

**SSB 5445 - S AMD 209**  
By Senator Boehnke

ADOPTED 03/11/2025

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that, as  
4 Washington works towards meeting its goals under the clean energy  
5 transformation act, we see many larger-scale renewable energy  
6 projects proposed. These projects can come with significant  
7 challenges. This act aims to incentivize the development of renewable  
8 energy on lands and structures that have minimal disruption to  
9 natural habitats, communities, cultural resources, and agriculture.  
10 This could include small-scale wind energy developments, solar energy  
11 developments on landfills, structures, and other developed lands, and  
12 the placement of solar panels on agricultural lands that ensure the  
13 continued viability of agriculture alongside energy production.  
14 Incentivizing distributed energy can help us protect our rich  
15 agricultural lands and meet our clean energy goals.

16 (2)(a) The legislature finds and declares that the Pacific  
17 Northwest utilities conference committee has estimated demand for  
18 electricity in the region will increase 30 percent over the next  
19 decade. High-tech manufacturing, increasing electrification of  
20 buildings and transportation, and surging data center needs  
21 contribute to the expected increase in demand. Local economies  
22 benefit from projects that will help meet this demand and improve  
23 distribution system resilience with local resources and investments.

24 (b) The legislature further finds and declares that utilities are  
25 essential partners in achieving the state's decarbonization goals  
26 while meeting increasing demand and ensuring grid reliability. Such  
27 projects can create high quality jobs, provide opportunities for  
28 training apprentice workers, and help utilities leverage their own  
29 expertise, community relationships, and resources to address our  
30 energy challenges.

31 (c) The legislature intends to support utilities who make  
32 significant investments in energy resilience by establishing an

1 alternate compliance pathway in the energy independence act for  
2 utilities who invest in distributed energy priority projects.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F  
4 RCW to read as follows:

5 (1) The following categories of clean energy facilities and  
6 nonproject activities that reduce environmental impacts are  
7 determined to constitute distributed energy priorities:

8 (a) Solar energy generation and accompanying energy storage and  
9 electricity transmission and distribution, including vehicle charging  
10 equipment, when such facilities are located:

11 (i) Within the easement, right-of-way, or existing footprint of  
12 electrical transmission facilities;

13 (ii) Within the easement, right-of-way, or existing footprint of  
14 a state highway or city or county road;

15 (iii) On structures over or enclosing irrigation canals, drainage  
16 ditches, and irrigation, agricultural, livestock supply, stormwater,  
17 or wastewater reservoirs or similar impoundments of state waters that  
18 do not host salmon or steelhead trout runs;

19 (iv) On elevated structures over parking lots;

20 (v) On lands within a transportation facility, including but not  
21 limited to airports and railroad facilities, or restricted from other  
22 developments by transportation facility operations;

23 (vi) On closed or capped portions of landfills;

24 (vii) On reclaimed or former surface mine lands or contaminated  
25 sites that have been remediated under chapter 70A.305 RCW or the  
26 federal comprehensive environmental response, compensation, and  
27 liability act (42 U.S.C. Sec. 9601 et seq.) in a manner that includes  
28 an asphalt or soil cap;

29 (viii) As an agrivoltaic facility; and

30 (ix) On existing structures;

31 (b) Wind energy generation that is not a utility-scale wind  
32 energy facility as defined in RCW 70A.550.010, and accompanying  
33 energy storage and transmission and distribution equipment, including  
34 vehicle charging equipment;

35 (c) Energy storage, when such facilities are located:

36 (i) Within the easement, right-of-way, or existing footprint of  
37 electrical transmission facilities;

38 (ii) Within the easement, right-of-way, or existing footprint of  
39 a state highway or city or county road;

1 (iii) On lands within a transportation facility, including but  
2 not limited to airports and railroad facilities, or restricted from  
3 other developments by transportation facility operations;

4 (iv) On closed or capped portions of landfills;

5 (v) On reclaimed or former surface mine lands;

6 (vi) On contaminated sites that have been remediated under  
7 chapter 70A.305 RCW or the federal comprehensive environmental  
8 response, compensation, and liability act (42 U.S.C. Sec. 9601 et  
9 seq.) in a manner that includes an asphalt or soil cap; and

10 (vii) On or in existing structures;

11 (d) Programs that reduce electric demand, manage the level or  
12 timing of electricity consumption, or provide electricity storage,  
13 renewable or nonemitting electric energy, capacity, or ancillary  
14 services to an electric utility and that are located on the  
15 distribution system, any subsystem of the distribution system, or  
16 behind the customer meter, including conservation and energy  
17 efficiency; and

18 (e) Programs that reduce energy demand, manage the level or  
19 timing of energy consumption, or provide thermal energy storage.

20 (2) (a) The department must review and, when appropriate,  
21 periodically recommend to the legislature additional types of  
22 distributed energy priorities for inclusion on the list under  
23 subsection (1) of this section.

24 (b) The identification of distributed energy priorities in  
25 subsection (1) of this section applies to the maximum extent  
26 practical under state and federal law, but does not include any  
27 development sites or activities prohibited under other state or  
28 federal laws.

29 (3) (a) For purposes of this section, "agrivoltaic facility" means  
30 a ground-mounted photovoltaic solar energy system that is designed to  
31 be operated coincident with continued productive agricultural use of  
32 the land or both the continued productive agricultural use of the  
33 land and the provision of ecological value, including habitat.

34 (b) Eligible agricultural products and uses include any  
35 combination of:

36 (i) Crop production;

37 (ii) Grazing;

38 (iii) Animal husbandry; and

39 (iv) Apiaries with pollinator habitat that have been designed and  
40 installed to enable the agricultural producer the flexibility to

1 change what products are produced, raised, or grown at any point  
2 throughout the life of the facility.

3 (c) An agrivoltaic facility must not permanently or significantly  
4 degrade the agricultural or ecological productivity of the land after  
5 the cessation of the operation of the facility or involve the sale of  
6 a water right associated with the land.

7 (d) An agrivoltaic facility must be constructed, installed, and  
8 operated to achieve integrated and simultaneous production of both  
9 solar energy and marketable agricultural products by an agricultural  
10 producer:

11 (i) On land beneath or between rows of solar panels, or both; and

12 (ii) As soon as agronomically feasible and optimal for the  
13 agricultural producer after the commercial solar operation date, and  
14 continuing until facility decommissioning.

15 (e) Solar panel arrays must be designed and installed in a manner  
16 that supports the continuation of a viable farm operation for the  
17 life of the array, and must consider, as appropriate, the  
18 availability of light, water infrastructure for crops or animals, and  
19 panel height and spacing relative to farm machinery needs.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.21C  
21 RCW to read as follows:

22 The following actions are categorically exempt from the  
23 requirements of this chapter, except when undertaken wholly or partly  
24 on lands covered by water:

25 (1) The construction of structures with a footprint of less than  
26 1,000 square feet that support solar energy generation panels or  
27 associated equipment;

28 (2) The construction of structures that support solar energy  
29 generation panels or associated equipment on elevated structures  
30 located wholly over parking lots; and

31 (3) Solar energy generation and accompanying energy storage and  
32 electricity transmission and distribution when such facilities do not  
33 involve penetration of an asphalt or soil cap, are served by and  
34 accessible to emergency fire response services, as determined by the  
35 entity that would be lead agency for purposes of the chapter, and are  
36 located wholly on:

37 (a) Closed or capped portions of landfills; or

38 (b) Reclaimed or former surface mine lands.

1       **Sec. 4.** RCW 84.34.020 and 2014 c 125 s 2 are each amended to  
2 read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Open space land" means (a) any land area so designated by an  
6 official comprehensive land use plan adopted by any city or county  
7 and zoned accordingly(~~(7)~~); or (b) any land area, the preservation of  
8 which in its present use would (i) conserve and enhance natural or  
9 scenic resources, or (ii) protect streams or water supply, or (iii)  
10 promote conservation of soils, wetlands, beaches or tidal marshes, or  
11 (iv) enhance the value to the public of abutting or neighboring  
12 parks, forests, wildlife preserves, nature reservations or  
13 sanctuaries or other open space, or (v) enhance recreation  
14 opportunities, or (vi) preserve historic sites, or (vii) preserve  
15 visual quality along highway, road, and street corridors or scenic  
16 vistas, or (viii) retain in its natural state tracts of land not less  
17 than one acre situated in an urban area and open to public use on  
18 such conditions as may be reasonably required by the legislative body  
19 granting the open space classification(~~(7)~~); or (c) any land meeting  
20 the definition of farm and agricultural conservation land under  
21 subsection (8) of this section. As a condition of granting open space  
22 classification, the legislative body may not require public access on  
23 land classified under (b)(iii) of this subsection for the purpose of  
24 promoting conservation of wetlands.

25       (2) "Farm and agricultural land" means:

26       (a) Any parcel of land that is (~~(twenty)~~) 20 or more acres or  
27 multiple parcels of land that are contiguous and total (~~(twenty)~~) 20  
28 or more acres:

29       (i) Devoted primarily to the production of livestock or  
30 agricultural commodities for commercial purposes;

31       (ii) Enrolled in the federal conservation reserve program or its  
32 successor administered by the United States department of  
33 agriculture; or

34       (iii) Other similar commercial activities as may be established  
35 by rule;

36       (b)(i) Any parcel of land that is five acres or more but less  
37 than (~~(twenty)~~) 20 acres devoted primarily to agricultural uses,  
38 which has produced a gross income from agricultural uses equivalent  
39 to, as of January 1, 1993:

1 (A) (~~One hundred dollars~~) \$100 or more per acre per year for  
2 three of the five calendar years preceding the date of application  
3 for classification under this chapter for all parcels of land that  
4 are classified under this subsection or all parcels of land for which  
5 an application for classification under this subsection is made with  
6 the granting authority prior to January 1, 1993; and

7 (B) On or after January 1, 1993, (~~two hundred dollars~~) \$200 or  
8 more per acre per year for three of the five calendar years preceding  
9 the date of application for classification under this chapter;

10 (ii) For the purposes of (b)(i) of this subsection, "gross income  
11 from agricultural uses" includes, but is not limited to, the  
12 wholesale value of agricultural products donated to nonprofit food  
13 banks or feeding programs;

14 (c) Any parcel of land of less than five acres devoted primarily  
15 to agricultural uses which has produced a gross income as of January  
16 1, 1993, of:

17 (i) (~~One thousand dollars~~) \$1,000 or more per year for three of  
18 the five calendar years preceding the date of application for  
19 classification under this chapter for all parcels of land that are  
20 classified under this subsection or all parcels of land for which an  
21 application for classification under this subsection is made with the  
22 granting authority prior to January 1, 1993; and

23 (ii) On or after January 1, 1993, (~~fifteen hundred dollars~~)  
24 \$1,500 or more per year for three of the five calendar years  
25 preceding the date of application for classification under this  
26 chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this  
27 subsection will, upon any transfer of the property excluding a  
28 transfer to a surviving spouse or surviving state registered domestic  
29 partner, be subject to the limits of (b)(i)(B) and (c)(ii) of this  
30 subsection;

31 (d) Any parcel of land that is five acres or more but less than  
32 (~~twenty~~) 20 acres devoted primarily to agricultural uses, which  
33 meet one of the following criteria:

34 (i) Has produced a gross income from agricultural uses equivalent  
35 to two hundred dollars or more per acre per year for three of the  
36 five calendar years preceding the date of application for  
37 classification under this chapter;

38 (ii) Has standing crops with an expectation of harvest within  
39 seven years, except as provided in (d)(iii) of this subsection, and a  
40 demonstrable investment in the production of those crops equivalent

1 to one hundred dollars or more per acre in the current or previous  
2 calendar year. For the purposes of this subsection (2)(d)(ii),  
3 "standing crop" means Christmas trees, vineyards, fruit trees, or  
4 other perennial crops that: (A) Are planted using agricultural  
5 methods normally used in the commercial production of that particular  
6 crop; and (B) typically do not produce harvestable quantities in the  
7 initial years after planting; or

8 (iii) Has a standing crop of short rotation hardwoods with an  
9 expectation of harvest within (~~(fifteen))~~ 15 years and a demonstrable  
10 investment in the production of those crops equivalent to (~~(one~~  
11 ~~hundred dollars))~~ \$100 or more per acre in the current or previous  
12 calendar year;

13 (e) Any lands including incidental uses as are compatible with  
14 agricultural purposes, including wetlands preservation, provided such  
15 incidental use does not exceed (~~(twenty))~~ 20 percent of the  
16 classified land and the land on which appurtenances necessary to the  
17 production, preparation, or sale of the agricultural products exist  
18 in conjunction with the lands producing such products. Agricultural  
19 lands also include any parcel of land of one to five acres, which is  
20 not contiguous, but which otherwise constitutes an integral part of  
21 farming operations being conducted on land qualifying under this  
22 section as "farm and agricultural lands";

23 (f) The land on which housing for employees and the principal  
24 place of residence of the farm operator or owner of land classified  
25 pursuant to (a) of this subsection is sited if: The housing or  
26 residence is on or contiguous to the classified parcel; and the use  
27 of the housing or the residence is integral to the use of the  
28 classified land for agricultural purposes;

29 (g) Any land that is used primarily for equestrian related  
30 activities for which a charge is made, including, but not limited to,  
31 stabling, training, riding, clinics, schooling, shows, or grazing for  
32 feed and that otherwise meet the requirements of (a), (b), or (c) of  
33 this subsection; (~~(or)~~)

34 (h) Any land primarily used for commercial horticultural  
35 purposes, including growing seedlings, trees, shrubs, vines, fruits,  
36 vegetables, flowers, herbs, and other plants in containers, whether  
37 under a structure or not, subject to the following:

38 (i) The land is not primarily used for the storage, care, or  
39 selling of plants purchased from other growers for retail sale;

1 (ii) If the land is less than five acres and used primarily to  
2 grow plants in containers, such land does not qualify as "farm and  
3 agricultural land" if more than (~~twenty-five~~) 25 percent of the  
4 land used primarily to grow plants in containers is open to the  
5 general public for on-site retail sales;

6 (iii) If more than (~~twenty~~) 20 percent of the land used for  
7 growing plants in containers qualifying under this subsection (2)(h)  
8 is covered by pavement, none of the paved area is eligible for  
9 classification as "farm and agricultural land" under this subsection  
10 (2)(h). The eligibility limitations described in this subsection  
11 (2)(h)(iii) do not affect the land's eligibility to qualify under (e)  
12 of this subsection; and

13 (iv) If the land classified under this subsection (2)(h), in  
14 addition to any contiguous land classified under this subsection, is  
15 less than (~~twenty~~) 20 acres, it must meet the applicable income or  
16 investment requirements in (b), (c), or (d) of this subsection; or

17 (i) Lands identified in (a) through (h) of this subsection on  
18 which an agrivoltaic facility is located.

19 (3) "Timberland" means any parcel of land that is five or more  
20 acres or multiple parcels of land that are contiguous and total five  
21 or more acres which is or are devoted primarily to the growth and  
22 harvest of timber for commercial purposes. Timberland means the land  
23 only and does not include a residential homesite. The term includes  
24 land used for incidental uses that are compatible with the growing  
25 and harvesting of timber but no more than (~~ten~~) 10 percent of the  
26 land may be used for such incidental uses. It also includes the land  
27 on which appurtenances necessary for the production, preparation, or  
28 sale of the timber products exist in conjunction with land producing  
29 these products.

30 (4) "Current" or "currently" means as of the date on which  
31 property is to be listed and valued by the assessor.

32 (5) "Owner" means the party or parties having the fee interest in  
33 land, except that where land is subject to real estate contract  
34 "owner" means the contract vendee.

35 (6)(a) "Contiguous" means land adjoining and touching other  
36 property held by the same ownership. Land divided by a public road,  
37 but otherwise an integral part of a farming operation, is considered  
38 contiguous.

39 (b) For purposes of this subsection (6):



1 (i) "Same ownership" means owned by the same person or persons,  
2 except that parcels owned by different persons are deemed held by the  
3 same ownership if the parcels are:

4 (A) Managed as part of a single operation; and

5 (B) Owned by:

6 (I) Members of the same family;

7 (II) Legal entities that are wholly owned by members of the same  
8 family; or

9 (III) An individual who owns at least one of the parcels and a  
10 legal entity or entities that own the other parcel or parcels if the  
11 entity or entities are wholly owned by that individual, members of  
12 his or her family, or that individual and members of his or her  
13 family.

14 (ii) "Family" includes only:

15 (A) An individual and his or her spouse or domestic partner,  
16 child, stepchild, adopted child, grandchild, parent, stepparent,  
17 grandparent, cousin, or sibling;

18 (B) The spouse or domestic partner of an individual's child,  
19 stepchild, adopted child, grandchild, parent, stepparent,  
20 grandparent, cousin, or sibling;

21 (C) A child, stepchild, adopted child, grandchild, parent,  
22 stepparent, grandparent, cousin, or sibling of the individual's  
23 spouse or the individual's domestic partner; and

24 (D) The spouse or domestic partner of any individual described in  
25 (b)(ii)(C) of this subsection (6).

26 (7) "Granting authority" means the appropriate agency or official  
27 who acts on an application for classification of land pursuant to  
28 this chapter.

29 (8) "Farm and agricultural conservation land" means either:

30 (a) Land that was previously classified under subsection (2) of  
31 this section, that no longer meets the criteria of subsection (2) of  
32 this section, and that is reclassified under subsection (1) of this  
33 section; or

34 (b) Land that is traditional farmland that is not classified  
35 under chapter 84.33 or 84.34 RCW, that has not been irrevocably  
36 devoted to a use inconsistent with agricultural uses, and that has a  
37 high potential for returning to commercial agriculture.

38 (9) "Agrivoltaic facility" has the same meaning as described in  
39 section 2 of this act.

1       **Sec. 5.** RCW 84.34.070 and 2017 c 251 s 1 are each amended to  
2 read as follows:

3       (1)(a) When land has once been classified under this chapter, it  
4 must remain under such classification and must not be applied to  
5 other use except as provided by subsection (2) of this section for at  
6 least ten years from the date of classification. It must continue  
7 under such classification until and unless withdrawn from  
8 classification after notice of request for withdrawal is made by the  
9 owner. After the initial (~~ten~~) 10-year classification period has  
10 elapsed, notice of request for withdrawal of all or a portion of the  
11 land may be given by the owner to the assessor or assessors of the  
12 county or counties in which the land is situated. If a portion of a  
13 parcel is removed from classification, the remaining portion must  
14 meet the same requirements as did the entire parcel when the land was  
15 originally granted classification under this chapter unless the  
16 remaining parcel has different income criteria. Within seven days the  
17 assessor must transmit one copy of the notice to the legislative body  
18 that originally approved the application. The assessor or assessors,  
19 as the case may be, must withdraw the land from the classification  
20 and the land is subject to the additional tax and applicable interest  
21 due under RCW 84.34.108. Agreement to tax according to use is not  
22 considered to be a contract and can be abrogated at any time by the  
23 legislature in which event no additional tax or penalty may be  
24 imposed.

25       (b) If the assessor gives written notice of removal as provided  
26 in RCW 84.34.108(1)(d)(i) of all or a portion of land classified  
27 under this chapter before the owner gives a notice of request for  
28 withdrawal in (a) of this subsection, the provisions of RCW 84.34.108  
29 apply.

30       (2)(a) The following reclassifications are not considered  
31 withdrawals or removals and are not subject to additional tax under  
32 RCW 84.34.108:

33       (i) Reclassification between lands under RCW 84.34.020 (2) and  
34 (3);

35       (ii) Reclassification of land classified under RCW 84.34.020 (2)  
36 or (3) or designated under chapter 84.33 RCW to open space land under  
37 RCW 84.34.020(1);

38       (iii) Reclassification of land classified under RCW 84.34.020 (2)  
39 or (3) to forestland designated under chapter 84.33 RCW; and

1 (iv) Reclassification of land classified as open space land under  
2 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land  
3 under RCW 84.34.020(2) if the land had been previously classified as  
4 farm and agricultural land under RCW 84.34.020(2).

5 (b) Designation as forestland under RCW 84.33.130(1) as a result  
6 of a merger adopted under RCW 84.34.400 is not considered a  
7 withdrawal or removal and is not subject to additional tax under RCW  
8 84.34.108.

9 (3) Applications for reclassification are subject to applicable  
10 provisions of RCW 84.34.037, 84.34.035, 84.34.041, and chapter 84.33  
11 RCW.

12 (4) The income criteria for land classified under RCW  
13 84.34.020(2)(b) and (c) may be deferred for land being reclassified  
14 from land classified under RCW 84.34.020(1)(c) or (3), or chapter  
15 84.33 RCW into RCW 84.34.020(2)(b) or (c) for a period of up to five  
16 years from the date of reclassification.

17 (5) The addition of an agrivoltaic facility to farm and  
18 agricultural lands does not constitute a reclassification for  
19 purposes of this chapter and is not considered a withdrawal or  
20 removal subject to additional tax under RCW 84.34.108.

21 **Sec. 6.** RCW 19.285.040 and 2024 c 278 s 2 are each amended to  
22 read as follows:

23 (1) Each qualifying utility shall pursue all available  
24 conservation that is cost-effective, reliable, and feasible.

25 (a) By January 1, 2010, using methodologies consistent with those  
26 used by the Pacific Northwest electric power and conservation  
27 planning council in the most recently published regional power plan  
28 as it existed on June 12, 2014, or a subsequent date as may be  
29 provided by the department or the commission by rule, each qualifying  
30 utility shall identify its achievable cost-effective conservation  
31 potential through 2019. Nothing in the rule adopted under this  
32 subsection precludes a qualifying utility from using its utility  
33 specific conservation measures, values, and assumptions in  
34 identifying its achievable cost-effective conservation potential. At  
35 least every two years thereafter, the qualifying utility shall review  
36 and update this assessment for the subsequent ten-year period.

37 (b) Beginning January 2010, each qualifying utility shall  
38 establish and make publicly available a biennial acquisition target  
39 for cost-effective conservation consistent with its identification of

1 achievable opportunities in (a) of this subsection, and meet that  
2 target during the subsequent two-year period. At a minimum, each  
3 biennial target must be no lower than the qualifying utility's pro  
4 rata share for that two-year period of its cost-effective  
5 conservation potential for the subsequent ten-year period.

6 (c)(i) Except as provided in (c)(ii) and (iii) of this  
7 subsection, beginning on January 1, 2014, cost-effective conservation  
8 achieved by a qualifying utility in excess of its biennial  
9 acquisition target may be used to help meet the immediately  
10 subsequent two biennial acquisition targets, such that no more than  
11 20 percent of any biennial target may be met with excess conservation  
12 savings.

13 (ii) Beginning January 1, 2014, a qualifying utility may use  
14 single large facility conservation savings in excess of its biennial  
15 target to meet up to an additional five percent of the immediately  
16 subsequent two biennial acquisition targets, such that no more than  
17 25 percent of any biennial target may be met with excess conservation  
18 savings allowed under all of the provisions of this section combined.  
19 For the purposes of this subsection (1)(c)(ii), "single large  
20 facility conservation savings" means cost-effective conservation  
21 savings achieved in a single biennial period at the premises of a  
22 single customer of a qualifying utility whose annual electricity  
23 consumption prior to the conservation savings exceeded five average  
24 megawatts.

25 (iii) Beginning January 1, 2012, and until December 31, 2017, a  
26 qualifying utility with an industrial facility located in a county  
27 with a population between 95,000 and 115,000 that is directly  
28 interconnected with electricity facilities that are capable of  
29 carrying electricity at transmission voltage may use cost-effective  
30 conservation from that industrial facility in excess of its biennial  
31 acquisition target to help meet the immediately subsequent two  
32 biennial acquisition targets, such that no more than 25 percent of  
33 any biennial target may be met with excess conservation savings  
34 allowed under all of the provisions of this section combined.

35 (d) In meeting its conservation targets, a qualifying utility may  
36 count high-efficiency cogeneration owned and used by a retail  
37 electric customer to meet its own needs. High-efficiency cogeneration  
38 is the sequential production of electricity and useful thermal energy  
39 from a common fuel source, where, under normal operating conditions,  
40 the facility has a useful thermal energy output of no less than 33

1 percent of the total energy output. The reduction in load due to  
2 high-efficiency cogeneration shall be: (i) Calculated as the ratio of  
3 the fuel chargeable to power heat rate of the cogeneration facility  
4 compared to the heat rate on a new and clean basis of a  
5 best-commercially available technology combined-cycle natural  
6 gas-fired combustion turbine; and (ii) counted towards meeting the  
7 biennial conservation target in the same manner as other conservation  
8 savings.

9 (e) A qualifying utility is considered in compliance with its  
10 biennial acquisition target for cost-effective conservation in (b) of  
11 this subsection if events beyond the reasonable control of the  
12 utility that could not have been reasonably anticipated or  
13 ameliorated prevented it from meeting the conservation target. Events  
14 that a qualifying utility may demonstrate were beyond its reasonable  
15 control, that could not have reasonably been anticipated or  
16 ameliorated, and that prevented it from meeting the conservation  
17 target include: (i) Natural disasters resulting in the issuance of  
18 extended emergency declarations; (ii) the cancellation of significant  
19 conservation projects; and (iii) actions of a governmental authority  
20 that adversely affects the acquisition of cost-effective conservation  
21 by the qualifying utility.

22 (f) The commission may determine if a conservation program  
23 implemented by an investor-owned utility is cost-effective based on  
24 the commission's policies and practice.

25 (g) In addition to the requirements of RCW 19.280.030(3), in  
26 assessing the cost-effective conservation required under this  
27 section, a qualifying utility is encouraged to promote the adoption  
28 of air conditioning, as defined in RCW 70A.60.010, with refrigerants  
29 not exceeding a global warming potential of 750 and the replacement  
30 of stationary refrigeration systems that contain ozone-depleting  
31 substances or hydrofluorocarbon refrigerants with a high global  
32 warming potential.

33 (h) The commission may rely on its standard practice for review  
34 and approval of investor-owned utility conservation targets.

35 (2)(a) Except as provided in (j) of this subsection, each  
36 qualifying utility shall use eligible renewable resources or acquire  
37 equivalent renewable energy credits, or any combination of them, to  
38 meet the following annual targets:

39 (i) At least three percent of its load by January 1, 2012, and  
40 each year thereafter through December 31, 2015;

1 (ii) At least nine percent of its load by January 1, 2016, and  
2 each year thereafter through December 31, 2019; and

3 (iii) At least 15 percent of its load by January 1, 2020, and  
4 each year thereafter.

5 (b) A qualifying utility may count distributed generation at  
6 double the facility's electrical output if the utility: (i) Owns or  
7 has contracted for the distributed generation and the associated  
8 renewable energy credits; or (ii) has contracted to purchase the  
9 associated renewable energy credits.

10 (c) In meeting the annual targets in (a) of this subsection, a  
11 qualifying utility shall calculate its annual load based on the  
12 average of the utility's load for the previous two years.

13 (d) A qualifying utility shall be considered in compliance with  
14 an annual target in (a) of this subsection if: (i) The utility's  
15 weather-adjusted load for the previous three years on average did not  
16 increase over that time period; (ii) after December 7, 2006, the  
17 utility did not commence or renew ownership or incremental purchases  
18 of electricity from resources other than coal transition power or  
19 renewable resources other than on a daily spot price basis and the  
20 electricity is not offset by equivalent renewable energy credits; and  
21 (iii) the utility invested at least one percent of its total annual  
22 retail revenue requirement that year on eligible renewable resources,  
23 renewable energy credits, or a combination of both.

24 (e) A qualifying utility may use renewable energy credits to meet  
25 the requirements of this section, subject to the limitations of this  
26 subsection.

27 (i) A renewable energy credit from electricity generated by a  
28 resource other than freshwater may be used to meet a requirement  
29 applicable to the year in which the credit was created, the year  
30 before the year in which the credit was created, or the year after  
31 the year in which the credit was created.

32 (ii) A renewable energy credit from electricity generated by  
33 freshwater:

34 (A) May only be used to meet a requirement applicable to the year  
35 in which the credit was created; and

36 (B) Must be acquired by the qualifying utility through ownership  
37 of the generation facility or through a transaction that conveyed  
38 both the electricity and the nonpower attributes of the electricity.

39 (iii) A renewable energy credit transferred to an investor-owned  
40 utility pursuant to the Bonneville power administration's residential

1 exchange program may not be used by any utility other than the  
2 utility receiving the credit from the Bonneville power  
3 administration.

4 (iv) Each renewable energy credit may only be used once to meet  
5 the requirements of this section and must be retired using procedures  
6 of the renewable energy credit tracking system.

7 (f) In complying with the targets established in (a) of this  
8 subsection, a qualifying utility may not count:

9 (i) Eligible renewable resources or distributed generation where  
10 the associated renewable energy credits are owned by a separate  
11 entity; or

12 (ii) Eligible renewable resources or renewable energy credits  
13 obtained for and used in an optional pricing program such as the  
14 program established in RCW 19.29A.090.

15 (g) Where fossil and combustible renewable resources are cofired  
16 in one generating unit located in the Pacific Northwest where the  
17 cofiring commenced after March 31, 1999, the unit shall be considered  
18 to produce eligible renewable resources in direct proportion to the  
19 percentage of the total heat value represented by the heat value of  
20 the renewable resources.

21 (h) (i) A qualifying utility that acquires an eligible renewable  
22 resource or renewable energy credit may count that acquisition at one  
23 and two-tenths times its base value:

24 (A) Where the eligible renewable resource comes from a facility  
25 that commenced operation after December 31, 2005; and

26 (B) Where the developer of the facility used apprenticeship  
27 programs approved by the council during facility construction.

28 (ii) The council shall establish minimum levels of labor hours to  
29 be met through apprenticeship programs to qualify for this extra  
30 credit.

31 (i) A qualifying utility shall be considered in compliance with  
32 an annual target in (a) of this subsection if events beyond the  
33 reasonable control of the utility that could not have been reasonably  
34 anticipated or ameliorated prevented it from meeting the renewable  
35 energy target. Such events include weather-related damage, mechanical  
36 failure, strikes, lockouts, and actions of a governmental authority  
37 that adversely affect the generation, transmission, or distribution  
38 of an eligible renewable resource under contract to a qualifying  
39 utility.

1 (j)(i) Beginning January 1, 2016, only a qualifying utility that  
2 owns or is directly interconnected to a qualified biomass energy  
3 facility may use qualified biomass energy to meet its compliance  
4 obligation under this subsection.

5 (ii) A qualifying utility may no longer use electricity and  
6 associated renewable energy credits from a qualified biomass energy  
7 facility if the associated industrial pulping or wood manufacturing  
8 facility ceases operation other than for purposes of maintenance or  
9 upgrade.

10 (k) An industrial facility that hosts a qualified biomass energy  
11 facility may only transfer or sell renewable energy credits  
12 associated with qualified biomass energy generated at its facility to  
13 the qualifying utility with which it is directly interconnected with  
14 facilities owned by such a qualifying utility and that are capable of  
15 carrying electricity at transmission voltage. The qualifying utility  
16 may only use an amount of renewable energy credits associated with  
17 qualified biomass energy that are equivalent to the proportionate  
18 amount of its annual targets under (a)(ii) and (iii) of this  
19 subsection that was created by the load of the industrial facility. A  
20 qualifying utility that owns a qualified biomass energy facility may  
21 not transfer or sell renewable energy credits associated with  
22 qualified biomass energy to another person, entity, or qualifying  
23 utility.

24 (l) A qualifying utility shall be considered in compliance if the  
25 utility uses any combination of eligible renewable resources as  
26 defined in RCW 19.285.030 and distributed energy priority project as  
27 defined in subsection (4) of this section to meet its compliance  
28 obligations under this subsection (2).

29 (m) Beginning January 1, 2020, a qualifying utility may use  
30 eligible renewable resources as identified under RCW 19.285.030(12)  
31 (g) and (h) to meet its compliance obligation under this subsection  
32 (2). A qualifying utility may not transfer or sell these eligible  
33 renewable resources to another utility for compliance purposes under  
34 this chapter.

35 (~~(m)~~) (n) Beginning January 1, 2030, a qualifying utility is  
36 considered to be in compliance with an annual target in (a) of this  
37 subsection if the utility uses electricity from: (i) Renewable  
38 resources and renewable energy credits as defined in RCW 19.285.030;  
39 and (ii) nonemitting electric generation as defined in RCW  
40 19.405.020, in an amount equal to 100 percent of the utility's



1 average annual retail electric load. Nothing in this subsection  
2 relieves the requirements of a qualifying utility to comply with  
3 subsection (1) of this section.

4 ~~((n))~~ (o) A qualifying utility shall exclude from its annual  
5 targets under this subsection (2) its voluntary renewable energy  
6 purchases.

7 (3) Utilities that become qualifying utilities after December 31,  
8 2006, shall meet the requirements in this section on a time frame  
9 comparable in length to that provided for qualifying utilities as of  
10 December 7, 2006.

11 (4) For the purposes of this section, the following definitions  
12 apply:

13 (a)(i) "Accelerated conservation" means conservation included in  
14 the qualifying utility's most recent cost-effective conservation  
15 potential established in compliance with subsection (1)(a) of this  
16 section and in excess of the biennial acquisition target established  
17 in compliance with subsection (1)(b) of this section.

18 (ii) Accelerated conservation acquired in the target year must be  
19 in an amount no less than the annual target amount under subsection  
20 (2)(a) of this section, as measured in megawatt-hours.

21 (iii) The amount of accelerated conservation must be measured as  
22 the annual energy savings measured in megawatt-hours multiplied by  
23 the projected useful life of the conservation measures acquired.

24 (iv) Any conservation savings used under this alternative  
25 compliance method may not be included as excess conservation savings  
26 under subsection (1)(c) of this section.

27 (b) "Demand response" has the same meaning as in RCW 19.405.020.  
28 For the purpose of quantifying the amount of demand response eligible  
29 to be claimed under subsection (2)(1) of this section, the following  
30 requirements apply:

31 (i) The amount of demand response must be converted to a  
32 megawatt-hour amount by determining the reduction in peak load in  
33 megawatts resulting from the demand response measure, dividing this  
34 value by the system peak demand in megawatts of the qualifying  
35 utility, and multiplying this value by the average annual system load  
36 of the utility in megawatt-hours.

37 (ii) The amount that may be claimed under subsection (2)(1) of  
38 this section is equal to the amount calculated under (b)(i) of this  
39 subsection multiplied by the projected useful life of the demand  
40 response measures being acquired.

1 (iii) All demand response acquired and claimed under subsection  
2 (2)(1) of this section must be documented, measured, and verified  
3 using procedures comparable to procedures used for conservation  
4 measures.

5 (c) "Distributed energy priority project" means any combination  
6 of the following projects in the geographical area in which the  
7 utility provides electric service: (i) Accelerated conservation; (ii)  
8 demand response; (iii) distributed energy storage; (iv) distributed  
9 solar energy generation; and (v) distributed wind energy generation.

10 (d) "Distributed energy storage" has the same meaning as "energy  
11 storage" in section 2(1)(c) of this act.

12 (e) "Distributed solar energy generation" has the same meaning as  
13 "solar energy generation" as in section 2(1)(a) of this act.

14 (f) "Distributed wind energy generation" has the same meaning as  
15 "wind energy generation" in section 2(1)(b) of this act.

16 NEW SECTION. Sec. 7. If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected."

**SSB 5445 - S AMD 209**  
By Senator Boehnke

**ADOPTED 03/11/2025**

20 On page 1, line 1 of the title, after "encouraging" strike the  
21 remainder of the title and insert "the development of distributed  
22 energy resources; amending RCW 84.34.020, 84.34.070, and 19.285.040;  
23 adding a new section to chapter 43.21F RCW; adding a new section to  
24 chapter 43.21C RCW; and creating a new section."

EFFECT: • Determines that certain types of distributed energy  
projects and activities are distributed energy priorities (DEP),  
including:

- Solar energy generation, and accompanying energy storage and electrical transmission and distribution in specified locations;
- Wind energy generation that is not required to have obstruction lighting and does not have any wind turbines with a hub height above 75 feet;
- Energy storage facilities in specified locations;
- Programs that reduce electricity demand, consumption, or provide electricity storage or ancillary services to an electric utility; and

- Programs that reduce energy demand, manage the level or timing of energy consumption, or provide thermal energy storage.
- Provides for a statutory exemption from the State Environmental Policy Act for the following when not located over water: (1) structures of 1,000 square feet or less to support solar energy panels or equipment; (2) structures to support solar energy panels only over parking lots; and (3) solar energy, transmission, and distribution facilities that do not penetrate an asphalt or soil cap and are served by and accessible to emergency fire response services and are located wholly on a landfill or reclaimed or former surface mine.
- Specifies the addition of an agrivoltaic facility to land classified as farm and agricultural open space land does not constitute a reclassification, withdrawal, or removal from open space classification and is not subject to additional tax.
- Allows an electric utility to use any combination of eligible renewable resources and DEPs, rather than local energy resilience projects, to comply with renewable energy targets under the Energy Independence Act (EIA).
- Defines, for the purposes of the EIA, DEPs as any combination of accelerated conservation, demand response, distributed energy storage, distributed solar energy generation, and distributed wind energy generation.
- Defines demand response and provides a formula for converting demand response to a megawatt-hour for the purpose of quantifying the amount of eligible demand response.
- Changes the title to "An Act Relating to encouraging the development of distributed energy resources."

--- END ---