

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 942

FISCAL
NOTE

By Senator Jeffries

[Introduced February 13, 2026; referred
to the Committee on Energy, Industry, and Mining;
and then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
 2 designated §5B-2P-1, §5B-2P-2, §5B-2P-3, §5B-2P-4, §5B-2P-5, §5B-2P-6, §5B-2P-7,
 3 §5B-2P-8, and §5B-2P-9; and to amend the code by adding a new section, designated
 4 §24-2-4i, relating to establishing the Advanced-Baseload Energy Development Act;
 5 providing legislative findings; establishing the Advanced Energy Division within the Office
 6 of Energy; providing duties for the division; creating the Advanced-Baseload Energy Fund
 7 and providing authorized expenditures; authorizing the division to provide financial
 8 instruments to advanced-baseload energy projects, along with assistance from the
 9 Economic Development Authority; authorizing tax incentives for advanced-baseload
 10 energy projects; requiring community benefit agreements; providing for public utility
 11 specific provisions; authorizing long-term power purchase agreements; providing for
 12 advanced-baseload energy projects to be eligible components of a certified microgrid
 13 district; providing that advanced-baseload energy projects may be utilized to serve high
 14 impact data centers; authorizing rule-making authority; and allowing rate allowances for
 15 public utilities to recover project costs for the development of advanced-baseload energy
 16 projects.

Be it enacted by the Legislature of West Virginia:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 2P. ADVANCED-BASELOAD ENERGY DEVELOPMENT ACT.

§5B-2P-1. Short title; legislative findings.

1 (a) This article shall be known and cited as the "Advanced-Baseload Energy Development
 2 Act".

3 (b) The Legislature hereby finds that:

4 (1) The United States must secure reliable, domestic sources of energy and computing
 5 capacity to remain globally competitive in the era of artificial intelligence and electrification;

6 (2) West Virginia's economic future depends on expanding advanced manufacturing, high-
7 performance computing, and reliable energy generation;

8 (3) West Virginia's historic energy infrastructure, skilled workforce, mineral resources, and
9 strategic location make it uniquely capable of leading this next era of energy development; and

10 (4) It is the public policy of this state to create an advanced-baseload ecosystem that
11 provides affordable and reliable power while generating long-term economic and security benefits.

§5B-2P-2. Definitions.

1 As used in this article, unless the context clearly indicates otherwise:

2 "Advanced-baseload energy project" means any facility that produces electricity that is
3 generated by an advanced nuclear reactor or hydrogen that is derived from coal or natural gas and
4 utilizes carbon capture and sequestration technologies.

5 "Division" means the Advanced Energy Division within the Office of Energy.

§5B-2P-3. Advanced Energy Division.

1 (a) There is hereby established the Advanced Energy Division, organized within the Office
2 of Energy.

3 (b) The division shall have the following duties:

4 (1) Promote and assist in the development of advanced-baseload energy projects in this
5 state;

6 (2) Provide technical assistance to utilities and other entities seeking to develop advanced-
7 baseload energy projects;

8 (3) Serve as the state liaison to the U.S. Nuclear Regulatory Commission and U.S.
9 Department of Energy;

10 (4) Coordinate state-level permitting and environmental review for nuclear facilities;

11 (5) Maintain a registry of qualified SMR and other advanced-baseload energy project sites,
12 including reclaimed coal and industrial lands;

13 (6) Administer the Advanced-baseload energy fund pursuant to §5B-2P-4 of this code; and

14 (7) Maintain an assessment of available grants, bonds, and other financing opportunities
15 available to advanced-baseload energy projects.

16 (c) The division may coordinate with post-secondary education institutions in the state,
17 including Marshall University and West Virginia University, to identify and develop workforce
18 initiatives or programs applicable to the advanced-baseload energy sector; including, but not
19 limited to, SMR operation careers, advanced manufacturing careers, and other relevant career
20 pathways.

21 (d) The division may enter into memorandums of understanding or any other agreements
22 with federal, state, or private entities for the purpose of furthering the provisions of this article,
23 including the U.S. Department of Energy and the U.S. Department of Defense.

§5B-2P-4. Advanced-Baseload Energy Fund.

1 (a) There is hereby created in the State Treasury a special revenue fund known as the
2 "Advanced-Baseload Energy Fund". Moneys deposited in this fund shall be administered by the
3 division, with the approval of the Secretary of the Department of Commerce. Any balance
4 remaining at the end of any fiscal year does not revert to the General Revenue Fund but shall
5 remain in the fund for expenditures in accordance with this section. Moneys may be deposited into
6 the fund from legislative appropriations, federal grants or matching funds, or any other sources.

7 (b) In addition to being used to further the provisions of this article, the fund may be utilized
8 to establish and provide financing incentives for the development of advanced-baseload energy
9 projects; including, but not limited to, grants, low-interest loans, or other financial instruments. The
10 division may utilize moneys in the fund to provide insurance for up to 25% of debt incurred for the
11 development of an advanced-baseload energy project, subject to the availability of funds.

12 (c) The Economic Development Authority shall assist the division in the development and
13 administration of any financial assistance provided pursuant to this section. Upon approval of the
14 Secretary of Commerce, funds may be transferred from the advanced-baseload energy fund to the
15 Economic Development Authority if necessary to facilitate a transaction.

§5B-2P-5. Advanced-baseload energy tax incentives.

1 (a) The division may designate any advanced-baseload energy project as eligible to
2 receive the following tax credits:

3 (1) Consumer sales and service tax and use tax exemption –

4 (A) Notwithstanding the provisions of §11-15-1 et seq., §11-15A-1 et seq., and §11-15-8d
5 of this code or any other provision of this code, purchases of building materials, tangible personal
6 property, and services by a construction contractor or construction subcontractor directly used in
7 construction of a certified advanced-baseload energy project are exempt from the taxes imposed
8 by §11-15-1 et seq. and §11-15A-1 et seq. of this code.

9 (B) Purchases of services, materials, and tangible personal property for repairs,
10 maintenance, and refurbishment of certified advanced-baseload energy project property are
11 exempt from the taxes imposed by §11-15-1 et seq. and §11-15A-1 et seq. of this code.

12 (C) The exemptions authorized under this subsection also apply to exempt purchases
13 enumerated herein from the municipal consumers sales and service tax and use tax and special
14 district excise tax: *Provided*, That exemptions authorized under this section do not apply to
15 purchases subject to a special district excise tax that was imposed and effective under §7-22-12 or
16 §8-38-12 of this code, as applicable, prior to the effective date of this section.

17 (D) The exemptions authorized under this section are limited to purchases of building
18 materials and tangible personal property directly incorporated into advanced-baseload energy
19 projects and supporting infrastructure during construction, repair, maintenance, and refurbishment
20 of certified advanced-baseload energy project property; including infrastructure and services
21 directly used in construction, repair, maintenance, and refurbishment of certified advanced-
22 baseload energy project property: *Provided*, That the following purchases are not exempt under
23 the provisions of this section:

24 (i) Purchases of gasoline and special fuel or any other fuel or means of power for a motor
25 vehicle or any other machine, apparatus, or engine; or

26 (ii) Purchases subject to the consumers sales and service tax and use tax under the
27 provisions of §11-15-3c of this code.

28 (2) Advanced-baseload energy investment credit –

29 (A) There shall be allowed to every eligible taxpayer a credit against the taxes imposed
30 under §11-21-1 et seq. or §11-24-1 et seq. of this code, as determined by this subdivision.

31 (B) The amount of the total investment credit allowed to an eligible taxpayer shall be equal
32 to 20% of the project costs, as certified by the division. The investment credit shall be applied
33 annually in the amount of one-twentieth thereof per year for a period of 20 consecutive years
34 beginning in the tax year in which construction of project property is completed, as certified by the
35 division. This election shall be made in the annual income tax return filed under chapter eleven of
36 this code for the taxable year in which the advanced-baseload energy project is first placed into
37 service or use by the taxpayer.

38 (C) If any credit remains after the initial 20-year credit application period, the amount of
39 remaining credit is carried forward to each ensuing tax year until used or until the expiration of the
40 fifth taxable year subsequent to the end of the initial 20-year credit application period. If any
41 unused credit remains after expiration of the fifth taxable year subsequent to the end of the initial
42 20-year credit application period, the amount thereof is forfeited.

43 (b) The decision of the division to designate any advanced-baseload energy project as
44 eligible to receive the tax credits authorized by shall be final.

§5B-2P-6. Community Benefit Agreements.

1 (a) Any advanced-baseload energy project certified to receive tax credits pursuant to §5B-
2 2P-5 of this code shall, within one year of being certified, make best and reasonable efforts to enter
3 into a community benefits agreement with the county commission in which the project is located.

4 (b) A community benefits agreement entered into pursuant to this section shall address the
5 following matters:

6 (1) Local hiring and apprenticeship programs;

- 7 (2) Annual STEM education collaboration;
- 8 (3) Environmental monitoring; and
- 9 (4) Coordination with local emergency-response.

§5B-2P-7. Public utility provisions.

- 1 (a) Public utilities, regulated pursuant to §24-2-1 et seq. of this code, may form special-
2 purpose subsidiaries and/or partnerships with private partners for the development of advanced-
3 baseload energy projects.
- 4 (b) The Public Service Commission shall authorize 20 to 30-year power purchase
5 agreements between public utilities and anchor customers.
- 6 (c) Public utilities may seek a rate allowance for advanced-baseload energy project
7 development costs pursuant to §24-2-4i of this code.

§5B-2P-8. Certified Microgrids; High Impact Data Centers.

- 1 (a) Any advanced-baseload energy project developed pursuant to this article may be
2 approved as an eligible component of a certified microgrid district established pursuant to §5B-2-
3 21 of this code. Nothing contained herein may be construed to limit or prohibit any rights or
4 obligations for an advanced-baseload energy project that is part of a certified microgrid district.
- 5 (b) Any advanced-baseload energy project developed pursuant to this article may be
6 utilized to provide electric power directly to a High Impact Data Center, as defined by §11-6N-
7 2(b)(5) of this code, whether as a generating facility within a certified microgrid district, as an asset
8 of a regulated public utility, or any other lawful means. Nothing contained herein may be construed
9 to limit or prohibit the ability of a High Impact Data Center from procuring electric power from an
10 advanced-baseload energy project.

§5B-2P-9. Rulemaking.

- 1 In order to effectuate the purposes of this article, the Department of Commerce or Office of
2 Energy may promulgate procedural rules, interpretive rules, and legislative rules, including
3 emergency rules, or any combination thereof in accordance with §29A-3-1 et seq. of this code.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-4i. Recovery of development costs associated with advanced energy projects.

1 (a) Definitions. -- As used in this section:

2 "Advanced-baseload energy project" means any facility that produces electricity that is
3 generated by an advanced nuclear reactor or hydrogen that is derived from coal or natural gas and
4 utilizes carbon capture and sequestration technologies.

5 "Advanced-baseload project development costs" or "project costs" means all costs
6 associated with the development of one or more advanced-baseload energy projects, including
7 costs of evaluation, design, engineering, federal approvals and licensing, environmental analyses,
8 permitting, early site permitting, equipment procurement, and any other costs deemed appropriate
9 by the commission.

10 "Small modular reactor" or "SMR" means a nuclear reactor that produces nuclear power
11 and has a nameplate capacity that does not exceed 500 megawatts of generating capacity per
12 reactor. Any electrical output derived from non-nuclear energy sources, including energy storage
13 or thermal energy storage systems, shall not be included in the calculation of the reactor's
14 nameplate capacity.

15 "SMR facility" means an SMR or multiple SMRs that generate electricity at a single site.

16 (b) Notwithstanding any provision of this chapter to the contrary, any public utility may
17 petition the commission at any time for approval of a rate allowance for the recovery of advanced-
18 baseload development costs. A public utility may petition the commission for up to one advanced-
19 baseload energy project facility pursuant to this section.

20 (c) A public utility may petition the Commission for advanced-baseload energy project cost
21 recovery along separate development phases and, if the Commission determines such projected
22 or actual project costs to be reasonable and prudent, such project costs may be recovered by such

23 utility on a timely and current basis from customers prior to the commercial operation date of any
24 such advanced-baseload energy project.

25 (d) Any project costs incurred prior to July 1, 2026, and 20% of project costs incurred after
26 July 1, 2026, shall not be eligible for accelerated cost recovery pursuant to this section, but may be
27 recovered through the utility's rates for generation and distribution services following the
28 advanced-baseload energy project being placed into service.

29 (e) A public utility that petitions the Commission for recovery of advanced-baseload energy
30 development costs shall demonstrate the following:

31 (1) A schedule for the development, construction, and completion of the advanced-
32 baseload energy project for which rate allowance is being sought;

33 (2) The amount of capital investment by the public utility into the advanced-baseload
34 energy project;

35 (3) Evidence that that such public utility has evaluated and sought funding opportunities
36 from the U.S. Department of Energy and other federal sources; and

37 (4) Any other information the Commission considers necessary.

38 (f) Nothing in this section shall limit the Commission's discretion to determine whether the
39 project costs are reasonable and prudent. As part of a final order approving such cost recovery, the
40 commission may impose a deadline by which the relevant utility shall either: (i) Place an
41 advanced-baseload energy project into commercial operation or (ii) Sell the permitted site, unless
42 it is at a previously existing nuclear site, and return the proceeds of the sale to customers. The
43 length of such deadline shall be at the commission's discretion: *Provided*, That it shall provide the
44 utility a reasonable timeframe in which to obtain all necessary permits and approvals, including
45 allowing for approval by federal agencies such as the Nuclear Regulatory Commission, and
46 completing construction of an SMR.

47 (g) Nothing in this section shall limit the commission's authority to approve or deny a
48 petition for recovery of project costs or to require a utility to demonstrate that such utility made

49 reasonable good-faith efforts to secure appropriate funding opportunities from the U.S.
50 Department of Energy and other federal funding sources.
51 (h) The annual revenue requirement for any rate adjustment clause authorized pursuant to
52 this section shall not exceed an amount that would increase the monthly bill of the utility's typical
53 West Virginia residential customer, utilizing 1,000 kilowatt hours of electricity monthly, by more
54 than one percent.

NOTE: The purpose of this bill is to create an advanced-baseload ecosystem that provides affordable and reliable power while generating long-term economic and security benefits.

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