AN ACT Relating to reducing climate pollution in the built environment; amending RCW 19.27A.020, 35.92.360, 54.16.280, and 36.94.460; reenacting and amending RCW 82.32.600; adding a new section to chapter 35.92 RCW; adding new sections to chapter 19.27A RCW; adding a new section to chapter 82.16 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy. More than thirty percent of Washington's greenhouse gas emissions come from energy use in buildings. Making homes, businesses, and public institutions more energy efficient will save money, create good local jobs, enhance energy security, reduce pollution that causes global warming, and speed economic recovery while reducing the need to invest in costly new generation. Washington can spur its economy and assert its regional and national clean energy leadership by putting efficiency first. Washington can accomplish this by: Promoting super efficient, low-energy use building codes; requiring disclosure of buildings'
energy use to prospective buyers; making public buildings models of energy efficiency; financing energy saving upgrades to existing buildings; and reducing utility bills for low-income households.

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

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

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

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

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

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

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

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

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

(9) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
(10) "Investment grade energy audit" means an intensive engineering analysis of energy conservation and management measures for the facility, net energy savings, and a cost-effectiveness determination.

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

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

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

(14) "Net zero energy use" means a building with net energy consumption of zero over a typical year as measured at utility meter.

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

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

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

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

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

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

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

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

(d) Other facilities selected by the qualifying public agency.
"State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

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

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

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

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

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

(c) Address the need for enhanced code training and enforcement;

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

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

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

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

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

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

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

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

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

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

(b) A residential builder;

(c) A commercial builder;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) Slab on grade floors insulated to a level of R-10 at the
perimeter;
(vi) Double-glazed windows with values not more than U-0.4;

(vii) In zone 1 the glazing area may be up to twenty-one percent of floor area and in zone 2 the glazing area may be up to seventeen percent of floor area where consideration of the thermal resistance values for other building components and solar heat gains through the glazing result in thermal performance equivalent to that achieved with thermal resistance values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection and glazing area equal to fifteen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area; and

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

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

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

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

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

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

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

(vi) Heat pumps with a minimum heating season performance factor (HSPF) of 6.8 or with all other energy sources with a minimum annual fuel utilization efficiency (AFUE) of seventy-eight percent;
(vii) Double glazed windows with values not more than U-0.65 in zone 1 and U-0.60 in zone 2. The state building code council, in consultation with the department of community, trade, and economic development, shall review these U-values, and, if economically justified for consumers, shall amend the Washington state energy code to improve the U-values by December 1, 1993. The amendment shall not take effect until July 1, 1994; and

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

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

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

(5) U-values for glazing shall be determined using the area weighted average of all glazing in the building. U-values for vertical glazing shall be determined, certified, and labeled in accordance with the appropriate national fenestration rating council (NFRC) standard, as determined and adopted by the state building code council. Certification of U-values shall be conducted by a certified, independent agency licensed by the NFRC. The state building code council may develop and adopt alternative methods of determining, certifying, and labeling U-values for vertical glazing that may be used by fenestration manufacturers if determined to be appropriate by the council. The state building code council shall review and consider the adoption of the NFRC standards for determining, certifying, and labeling U-values for doors and skylights when developed and published by the NFRC. The state building code council may develop and adopt appropriate alternative methods for determining, certifying, and labeling U-values for doors and skylights. U-values for doors and skylights determined, certified, and labeled in accordance with the appropriate NFRC standard shall be acceptable for compliance with the
state energy code. Sealed insulation glass, where used, shall conform
to, or be in the process of being tested for, ASTM E-774-81 class A or
cleaner, be the 2006 edition of the Washington state energy code, or as
amended by rule by the council.

The minimum state energy code for new nonresidential
buildings shall be the Washington state energy code, 2006
edition, or as amended by the council by rule.

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

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

The state building code council shall consult with the
department of community, trade, and economic development as provided in
RCW 34.05.310 prior to publication of proposed rules. (The department
of community, trade, and economic development shall review the proposed
rules for consistency with the guidelines adopted in subsection (4) of
this section.) The director of the department of community, trade,
and economic development shall recommend to the state building code
council any changes necessary to conform the proposed rules to the
requirements of this section.

The definitions in section 2 of this act apply throughout this
section.

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

(a) By 2013, new homes and buildings must be designed and
constructed to achieve a forty percent reduction in energy use for that
building type and climate zone;
(b) By 2016, new homes and buildings must be designed and constructed to achieve a forty-five percent reduction in energy use for that building type and climate zone;

(c) By 2019, new homes and buildings must be designed and constructed to achieve a fifty percent reduction in energy use for that building type and climate zone;

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

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

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

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

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

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

(2) On and after January 1, 2010, upon the written authorization or secure electronic authorization of a nonresidential building owner or operator, a qualifying utility shall upload all of the energy consumption data for the accounts specified for a building to the portfolio manager in a manner that preserves the confidentiality of the building owners and their tenants.
(3) In carrying out the requirements of this section, a qualifying utility shall use any method for providing the specified data in order to maximize efficiency and minimize overall program cost. Qualifying utilities are encouraged to consult with the United States environmental protection agency and their customers in developing reasonable reporting options.

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

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

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

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

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

NEW SECTION. Sec. 7. By December 31, 2009, the department shall recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department shall seek input from providers of residential energy audits, building contractors, the residential real estate industry, and real estate listing and form providers.
NEW SECTION. Sec. 8. (1) By July 1, 2010, each qualifying public agency shall:

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

(b) Report to general administration, the environmental protection agency national energy performance rating for each reporting public facility included in the technical requirements for this rating; and

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

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

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

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

(5) By July 1, 2010, general administration shall develop a technical assistance program to facilitate the implementation of a preliminary audit and the investment grade energy audit. General administration shall design the technical assistance program to utilize audit services provided by utilities or energy services contracting companies when possible.

(6) For each reporting public facility with a national energy performance rating score below fifty, the qualifying public agency, in consultation with general administration, shall undertake a preliminary energy audit by July 1, 2011. If potential cost-effective energy savings are identified, an investment grade energy audit must be completed by July 1, 2013. Implementation of cost-effective energy conservation measures are required by July 1, 2016. For a major facility that is leased by a state agency, college, or university, energy audits and implementation of cost-effective energy conservation
measures are required only for that portion of the facility that is
leased by the state agency, college, and university.

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

(8) By July 1, 2011, general administration shall conduct a review
of facilities not covered by the national energy performance rating.
Based on this review, general administration shall develop a portfolio
of additional facilities that require preliminary energy audits. For
these facilities, the qualifying public agency, in consultation with
general administration, shall undertake a preliminary energy audit by
July 1, 2012. If potential cost-effective energy savings are
identified, an investment grade energy audit must be completed by July
1, 2013.

(9) Schools are strongly encouraged to follow the provisions in
subsections (1) through (6) of this section.

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

(1) A municipality may engage in the sale or distribution of energy
conservation services for the purpose of providing to its inhabitants
and other persons services that lead to the more efficient consumption
of energy resources, from whatever source generated. Municipalities
undertaking energy conservation financing services or programs pursuant
to this chapter shall coordinate with existing conservation programs
and services offered by the electric or natural gas energy distribution
utility or utilities serving that municipality and shall avoid
duplicating these preexisting programs and services.

(2) For the purposes of meeting the state's goals relating to
greenhouse gas emissions in RCW 70.235.020 and reducing the state's
dependence on foreign oil, the provision of conservation services by a
municipality under this section are declared to be a public use and a
public and municipal purpose. A municipality that engages in
conservation services under this section is declared to be engaged in
the distribution of energy conservation services for purposes of
Article VIII, section 10 of the state Constitution, and is authorized
to operate the financing programs authorized in RCW 35.92.360 or
54.16.280, as applicable.
(3) The legislative authority of the municipality has full authority to control the conservation services delivered, together with the right to handle and sell or lease any conservation equipment or accessories of any kind, necessary and convenient for the use, distribution, and sale thereof.

(4) This authority is in addition to any authority granted in other law and does not limit or supplant the ability to provide conservation services through an existing electric, water, wastewater, or heating utility. The election procedures under RCW 35.92.070 and 54.08.070 and chapter 80.52 RCW or other law have no application to this section. Nothing in this section authorizes any municipality to generate, transmit, distribute, or sell electricity. Nothing in this section may be construed to restrain or limit the authority of any individual, partnership, corporation, or private utility from establishing and providing conservation services.

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

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

(1) Any city or town engaged in the generation, sale, or distribution of energy or in the sale and distribution of conservation services under section 9 of this act, is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the city or town if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the city or town could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another.

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

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

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

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

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

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

(4) Pay back may be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed two hundred forty months in length. The city or town may make assistance available in the form of grants made under this section for conservation improvements to existing structures owned or occupied by

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persons qualifying as poor or infirm consistent with the state Constitution.

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

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

(7) Loans may be used to secure and repay general obligation or revenue bonds, notes, or other forms of indebtedness issued by or on behalf of the city or town. For the purpose of securing the payment of the principal of and interest on any bonds or notes, the city or town may create a reserve fund. The principal amount of any loan may include a proportionate share of the costs of issuing the bonds, notes, or other indebtedness, including funding a pooled reserve for the indebtedness, and may include up to an additional ten percent of the loan amount to fund a loan loss reserve specific to that loan. Conservation loans originated by a third party may be acquired by the proceeds of obligations secured by the loan revenues, but only if such
loans meet the minimum origination requirements set by the legislative authority of the municipality under subsection (3) of this section and a loan agreement, in a form approved by the municipality, is validly assigned to the municipality.

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

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

(1) Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the district if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the district could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another.

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

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

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

(()-()) (b) Providing a list of businesses who sell and install
such materials and equipment within or in close proximity to the
service area of the district, each of which businesses shall have
requested to be included and shall have the ability to provide the
products in a workmanlike manner and to utilize such materials in
accordance with the prevailing national standards(()-()) _

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

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

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

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

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

(7) Loans may be used to secure and repay general obligation or revenue bonds, notes, or other forms of indebtedness issued by or on behalf of the district. For the purpose of securing the payment of the principal of and interest on any bonds or notes, the district may create a reserve fund. The principal amount of any loan may include a proportionate share of the costs of issuing the bonds, notes, or other indebtedness, including funding a pooled reserve for the indebtedness, and may include up to an additional ten percent of the loan amount to fund a loan loss reserve specific to that loan. Conservation loans originated by a third party may be acquired by the proceeds of obligations secured by the loan revenues, but only if such loans meet the minimum origination requirements set by the legislative authority of the municipality under subsection (3) of this section and a loan agreement, in a form approved by the district, is validly assigned to the district.

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

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

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

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

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

((++2)) (b) Providing a list of businesses that sell and install the fixtures, systems, and equipment within or in close proximity to the service area of the county, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize the fixtures, systems, and equipment in accordance with the prevailing national standards;

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

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

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

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

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

(6) Loans may be used to secure and repay general obligation or revenue bonds, notes, or other forms of indebtedness issued by or on behalf of the county. For the purpose of securing the payment of the principal of and interest on any bonds or notes, the county may create a reserve fund. The principal amount of any loan may include a proportionate share of the costs of issuing the bonds, notes, or other indebtedness, including funding a pooled reserve for the indebtedness, and may include up to an additional ten percent of the loan amount to fund a loan loss reserve specific to that loan. Conservation loans originated by a third party may be acquired by the proceeds of
obligations secured by the loan revenues, but only if such loans meet the minimum origination requirements set by the legislative authority of the municipality under subsection (3) of this section and a loan agreement, in a form approved by the municipality, is validly assigned to the municipality.

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

NEW SECTION. Sec. 13. A new section is added to chapter 82.16 RCW to read as follows:

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

(b) The seller is eligible for the credit if the contract for sale of electricity or gas to the person for the operation of a qualified building specifies that the price charged will be reduced or credited by an amount equal to the gross income from the sale of the electricity or gas for the fiscal year in which the building becomes a qualified building multiplied by the corresponding rate in effect at the time of the sale for the public utility tax under RCW 82.16.020.

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

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

(3) For purposes of this section:

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

(b) "Qualified building" means: From the effective date of this section, through January 1, 2010, a qualified building is a commercial or industrial building that has earned an energy star rating of eighty during calendar year 2009. For calendar year 2010, a qualified building is a building that has earned an energy star rating of eighty during calendar year 2010. For calendar year 2011, a qualified building is a building that has earned an energy star rating of eighty during calendar year 2011.
building is a building that has earned an energy star rating of eighty-five during calendar year 2011. For calendar year 2012, a qualified building is a building that has earned an energy star rating of ninety during calendar year 2012.

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

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

(6) No portion of an application for credit disallowed under this section may be carried back or carried forward nor may taxes ineligible for credit due to the fiscal cap having been reached or exceeded be carried forward or carried backward.

(7) This section expires January 1, 2013.

Sec. 14. RCW 82.32.600 and 2008 c 81 s 14 and 2008 c 15 s 8 are each reenacted and amended to read as follows:

(1) Persons required to file annual surveys or annual reports under RCW 82.04.4452, 82.32.5351, 82.32.545, 82.32.610, 82.32.630, 82.82.020, or 82.74.040 and sellers receiving credit under section 13 of this act must electronically file with the department all surveys, reports, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department. As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

(2) Any survey, report, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.
(3) The department may waive the electronic filing requirement in subsection (1) of this section for good cause shown.

NEW SECTION. Sec. 15. Sections 2, 3, and 5 through 8 of this act are each added to chapter 19.27A RCW.

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