

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2014

By Delegates Hanshaw (Mr. Speaker), Riley,
Fehrenbacher, Anderson, Zatezalo, Akers, and
Hornbuckle

[By Request of the Executive]

[Introduced March 18, 2025; referred to the
Committee on Energy and Public Works]

1 A BILL to amend and reenact §5B-2-21, §24-2-1d, §24-2-1q, §24-2-15, §24-2-19 of the Code of
2 West Virginia, 1931, as amended; to amend the code by adding four new sections,
3 designated §5B-2-21a, §5B-2-21b, §5B-2N-2a, and §11B-2-33, and to amend the code by
4 adding a new article, designated §11-6N-1, §11-6N-2, §11-6N-3, §11-6N-4, and §11-6N-5,
5 relating to the Certified Microgrid Program administered by the Division of Economic
6 Development; renaming business expansion development program administered by the
7 department; renaming high impact business development districts certified by the
8 department; providing that any plant or facility may participate in the business expansion
9 development program; removing requirement that high impact business development
10 districts be located on certain lands; eliminating requirement that electrical service to
11 business development districts be generated from renewable sources; providing for
12 certification of high impact data centers; prohibiting payment in lieu of taxes and tax
13 increment financing under certain circumstances; providing for special valuation by the
14 Board of Public Works of a high impact data center property, applying a specialized
15 reapportionment formula for the property tax proceeds of a high impact data center;
16 defining terms; specifying dates; [placeholder for additional descriptors]; and to be known
17 as the "Power Generation and Consumption Act of 2025."

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

§5B-2-21. Certified Industrial Business Expansion Microgrid Development Program.

1 (a) *Program established.* — The Certified ~~Industrial Business Expansion~~ Microgrid
2 Development Program is hereby created and is to be administered as a program within the
3 ~~Department~~ Division of Economic Development to encourage the continued development,
4 construction, operation, maintenance, and expansion in West Virginia of high impact industrial

plants and facilities, in certain circumstances where the availability of electricity generated from renewable sources is demonstrated to be necessary. In order to effectuate the purposes of this section, the ~~Department~~ Division of Economic Development, or any agency, division, or subdivision thereof, may propose for promulgation of legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.* of this code.

(b) *District certification.* — The Secretary of the Department of ~~Economic Development~~ Commerce may identify and certify high impact Industrial business development microgrid districts in this state upon a finding that the following requirements are met:

(1) Certification of the high impact Industrial business development microgrid district and location of new or expanded businesses within the microgrid district will have a significant and positive economic impact on the state;

(2) Certification of the high impact Industrial business development microgrid district is necessary to attract at least two businesses to locate or expand in this state;

(3) The area to be certified as a high impact Industrial business development microgrid district shall be no greater than 2,250 acres and ~~must be located on land sold or leased by the state, its agencies, or political subdivisions as defined in §29-12A-3(c) of this code with a purpose of creating a high impact Industrial business development district or on land that has been previously used for coal mining operations in the state; and~~

(4) The electricity generated from renewable sources within the microgrid district will be used only within the microgrid district or delivered to the wholesale market.

The Secretary of the Department of Commerce may not certify more than two high impact Industrial business development microgrid districts: Provided, That this limit on certifying microgrid districts shall not apply to any microgrid district wherein greater than 60% of the electricity generated within the microgrid district is consumed by one or more high impact data centers, as defined in §11-6N-2 of this code, or will be consumed by one or more high impact data centers, when such data centers are completed and fully operational. A designation made pursuant to this

section by the secretary as to the certification of a ~~high impact Industrial business development~~
microgrid district is final.

(c) *Providing electric service within a certified ~~high impact Industrial business development~~*
microgrid district. — Within a ~~high impact Industrial business development~~ microgrid district, any
person, firm, corporation, or entity seeking to provide electric service through the generation of
~~renewable sources~~ electricity from within the ~~high impact Industrial business development~~
microgrid district ~~of electricity~~ to businesses locating within the ~~certified high impact Industrial~~
~~business development~~ microgrid district may:

(1) Not be subject to the jurisdiction of the Public Service Commission with respect to rates,
obtaining a certificate of convenience and necessity, conditions of service or complaints pursuant
to chapter 24 of this code;

(2) Not be subject to the net metering and interconnection standards as set forth in §24-2F-
8 of this code;

(3) Elect to qualify as an exempt wholesale generator under federal law for purposes of
furnishing electric service through the generation of ~~renewable sources~~ electricity to a utility or
regional transmission organization without being subject to the Public Service Commission's siting
certificate requirements as set forth in §24-2-1(d), §24-2-11c, or §24-2-1o of this code;

(4) Provide any such electric service to businesses making a capital investment in a new or
expanded ~~Industrial~~ facility located within the ~~certified high impact Industrial business~~
~~development~~ microgrid district; and

(5) Not provide any such electric service for purposes of encouraging businesses already
receiving electric service from a regulated utility in this state to relocate to the ~~certified high impact~~
~~Industrial business development~~ microgrid district; and

(6) Not deliver more than 10% of electricity generated within the certified microgrid district
to the wholesale market.

56 (d) ~~Eligible electric retail~~ Microgrid customers; eligibility. — In order to take advantage of
57 the provisions of this section, ~~Industrial~~ a plant or facility choosing to locate and operate within a
58 ~~high impact Industrial business development~~ microgrid district must constitute new electric
59 generating load. Any owner or tenant of an ~~Industrial~~ a plant or facility that has not previously
60 received electric service from a regulated public electric utility located within this state, or who is
61 making a capital investment in a new ~~Industrial~~ facility within the microgrid district shall be
62 considered eligible new electric generating load. Electric service to any such ~~Industrial~~ plant or
63 facility shall be considered new electric generating load so long as any customer making a new
64 capital investment within the microgrid district does not decrease the load of an existing facility
65 outside the microgrid district in this state in conjunction with the new capital investment within the
66 microgrid district, and regardless of whether or not a person or entity previously received service
67 from a public electric utility at or near the same location prior to the certification of the ~~high impact~~
68 ~~Industrial business development~~ microgrid district.

69 An eligible ~~Industrial~~ plant or facility choosing to locate and operate within a ~~high impact~~
70 ~~Industrial business development~~ microgrid district is not required to connect with and use any
71 public electric utility: *Provided*, That any such connection with and use of a public electric utility for
72 purposes of the initial construction and development within the ~~high impact Industrial business~~
73 ~~development~~ microgrid district shall not impact ~~Industrial~~ a plant or facility's status as new electric
74 generating load in order to take advantage of the provisions of this section.

75 (e) Microgrid customers; sSpecial rates. — In furtherance of the creation of a ~~high impact~~
76 ~~Industrial business development~~ microgrid district, the Public Service Commission may approve
77 special electric utility rates for an ~~eligible retail electric~~ microgrid customer within the ~~high impact~~
78 ~~Industrial business development~~ microgrid district. An ~~eligible retail electric~~ microgrid customer
79 seeking to apply for a special rate shall first enter into negotiations with the utility ~~that provides it~~
80 ~~with electric power~~, within whose service territory the microgrid district is located regarding the
81 terms and conditions of a mutually agreeable special rate. If the negotiations result in an

82 agreement between the ~~eligible retail electric~~ microgrid customer and the utility, the ~~eligible retail~~
83 ~~electric customer~~ microgrid and the utility shall make a joint filing with the Public Service
84 Commission seeking approval of the proposed special rate. If the negotiations are unsuccessful,
85 the ~~eligible retail electric~~ microgrid customer may file a petition with the Public Service
86 Commission to consider establishing a special rate. The Public Service Commission shall have
87 the authority to establish a special rate upon the filing of either a joint filing or a petition pursuant to
88 this section.

89 (f) *Electrical infrastructure costs.* — Regulated electric utility customers shall not bear any
90 construction, operational, ancillary services, or capacity-related costs associated with non-utility
91 owned and operated electricity generation co-located within a microgrid district. Any costs of this
92 nature are to be borne by the electricity consumers situated within the microgrid district that is to
93 be co-located with onsite electricity generation. Regulated electric utility customers shall not bear
94 any construction, operational, ancillary services, or capacity-related costs associated with any
95 new transmission facilities built to provide electric service to any facilities within a microgrid district
96 and owned and operated by a regulated electric utility.

97 (g)(1) *Payment In Lieu Of Taxes Electricity Generation and Distribution* — Notwithstanding
98 the provisions of §5D-1-14, §7-5-13, §7-11B-3(b), §7-11B-8(c)(4), §7-11B-15(a)(7), §7-11B-
99 15(a)(15), §7-11B-18, §8-19-4, §8-29A-7, §8A-12-12, §11-13-2p, §11-13C-5(l)(1)(A), §16-13A-21,
100 §16-15-18(b)(6), §17-16A-16(b), §17-16B-20(b), §18-9A-12(c), § 31-21-5, and §31-21-15 of this
101 code, or any other provision of this code, no new payment in lieu of taxes shall be entered into with
102 relation to the property of any electricity generating plant, facility, or generating unit or any property
103 comprising, in whole or in part, any electricity distribution apparatus, equipment, lines or facilities
104 (i) located in the county and (ii) directly or indirectly dedicated to providing electric power to any
105 plant, facility or property subject to this subsection. Nor shall any payment in lieu of taxes be
106 entered into with relation to any leasehold interest or any other property interest related thereto.

107 (2) Tax Increment Financing — Notwithstanding the provisions of §7-11B-1 *et seq.* of this
108 code, or any other provision of this code, no tax increment financing project, plan or arrangement
109 shall be entered into or undertaken with relation to any electricity generation or distribution
110 property subject to this subsection.

111 (3) For purposes of this subsection, an electricity generating plant, facility, or generating
112 unit or electricity distribution apparatus, equipment, lines, or facilities shall be deemed to be
113 "dedicated" to providing electric power to any plant, facility, or property subject to this subsection if
114 not less than 75% of the output of the electricity generation property or electricity distribution
115 property, measured in kilowatt hours, are used to supply electricity to a facility, project, or series of
116 related or integrated facilities within the county subject to this subsection.

117 (4) For purposes of this section, property includes all real property, all buildings and
118 structures affixed to land, and all tangible personal property, including, but not limited to
119 equipment, inventories and mobile equipment, and also including property subject to special
120 salvage valuation under §11-6A-1 *et seq.*, §11-6E-1 *et seq.*, §11-6H-1 *et seq.*, §11-6J-1 *et seq.*,
121 §11-6F-1 *et seq.*, and §11-6L-1 *et seq.* of this code, or any other special *ad valorem* property
122 valuation provision of this code; *Provided*, That property subject to special valuation shall be
123 allowed that special valuation as authorized by law, for purposes of calculating and determining
124 the *ad valorem* property tax imposed with relation thereto, notwithstanding being otherwise
125 subject to the provisions of this section.

126 ~~(f) The provisions of this section shall expire on June 30, 2028: *Provided*, That the~~
127 ~~expiration of this section shall not affect any high impact Industrial business development district~~
128 ~~previously approved by the secretary.~~

§5B-2-21a. Data Centers.

1 (a) Findings and purpose. — The Legislature hereby finds and declares the following:

2 (1) Data centers represent a significant and growing sector of the economy, generating
3 substantial economic activity, including jobs, infrastructure investments, and technological

4 innovation.

5 (2) Data centers are critical national infrastructure that require abundant, low-cost energy
6 to protect sensitive data, operate high-level computation assets, and ensure the resilience of the
7 digital economy.

8 (3) The People's Republic of China is positioning itself to be the global leader of data
9 centers and is investing in technology to encourage the flow of data toward China instead of
10 toward the United States.

11 (4) It is in the United States' national security interests to limit the flow of data to China and
12 to protect the flow of data and maximize computational power inside the United States. The
13 President has declared that it is the policy of the United States "to sustain and enhance America's
14 global AI dominance in order to promote human flourishing, economic competitiveness and
15 national security." Removing Barriers to American Leadership in Artificial Intelligence, Executive
16 Order 14179 (Jan 23, 2025).

17 (5) As of early 2025, the highest concentration of high-level computational power and data
18 centers in the world is located in Loudoun County, Virginia. This severe concentration of data
19 centers in one location is a national security vulnerability because it invites the potential for
20 cyberattacks and espionage against the Nation's critical data infrastructure.

21 (6) Data centers have historically obtained their electricity from the electric grid. Some
22 data center developers now seek or require the use of microgrids to provide their primary and
23 backup power.

24 (7) West Virginia is strategically positioned as the best location in the United States to
25 place data centers due to: (A) its close proximity to Washington, D.C., and the federal government;
26 (B) its close proximity to the majority of the Nation's population; (C) its low tax rates; (D) it having
27 the least restrictive regulatory environment in the Nation; (E) its supply of abundant energy and
28 natural resources to power the data centers; and (F) its skilled and loyal workforce that has some
29 of the lowest turnover rates in the Nation.

30 As such, the state has a significant interest in encouraging the development and
31 expansion of data centers, which can serve as drivers of broader economic growth. The
32 Legislature finds that these externalities transcend local borders, including environmental
33 concerns, energy consumption, and regional economic growth. Additionally, the provisions in this
34 section align with the Legislature's goal of fostering a competitive, forward-thinking economy that
35 benefits all residents.

36 (b) *Program established.* — The High Impact Data Center Program is hereby created and
37 is to be administered as a program within the Division of Economic Development to encourage the
38 continued development, construction, operation, maintenance, and expansion in West Virginia of
39 high impact data centers. In order to effectuate the purposes of this section, the Division of
40 Economic Development, or any agency, division, or subdivision thereof, may promulgate
41 legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.* of this code.

42 (c) *Notification.* — Any data center operating in the state shall compare its operations
43 against the definition of "high impact data center" established in § 11-6N-2 of this code and provide
44 notification to the Division of Economic Development when the data center becomes aware that it
45 will satisfy or has satisfied that definition. The notification will include information addressing the
46 elements of that definition, including known or expected power consumption of the data center.
47 This notification shall be made (i) within 30 days after the data center determines that it meets
48 these requirements or (ii) when the data center reasonably anticipates that it will, at some future
49 date, meet these requirements, in which case the data center may provide that anticipated future
50 date in its notification.

51 (d) *Certification.* — The Secretary of the Department of Commerce shall identify and certify
52 high impact data centers in this state upon a finding that a data center satisfies the requirements
53 for the definition of "high impact data center" set forth in § 11-6N-2 of this code. The Secretary
54 shall issue confirmation of certification to a high impact data center within 14 days following receipt
55 of the notification from the data center required by this section.

56 (e) Recordkeeping. — Any information provided by a data center pursuant to this section
 57 that is identified by the data center as confidential business information shall be exempt from the
 58 Freedom of Information Act. The Secretary shall take reasonable and appropriate steps to protect
 59 this information. Notwithstanding the foregoing, the Secretary shall maintain a complete list of all
 60 certified high impact data centers and all relevant information that can be made available to the
 61 Governor and Legislature, removing specifically identifying information to ensure confidentiality of
 62 any such information as identified by any high impact data center.

§5B-2-21b. Authority to assist certified microgrid district projects and certified high impact

data center projects; legislative findings.

1 (a) Findings and purpose. — The Legislature hereby finds and declares the following:

2 (1) Data centers represent a significant and growing sector of the economy, generating
 3 substantial economic activity, including jobs, infrastructure investments, and technological
 4 innovation.

5 (2) Data centers are critical national infrastructure that require abundant, low-cost energy
 6 to protect sensitive data, operate high-level computation assets, and ensure the resilience of the
 7 digital economy.

8 (3) The People's Republic of China is positioning itself to be the global leader of data
 9 centers and is investing in technology to encourage the flow of data toward China instead of
 10 toward the United States.

11 (4) It is in the United States' national security interests to limit the flow of data to China and
 12 to protect the flow of data and maximize computational power inside the United States. The
 13 President has declared that it is the policy of the United States "to sustain and enhance America's
 14 global AI dominance in order to promote human flourishing, economic competitiveness and
 15 national security." Removing Barriers to American Leadership in Artificial Intelligence, Executive
 16 Order 14179 (Jan 23, 2025).

17 (5) As of early 2025, the highest concentration of high-level computational power and data

centers in the world is located in Loudoun County, Virginia. This severe concentration of data centers in one location is a national security vulnerability because it invites the potential for cyberattacks and espionage against the Nation's critical data infrastructure.

(6) Data centers have historically obtained their electricity from the electric grid. Some data center developers now seek or require the use of microgrids to provide their primary and backup power.

(7) West Virginia is strategically positioned as the best location in the United States to place data centers due to: (A) its close proximity to Washington, D.C., and the federal government; (B) its close proximity to the majority of the Nation's population; (C) its low tax rates; (D) it having the least restrictive regulatory environment in the Nation; (E) its supply of abundant energy and natural resources to power the data centers; and (F) its skilled and loyal workforce that has some of the lowest turnover rates in the Nation.

As such, the state has a significant interest in encouraging the development and expansion of data centers, which can serve as drivers of broader economic growth. The Legislature finds that these externalities transcend local borders, including environmental concerns, energy consumption, and regional economic growth. It is in the best interest of the state to induce and assist in development of these projects, in order to advance the public purposes of relieving unemployment by preserving and creating jobs, and preserving and creating new and greater sources of revenues for the support of public services provided by the state and local government. Additionally, the provisions in this section align with the Legislature's goal of fostering a competitive, forward-thinking economy that benefits all residents.

It is the intent of the Legislature to occupy the whole field of the creation and regulation of certified microgrid districts and certified high impact data centers. The stated purpose of this section is to promote uniform and consistent application of the act within the state.

(b) The Department of Commerce shall assist projects developing or operating a certified microgrid district pursuant to §5B-2-21 of this code or a certified high impact data center pursuant

44 to §5B-2-21a of this code. The Secretary of Commerce shall designate one of their personnel as
45 "Data Economy Liaison" to serve as a single point-of-contact for certified microgrid districts and
46 high impact data centers to assist coordinate and expedite their development and operation,
47 including, but not limited to site selection and permitting. A "certified microgrid district" is a
48 microgrid project, regardless of stage of development or operation, that has been certified by the
49 Secretary of the Department of Commerce as set forth in §5B-2-21 of this code. A "certified high
50 impact data center" is a data center project, regardless of stage of development or operation, that
51 has been certified by the Secretary of the Department of Commerce as set forth in §5B-2-21a of
52 this code.

53 (c) This section prohibits:

54 (1) Counties and municipalities, whether by ordinance, resolution, administrative act, or
55 otherwise, from enacting, adopting, implementing, or enforcing ordinances, regulations, or rules
56 which limit, in any way, the creation of, and acquisition, construction, equipping, development,
57 expansion, and operation of any certified microgrid district or certified high impact data center
58 project; and

59 (2) Counties and municipalities from imposing or enforcing local laws and ordinances
60 concerning the creation or regulation of any certified microgrid district or certified high impact data
61 center therein.

62 (d) In accordance with subsections (b) and (c) of this section, and notwithstanding any
63 provision of this code to the contrary, or any municipality's home rule powers with respect to
64 ordinances and ordinance procedures, including any authority pursuant to the Municipal Home
65 Rule Program under §8-1-5a of this code, certified microgrid districts and certified high impact data
66 centers may not be subject to the following:

67 (1) County or municipal zoning, horticultural, noise, viewshed, lighting, development, or
68 land use ordinances, restrictions, limitations, or approvals;

69 (2) County or municipal building permitting, inspection, or code enforcement;

70 (3) County or municipal license requirements;

71 (4) The legal jurisdiction of the county or municipality in which the certified microgrid district
72 or certified high impact data center is entirely or partially located, except as specifically provided in
73 this article;

74 (5) Any requirement under state law for the consent or approval of the municipality in which
75 a certified microgrid district or certified high impact data center is entirely or partially located of any
76 state or county action pursuant to this code, specifically including, but not limited to, §7-11B-1 et
77 seq. of this code, for formal consent of the governing body of a municipality for county or state
78 action regarding the establishment of tax increment financing development or redevelopment
79 districts or the approval of tax increment financing development or redevelopment plans.

80 (e) Notwithstanding the creation of a certified microgrid district or a certified high impact
81 data center, the owner, operator, or manager, as applicable, and all lessees or licensees thereof, of
82 a certified microgrid district or a certified high impact data center shall:

83 (1) Pay business and occupation tax, if applicable, pursuant to §8-13-5 of this code, to the
84 municipality in the same manner as any other business or commercial venture located within the
85 municipality;

86 (2) Collect and remit municipal sales and service tax and municipal use tax, if applicable,
87 pursuant to §8-1-5a, §8-13C-4, and §8-13C-5 of this code, to the municipality in the same manner
88 as any other business or commercial venture located within the municipality;

89 (3) Pay ad valorem real and personal property tax pursuant to the same millage rates as
90 any other business or commercial venture located within the county and municipality;

91 (4) Pay all municipal service fees enacted pursuant to §8-13-13 of this code, including, but
92 not limited to, fire, police, sanitation, or city service fees;

93 (5) Pay all municipal utility rates, fees, and charges for utilities used or consumed during
94 construction and operation of premises within the certified microgrid district or certified high impact
95 data center, including, but not limited to, water, sewer, stormwater, and garbage and recycling

96 collection: *Provided*, That (i) The rates, fees, and charges for such services shall be based on the
97 cost of providing such service and the municipality shall enter into a contract for each such service
98 with the developer and any contracts for water service or sewer service with the municipality shall
99 be subject to review and approval by the Public Service Commission of West Virginia; and (ii) the
100 developer shall only be required to pay any capacity improvement fee or impact fee to the extent
101 that capital additions, betterments, and improvements must be designed, acquired, constructed,
102 and equipped by the municipality to provide such service to the project and any such capacity
103 improvement fee or impact fee for water or sewer service shall be subject to review and approval
104 by the Public Service Commission of West Virginia;

105 (6) Be entitled to municipal police protection and municipal fire protection, if available, in
106 the same manner as any other business or commercial venture located within the municipality;
107 and

108 (7) Design, acquire, construct, and equip the certified microgrid district or certified data
109 center pursuant to the State Building Code in accordance with §8-12-13 of this code and
110 corresponding State Rule 87 CSR 4.

111 (f) The Department of Commerce, Department of Environmental Protection, and
112 Department of Transportation may take actions necessary in support of the development of any
113 certified microgrid district or certified data center, including, but not limited to, the development or
114 improvement of such highways, roads, thoroughfares, and sidewalks within any county or
115 municipality in which the certified microgrid district or certified data center is partially or entirely
116 located.

117 (g) In order to effectuate the purposes of this section, the Department of Commerce, or any
118 agency, division, or subdivision thereof, may promulgate legislative rules, including emergency
119 rules, in accordance with §29A-3-1 *et seq.* of this code.

ARTICLE 2N. GRID STABILIZATION AND SECURITY ACT OF 2023.

§5B-2N-2a. Creating a Electronic Grid Stabilization and Security Fund.

1 (a) The Electronic Grid Stabilization and Security Fund is hereby created. The fund shall
2 be administered by the Department of Commerce and shall consist of all moneys made available
3 for the purposes and from the sources set forth in this section of the code.

4 (b) The fund consists of moneys received from the following sources:

5 (1) All moneys received pursuant to §11-6N-4(b)(4)(C) of this code;

6 (2) All appropriations provided by the Legislature;

7 (3) Any moneys available from external sources; and

8 (4) All interest and other income earned from investment of moneys in the fund.

9 (c) The Department of Commerce shall use moneys in the fund to provide support for
10 electric grid stabilization and security, including the development and maintenance of coal and
11 natural gas electric generation and transmission resources and related projects.

12 (d) Any balance, including accrued interest and any other returns, in the Electronic Grid
13 Stabilization and Security Fund at the end of each fiscal year may not expire to the General
14 Revenue Fund but remain in the fund and be expended for the purposes provided by this section.

15 (e) Fund balances may be invested with the state's Consolidated Investment Fund.
16 Earnings on the investments shall be used solely for the purposes defined in §5B-2-16(c) of this
17 code.

CHAPTER 11. TAXATION.**ARTICLE 6N. SPECIAL METHOD FOR VALUATION OF CERTAIN HIGH-
TECHNOLOGY PROPERTY****§11-6N-1. Legislative findings and purpose**

1 The Legislature hereby finds and declares the following:

2 (1) Data centers represent a significant and growing sector of the economy, generating
3 substantial economic activity, including jobs, infrastructure investments, and technological

4 innovation.

5 (2) Data centers are critical national infrastructure that require abundant, low-cost energy
6 to protect sensitive data, operate high-level computation assets, and ensure the resilience of the
7 digital economy.

8 (3) The People's Republic of China is positioning itself to be the global leader of data
9 centers and is investing in technology to encourage the flow of data toward China instead of
10 toward the United States.

11 (4) It is in the United States' national security interests to limit the flow of data to China and
12 to protect the flow of data and maximize computational power inside the United States. The
13 President has declared that it is the policy of the United States "to sustain and enhance America's
14 global AI dominance in order to promote human flourishing, economic competitiveness and
15 national security." Removing Barriers to American Leadership in Artificial Intelligence, Executive
16 Order 14179 (Jan 23, 2025).

17 (5) As of early 2025, the highest concentration of high-level computational power and data
18 centers in the world is located across the West Virginia border in Loudoun County, Virginia. This
19 severe concentration of data centers in one location is a national security vulnerability because it
20 invites the potential for cyberattacks and espionage against the Nation's critical data
21 infrastructure.

22 (6) Data centers have historically obtained their electricity from the electric grid. Some
23 data center developers now seek or require the use of microgrids to provide their primary and
24 backup power.

25 (7) West Virginia is strategically positioned as the best location in the United States to
26 place data centers due to: (A) its close proximity to Washington, D.C., and the federal government;
27 (B) its close proximity to the majority of the Nation's population; (C) its low tax rates; (D) it having
28 the least restrictive regulatory environment in the Nation; (E) its supply of abundant energy and
29 natural resources to power the data centers; and (F) a skilled and loyal workforce that has some of

the lowest turnover rates in the Nation.

As such, the state has a significant interest in encouraging the development and expansion of data centers, which can serve as drivers of broader economic growth. The Legislature find that these externalities transcend local borders, including environmental concerns, energy consumption, and regional economic growth. Additionally, the provisions in this article aligns with the Legislature's goal of fostering a competitive, forward-thinking economy that benefits all residents.

§11-6N-2. Definitions

(a) *General* — When used in this article, words defined in subsection (b) of this section have the meanings ascribed to them in this section, except in those instances where a different meaning is provided in this article or the context in which the word is used clearly indicates that a different meaning is intended by the Legislature.

(b) *Definitions* — For purposes of this section, the following terms shall mean:

(1) "Affiliated group" means one or more chains of corporations, limited liability entities, or partnerships, or any combination thereof, connected through the ownership of stock or ownership interests with a common parent which is a corporation, limited liability entity, or partnership, but only if the common parent owns directly, or indirectly, a controlling interest in each of the members of the group.

(2) "Base assessed value" means the taxable assessed value of all data center property of a high impact data center as shown upon the landbooks and personal property books of the assessor on July 1 of the calendar year preceding certification as a high impact data center.

(3) "Current assessed value" means the annual taxable assessed value of all data center property of a high impact data center as shown upon the landbook and personal property records of the assessor.

(4) "Critical IT load" means that portion of electric power capacity, expressed in terms of megawatts, which is reserved solely for owners or tenants of a data center to operate their

computer server equipment. The term does not include any ancillary load for common areas.

(5) "Data center property" means property used exclusively at a data center to construct, outfit, operate, support, power, cool, dehumidify, secure, or protect a data center and any contiguous dedicated substations. The term includes, but is not limited to, construction materials, component parts, machinery, equipment, computers, servers, installations, redundancies, and operating or enabling software, including any replacements, updates and new versions, and upgrades to or for such property, regardless of whether the property is a fixture or is otherwise affixed to or incorporated into real property.

(6) "High Impact Data Center" means a facility or group of facilities that:

(A) Consists of one or more parcels in this state, along with the buildings, substations and other infrastructure, fixtures, and personal property located on the parcels;

(B) Is owned, operated, or leased by an entity or affiliated group of entities;

(C) Is used to house and operate equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data; or that is necessary for the proper operation of equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data;

(D) Has a critical IT load of 50 megawatts or higher; and

(E) Is placed into service on or after July 1, 2025.

(7) "Incremental value", for any high impact data center, means the difference between the base assessed value and the current assessed value. The incremental value will be positive if the current value exceeds the base value, and the incremental value will be negative if the current value is less than the base assessed value.

(8) "Microgrid power generator" includes any entity supplying power under the rules provided in §5B-2-21 of this code to a high impact data center.

(9) "Microgrid power generator property" means and includes any and all property used by microgrid power generator within a certified microgrid district.

45 (10) "Tax increment" means the amount of regular levy property taxes attributable to the
46 amount by which the current assessed value of real and tangible personal property that is data
47 center property of a high impact data center exceeds the base assessed value of the property.

§11-6N-3. Returns of property of high impact data centers to Board of Public Works

1 (a) On or before May 1 in each year, a return in writing shall be filed with the Board of Public
2 Works: By the owner or operator of any company holding data center property of a high impact
3 data center or a microgrid power generator supplying microgrid power to a high impact data
4 center.

5 (b) The words "owner or operator," as applied herein to high impact data centers, shall
6 include any owner or operator of a high impact data center or microgrid power generator.

7 (c) The return shall be signed and sworn to by the owner or operator if a natural person, or,
8 if the owner or operator shall be a corporation, shall be signed and sworn to by its president, vice
9 president, secretary, or principal accounting officer.

10 (d) The return required by this section of every owner or operator shall cover the year
11 ending on December 31, next preceding, and shall be made on forms prescribed by the Board of
12 Public Works, which board is hereby invested with full power and authority and it is hereby made
13 its duty to prescribe the forms required from any owner or operator herein mentioned information
14 as in the judgment of the board may be of use to it in determining the true and actual value of the
15 properties of the owners or operators.

16 (e) Except for the special rules for tax distribution provided in §11-6N-4 of this code, the
17 provisions of this article are subject to the Assessment of Public Service Businesses, set forth in
18 §11-6-1, et seq. of this code, as if the provisions thereof were set forth in extenso in this article.

§11-6N-4. Special Rules for Tax Distribution of High Impact Data Centers

1 (a) On and after July 1, 2025, any property subject to valuation under §11-6N-3 of this code
2 shall be subject to the rules on tax distribution provided under this section.

3 (b) *Ad Valorem* Property Tax Distribution — The provisions of this subsection are

4 applicable to all data center property of a high impact data center upon certification as a high
5 impact data center per §11-6N-2 of this code.

6 (1) For so long as the high impact data center exists, the State Auditor shall divide the *ad*
7 *valorem* property tax revenue collected, with respect to taxable data center property of a high
8 impact data center as follows:

9 (A) The amount of *ad valorem* property tax revenue that should be generated by
10 multiplying the assessed value of the property for the then current tax year by the aggregate of
11 applicable levy rates for the tax year;

12 (B) The amount of *ad valorem* property tax revenue that should be generated by
13 multiplying the base assessed value of the property by the applicable regular *ad valorem* levy
14 rates for the tax year;

15 (C) The amount of *ad valorem* tax revenue that should be generated by multiplying the
16 base assessed value of the property for the current tax year by the applicable levy rates for
17 general obligation bond debt service for the tax year;

18 (D) The amount of *ad valorem* property tax revenue that should be generated by
19 multiplying the current assessed value of the property for the current tax year by the applicable
20 excess levy rates for the tax year; and

21 (E) The amount of *ad valorem* property tax revenue that should be generated by
22 multiplying the incremental value by the applicable regular levy rates for the tax year.

23 (2) The State Auditor shall determine from the calculations set forth in subdivision (1) of
24 this subsection the percentage share of total *ad valorem* revenue for each levying body according
25 to paragraphs (B) through (D), inclusive, of said subdivision by dividing each of such amounts by
26 the total *ad valorem* revenue figure determined by the calculation in paragraph (A) of said
27 subdivision; and

28 (3) On each date on which *ad valorem* tax revenue is to be distributed to the levying
29 bodies, such revenue shall be distributed by:

30 (A) Applying the percentage share determined according to paragraph (B), subdivision (1)
31 of this subsection to the revenues received and distributing such share to the levying bodies
32 entitled to such distribution pursuant to current law;

33 (B) Applying the percentage share determined according to paragraph (C), subdivision (1)
34 of this subsection to the revenues received and distributing such share to the levying bodies
35 entitled to such distribution by reason of having general obligation bonds outstanding;

36 (C) Applying the percentage share determined according to paragraph (D), subdivision (1)
37 of this subsection to the revenues received and distributing such share to the levying bodies
38 entitled to such distribution by reason of having excess levies in effect for the tax year; and

39 (D) Applying the percentage share determined according to paragraph (E), subdivision (1)
40 of this subsection to the revenues received and distributing such share to a fund dedicated at the
41 time of construction of a high impact data center.

42 (4) In each year for which there is a positive tax increment, the State Auditor shall remit that
43 portion of the *ad valorem* property taxes collected that consists of the tax increment and shall be
44 distributed as follows:

45 (A) 60 percent of the increment shall be placed in the Personal Income Tax Reduction
46 Fund provided in §11B-2-33 of this code;

47 (B) 15 percent of the increment shall be placed in the Economic Development Closing and
48 Promotion Fund provided in §5B-2-3B of this code;

49 (C) 15 percent of the increment shall be placed in the Electric Grid Stabilization and
50 Security Fund provided in provided in §5B-2N-2a of this code;

51 (D) 10 percent of the increment shall be placed in the general revenue of the State.

52 (5)(A) *Payment In Lieu Of Taxes, Increment Property* — Notwithstanding the provisions of
53 §5D-1-14, §7-5-13, §7-11B-3(b), §7-11B-8(c)(4), §7-11B-15(a)(7), §7-11B-15(a)(15), §7-11B-18,
54 §8-19-4, §8-29A-7, §8A-12-12, §11-13-2p, §11-13C-5(l)(1)(A), §16-13A-21, §16-15-18(b)(6), §17-
55 16A-16(b), §17-16B-20(b), §18-9A-12(c), §31-21-5, and §31-21-15 of this code, or any other

provision of this code, no new payment in lieu of taxes shall be entered into with relation to any property subject to this section or any leasehold interest related thereto, or any other property interest related thereto.

(B) *Tax Increment Financing, Increment Property* — Notwithstanding the provisions of §7-11B-1 *et seq.* of this code, or any other provision of this code, no tax increment financing project, plan or arrangement shall be entered into or undertaken with relation to any property subject to this section.

§11-6N-5. Termination

The provisions of this article shall sunset, expire, and be of no force and effect on or after the 31st day of December 2055.

CHAPTER 11B. DEPARTMENT OF REVENUE

ARTICLE	2.	STATE	BUDGET	OFFICE.
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§11B-2-33. Personal Income Tax Reduction Fund

(a) The personal income tax reduction fund is hereby established. The personal income tax reduction fund shall be funded continuously and on a revolving basis in accordance with this section, with all interest or other earnings on the moneys therein credited to the fund. The personal income tax reduction fund shall be funded as provided by this section and by other provisions of this code. Moneys in the personal income tax reduction fund may be expended solely for the purposes set forth in this section.

(b) Notwithstanding any other provision of this code to the contrary, on or before the last day of any fiscal year, the net proceeds of the personal income tax reduction fund will be certified and included as a portion of adjusted general revenue fund collections under the provisions of §11-21-4h of this code for that fiscal year.

(c) Not later than 60 days following the certification, the Secretary of Revenue shall transfer the certified amount determined in subsection (b) of this section to the general revenue fund. The

amounts transferred will not be included as a portion of adjusted general revenue fund collections under the provisions of §11-21-4h of this code for the fiscal year in which the money is transferred.

(d) The moneys in the income tax reduction fund shall be made available to the West Virginia Board of Treasury Investments and to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of §12-6C-1 *et seq.* of this code in such amounts as may be directed in the discretion of the Secretary of Revenue. Any balance of the income tax reduction fund, including accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the income tax reduction fund for the purposes set forth in this section.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1d. Future electric generating capacity requirements.

(a) In order to maximize the use of electricity generated within the state by using coal or natural gas produced within the state, the Public Service Commission shall by order, no later than December 31, 1989, establish the schedule and amount of future electric generating capacity additions required by each West Virginia electric utility, for the next ten years, taking into account: (i) Projected load growth; (ii) existing generating capacity; (iii) capacity factors for existing generation; (iv) existing contractual commitments to sell or purchase capacity; (iv) planned retirement and life extensions of existing capacity; (vi) planned construction of capacity; (vii) availability of capacity from generating units of affiliated companies; and (viii) such other reasonable factors as the commission may deem relevant and appropriate to consider. For purposes of this section, "capacity factor" shall mean the ratio of the actual energy produced by a power plant over a specific period to the maximum possible energy it could have produced if running at full capacity during that same period.

(b) If the commission determines after considering all such named and other relevant and

14 appropriate factors that a utility will be required to purchase electric generating capacity beyond
15 those agreements approved by the Federal Energy Regulatory Commission or the West Virginia
16 Public Service Commission in order to serve its West Virginia customers, the amount of such
17 required additional purchased capacity so identified by the commission will for purposes of this
18 section be referred to as the utility's "projected deficient capacity": *Provided*, That this subsection
19 shall not include power generating facilities whose total production of electricity is sold outside the
20 State of West Virginia.

21 (c) In the interests of: Keeping utility rates of residential customers as low as possible;
22 keeping utility rates for commercial and industrial customers competitive with those of other
23 states; attracting new industry for which electric power costs are a major factor in location
24 determinations; and of not placing any greater cost burden on government than is absolutely
25 necessary for its electric power needs, each utility shall acquire, if reasonable, its projected
26 deficient capacity from electric generation situated in West Virginia which burns coal or gas
27 produced in West Virginia and which will provide the most reliable supply of capacity and energy at
28 the least cost to those customers of the utility who will be served by such electric generation:
29 *Provided*, That all power purchase contracts executed prior to the effective date of this section
30 which satisfy the following requirements, regardless of location, shall be considered, for the
31 purposes of this subsection, as electric generation situated in West Virginia: (1) Said contracts
32 were negotiated in accordance with procedures and priced according to methodologies of other
33 contracts which the commission has ordered approved; (2) said contracts either guarantee or are
34 substantially amended to guarantee for the life of the contract the use of an amount of West
35 Virginia fuel which equals or exceeds the amount which would be required, on a percentage of
36 output basis, to produce the amount of electric power to be consumed in West Virginia; and (3)
37 said contracts meet the requirements for a qualifying facility established by the Federal Energy
38 Regulatory Commission pursuant to the Public Utility Regulatory Policies Act of 1978.

39 (d) The commission shall evaluate each capacity auction conducted by PJM

40 Interconnection, LLC, or its successor and, to the maximum extent permitted by law, encourage
41 the coordination of the voluntary participation of every electric generating unit in the state in each
42 capacity auction for the benefit of state ratepayers.

43 (e) In order to ensure the state's existing generating units can continue to meet future
44 generation needs, the commission shall conduct a review of each generating unit's current
45 consumer economic dispatch. Factors to be considered by the commission in reviewing consumer
46 economic dispatch shall include, but not be limited to: (i) current capacity factors; (ii) management
47 of existing fuel supplies and contracts; (iii) overall plant operation and maintenance; (iv) placement
48 of bids in the PJM Interconnection, LLC, or its successor's day-ahead and real-time energy
49 markets; (v) utilization of the PJM Interconnection, LLC, or its successor's Reliability Pricing Model
50 (RPM); and (vi) the utilization of automatic adjustment clauses, price indexes, or fuel adjustment
51 clauses by the utilities. For purposes of this section, "consumer economic dispatch" shall mean
52 the process of operating generation facilities to produce electricity at the lowest cost while reliably
53 meeting consumer demand, considering the operational limits of generation and transmission
54 facilities.

55 (f) Electric utilities shall be prepared to maximize the production of electricity from their
56 generating units when such self-generation will result in reduced energy costs for West Virginia
57 ratepayers. The commission shall require the utilities to maintain their generating units and fuel
58 inventories in a manner to allow them to be able to self-generate and achieve at least a sixty-nine
59 percent capacity factor. Nothing herein shall require a utility to operate a generating unit at a sixty-
60 nine percent capacity if doing so will cause an increase in the charge or charges for electric energy
61 over and above the established and published tariff, rate, joint rate, charge, toll or schedule. By
62 July 1, 2025, the commission shall promulgate rules as necessary to carry out its duties and
63 obligations as set forth herein.

§24-2-1q. Base fuel supply requirements for electric grid resiliency.

1 Any coal-fired power plant owned by a public electric utility as of the effective date of this

2 section shall, in order to ensure grid resiliency and homeland security, maintain a minimum ~~4530-~~
3 day aggregate coal supply on site at the power plant~~under contract~~ for the remainder of the life of
4 those plants.

**§24-2-15. ~~Certain automatic~~ Automatic adjustment clauses, price indexes or fuel
adjustment clauses prohibited.**

5 The commission shall not enforce, originate, continue, establish, change or otherwise
6 authorize or permit an increase in the charge or charges for electric energy over and above the
7 established and published tariff, rate, joint rate, charge, toll or schedule ~~as the result of~~through any
8 automatic adjustment clause, price index or fuel adjustment clause. Automatic adjustment
9 clauses, price indexes, or fuel adjustment clauses that do not create a net increase in the charge
10 or charges for electric energy over and above the established and published tariff, rate, joint rate,
11 charge, toll, or schedule shall be permitted by the commission. For purposes of this section, a "net
12 increase" in the charge or charges for electric service shall mean that for the calendar year in
13 which the automatic adjustment clause, price index, or fuel adjustment clause is utilized, the
14 average charge or charges for electric energy are higher than they would have been if the
15 adjustment clause, price index, or fuel adjustment clause were not utilized. The commission shall
16 encourage the use of permitted automatic adjustment clauses, price indexes, or fuel adjustment
17 clauses as a means of increasing the generation of coal-fired power plants within the state. No
18 later than July 1, 2025, the Commission shall promulgate procedural rules governing the utilization
19 of automatic adjustment clauses, price indexes, and fuel adjustment clauses.

§24-2-19. Integrated Resource Planning Required.

1 (a) Not later than March 31, 2015, the Public Service Commission shall issue an order
2 directing any electric utility that does not have an existing requirement approved by the Public
3 Service Commission that provides for the future review of both supply side and demand side
4 resources to develop an initial integrated resource plan to be filed not later than January 1, 2016,
5 in conjunction with other similar deadlines required by other states or entities of the electric

6 utilities. This order may include guidelines for developing an integrated resource plan.

7 (b)(1) Any electric utility that has an existing requirement approved by the Public Service
8 Commission that provides for the future review of both supply side and demand side resources is
9 exempt from this initial integrated resource plan filing until such time as that existing requirement
10 has been satisfied. Thereafter, such electric utility is required to file an integrated resource plan
11 pursuant to subsection (a) of this section.

12 (2) Each electric utility that has filed the initial integrated resource plan shall file an updated
13 plan at least every five years after the initial integrated resource plan has been filed. Any electric
14 utility that was exempt from filing an initial integrated resource plan shall file an integrated resource
15 plan within five years of satisfying any existing requirement and at least every five years thereafter.
16 All integrated resource plans shall comply with the provisions of any relevant order of the Public
17 Service Commission establishing guidelines for the format and contents of updated and revised
18 integrated resource plans.

19 (c) The Public Service Commission shall analyze and review an integrated resource plan.
20 The Public Service Commission may request further information from the utility, as necessary.
21 Nothing in this section affects the obligations of utilities to obtain otherwise applicable commission
22 approvals.

23 (d) The Commission may consider both supply-side and demand-side resources when
24 developing the requirements for the integrated resource plans. The plan shall compare projected
25 peak demands with current and planned capacity resources in order to develop a portfolio of
26 resources that represents a reasonable balance of cost and risk for the utility and its customers in
27 meeting future demand for the provision of adequate and reliable service to its electric customers
28 as specified by the Public Service Commission.

29 (e) The commission shall by order, entered no later than July 1, 2025, require all electric
30 utilities operating in the state to supplement their existing integrated resource plans to include a
31 detailed plant upgrade and maintenance plan, improvement compliance schedule, and cost

32 estimate for ensuring the operation of each generating unit through the end of 2040. The
33 supplemental integrated resource plan shall also include an analysis of the action necessary to
34 extend the life of each generating unit beyond their planned retirement date in lieu of the
35 construction of new generation assets. The commission may approve the supplemental integrated
36 resource plan without modification or require modification of the supplemental plan before it is
37 approved. No later than July 1, 2025, the commission shall promulgate rules requiring the
38 supplementation of integrated resource plans as required by this provision. The rules shall also
39 provide a procedure for utilities to submit an independent evaluation of any modification required
40 by the commission hereunder or to challenge such required modification.

NOTE: The purpose of this bill is to establish the Certified Microgrid Program administered by the Division of Economic Development.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.