

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 818**

By Senators Smith (Mr. President) and Woelfel

[By Request of the Executive]

[Introduced March 19, 2025; referred  
to the Committee on Economic Development; and  
then to the Committee on Finance]

1 A BILL to amend and reenact §5B-2-21, §24-2-1d, §24-2-1q, §24-2-15, and §24-2-19 of the Code  
 2 of 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; and creating the Power Generation and Consumption Act  
 17 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

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

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

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

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

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

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

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

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

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

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

42 (2) Not be subject to the net metering and interconnection standards as set forth in §24-2F-  
43 8 of this code;

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

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

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

54 (6) Not deliver more than 10% of electricity generated within the certified microgrid district  
55 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

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. It is in the best interest of the state  
34 to induce and assist in development of these projects, in order to advance the public purposes of  
35 relieving unemployment by preserving and creating jobs, and preserving and creating new and  
36 greater sources of revenues for the support of public services provided by the state and local  
37 government. Additionally, the provisions in this section align with the Legislature's goal of fostering  
38 a competitive, forward-thinking economy that benefits all residents.

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

42 (b) The Department of Commerce shall assist projects developing or operating a certified  
43 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



30 the lowest turnover rates in the Nation.

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

### **§11-6N-2. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (9) "Microgrid power generator property" means and includes any and all property used by  
44 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

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

59 (B) *Tax Increment Financing, Increment Property* — Notwithstanding the provisions of §7-  
 60 11B-1 *et seq.* of this code, or any other provision of this code, no tax increment financing project,  
 61 plan or arrangement shall be entered into or undertaken with relation to any property subject to this  
 62 section.

**§11-6N-5. Termination**

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

**CHAPTER 11B. DEPARTMENT OF REVENUE**

**ARTICLE                    2.                    STATE                    BUDGET                    OFFICE.**

**§11B-2-33. Personal Income Tax Reduction Fund**

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

7 (b) Notwithstanding any other provision of this code to the contrary, on or before the last  
 8 day of any fiscal year, the net proceeds of the personal income tax reduction fund will be certified  
 9 and included as a portion of adjusted general revenue fund collections under the provisions of §11-  
 10 21-4h of this code for that fiscal year.

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

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

15 (d) The moneys in the income tax reduction fund shall be made available to the West  
 16 Virginia Board of Treasury Investments and to the West Virginia Investment Management Board  
 17 for management and investment of the moneys in accordance with the provisions of §12-6C-1 et  
 18 seq. of this code in such amounts as may be directed in the discretion of the Secretary of  
 19 Revenue. Any balance of the income tax reduction fund, including accrued interest and other  
 20 return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall  
 21 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.**

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

13 (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.