residence; (2) as a result
18 of weatherization provided under this chapter, the rent on the
19 residence is not increased and the tenant is not evicted; and (3) as a
20 result of weatherization provided under this chapter, no undue or
21 excessive enhancement occurs in the value of the residence. This
22 section is in the public interest and any violation by a landlord of
23 the rules adopted under this section shall be an act in trade or
24 commerce violating chapter 19.86 RCW, the consumer protection act.

25 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.16 RCW
26 to read as follows:

27 (1)(a) A person who is subject to tax under this chapter on gross
28 income from sales of electricity, natural gas, or manufactured gas made
29 to a person for the operation of a qualified building is eligible for
30 an exemption from the tax in the form of a credit.

31 (b) The seller is eligible for the credit if the contract for sale
32 of electricity or gas to the person for the operation of a qualified
33 building specifies that the price charged will be reduced or credited
34 by an amount equal to the gross income from the sale of the electricity

1 or gas for the calendar year in which the building becomes a qualified
2 building multiplied by the corresponding rate in effect at the time of
3 the sale for the public utility tax under RCW 82.16.020.

4 (c) The credit for the seller is equal to the gross income from the
5 sale of the electricity or gas to a person for the operation of a
6 qualified building for the calendar year in which the building becomes
7 a qualified building multiplied by the corresponding rate in effect at
8 the time of the sale for the public utility tax under RCW 82.16.020.

9 (2) The qualified building owner must provide the seller with
10 documentation verifying that the minimum energy star rating for the
11 year in which the credit is received has been earned.

12 (3) For purposes of this section:

13 (a) "Building" means a commercial or industrial building.

14 (b) "Qualified building" means: From the effective date of this
15 section, through December 31, 2009, a qualified building is a
16 commercial or industrial building that has earned an energy star rating
17 of eighty during calendar year 2009. For calendar year 2010, a
18 qualified building is a building that has earned an energy star rating
19 of eighty during calendar year 2010. For calendar year 2011, a
20 qualified building is a building that has earned an energy star rating
21 of eighty-five during calendar year 2011. For calendar year 2012, a
22 qualified building is a building that has earned an energy star rating
23 of ninety during calendar year 2012.

24 (4) The total combined credits that may be taken under this section
25 may not exceed five hundred thousand dollars in any fiscal year. The
26 department may require reporting of the credits taken in a manner and
27 form as is necessary to keep a running total of the amounts.

28 (5) Credits are available on a first-come basis. The department
29 shall disallow any credits that would cause the total amount of credits
30 taken to exceed the fiscal year cap. If the fiscal cap is reached or
31 exceeded, the department shall notify the seller that no more credits
32 may be taken during the remainder of the fiscal year. In addition, the
33 department shall provide written notice to any person who has taken any
34 tax credits in excess of the fiscal year cap. The notice must
35 indicate the amount of tax due and provide that the tax be paid within
36 thirty days from the date of such notice.

37 (6) No portion of an application for credit disallowed under this

1 section may be carried back or carried forward nor may taxes ineligible
2 for credit due to the fiscal cap having been reached or exceeded be
3 carried forward or carried backward.

4 (7) This section expires January 1, 2013.

5 NEW SECTION. **Sec. 18.** Sections 2, 3, and 5 through 8 of this act
6 are each added to chapter 19.27A RCW.

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