Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** SB81

House of Origin	☒	Introduced	☐	Substitute	☐ Engrossed
Second House	☐	In Committee	☐	Substitute	☐ Enrolled

2. **Patron:** Marsden

3. **Committee:** Commerce and Labor

4. **Title:** Minimum wage; increases to $9.75 per hour, effective July 1, 2020, etc.

5. **Summary:** This bill increases the minimum wage from its current federally mandated level of $7.25 per hour to $9.75 per hour, effective July 1, 2020; to $10.75 per hour, effective July 1, 2021; to $11.75 per hour, effective July 1, 2022; to $12.75 per hour, effective July 1, 2023; to $14 per hour, effective July 1, 2024; and to $15 per hour, effective July 1, 2025, unless a higher minimum wage is required by the federal Fair Labor Standards Act (FLSA). This bill also provides that the Virginia minimum wage applies to persons whose employment is covered by the FLSA and to public employees.

6. **Budget Amendment Necessary**: Yes, HB30/SB30, Item 120 (Department of Labor and Industry); Item 477 (Central Appropriations), and Item 313 (Department of Medical Assistance Services). See Item 8, below.

7. **Fiscal Impact Estimates:** Preliminary. See Item 8.

Expenditure Impact: Department of Labor and Industry:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2020	N/A	N/A	N/A
2021	$515,231	5	GF
2022	$515,231	5	GF
2023	$515,231	5	GF
2024	$515,231	5	GF
2025	$515,231	5	GF
2026	$515,231	5	GF

Expenditure Impact: Central Appropriations:

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	$3,215,516	GF
	$3,854,924	NGF
2022	$5,624,313	GF
	$5,749,846	NGF

2023	$9,574,401	GF
	$8,862,987	NGF
2024	$15,416,248	GF
	$13,599,495	NGF
2025	$26,227,669	GF
	$22,831,614	NGF
2026	$38,028,312	GF
	$33,253,874	NGF

*In Central Appropriations, no appropriation is provided for the nongeneral fund portion.

Expenditure Impact: Department of Medical Assistance Services:

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	$8,783,226	GF
	$9,178,583	NGF
2022	$34,847,640	GF
	$36,485,293	NGF
2023	$63,791,657	GF
	$66,741,261	NGF
2024	$100,737,328	GF
	$105,111,207	NGF
2025	$153,710,248	GF
	$159,945,669	NGF
2026	$198,859,362	GF
	$206,666,869	NGF

Resource Impact: Alcoholic Beverage Control Authority:

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	N/A	N/A
2022	($2,466)	GF
2023	($901,286)	GF
2024	($1,905,297)	GF
2025	($3,239,707)	GF
2026	($3,337,663)	GF

8. **Fiscal Implications:** This fiscal impact statement is preliminary, and will be revised to reflect additional information as it becomes available.

   The first table above reflects the bill's anticipated impact to the Department of Labor and Industry (DOLI) for costs related to enforcing the provisions of this bill.

   The federal Department of Labor's Wage and Hour Division enforces the federal minimum wage laws. If the minimum wage in Virginia is raised above the federal minimum wage, the

Labor Law Division in DOLI would have to begin enforcing the new minimum wage for Virginia employees beginning July 1, 2020.

Due to federal oversight of almost all employees in the state, the federal Department of Labor's Wage and Hour Division conducts inspections of alleged violations of the minimum wage laws and averages about 750 inspections per year. If this bill is enacted and increases the minimum wage above the federal mandate, then the Commonwealth will be responsible for minimum wage compliance. DOLI anticipates it will have to conduct the same number of inspections as the federal Department of Labor's Wage and Hour Division (750 inspections per year). In order to meet this workload, DOLI will need five additional staff to enforce the increased minimum wage (four additional officer positions to conduct inspections and one assistant compliance officer to assist and support the inspection activities), as U.S. Department of Labor will no longer be primarily responsible for conducting these investigations. DOLI's impact is for regulatory enforcement of the bill.

The bill amends the definition of employer to include the Commonwealth, any of its agencies, institutions, or political subdivisions, and any public body. This impact estimate assumes the provisions of this bill will apply to persons employed or supported by the Commonwealth.

The second table above reflects the anticipated impact to state agencies based on the number of salaried employees and wage positions reflected in the Commonwealth's Personnel Management Information System (PMIS). The information in the table does not reflect any raises that have occurred since this data was pulled nor does it reflect any raises that may go into effect at a later date. PMIS data do not include information for certain state agencies, some authorities, and institutions of higher education that do not report personnel data in PMIS; therefore, this estimate does not include potential impacts to these and other state entities that do not report personnel data in PMIS. Examples include salary data for the Judicial and Legislative agencies as well as the Virginia Port Authority, Virginia Tourism Authority, Virginia Economic Development Partnership, and the University of Virginia Medical Center. It also does not include wage data for the community colleges, Longwood University, the University of Mary Washington, Radford University, and Christopher Newport University. If information regarding the anticipated fiscal impacts to these agencies, authorities, and institutions becomes available, the fiscal impact statement will be revised to reflect this additional information.

Any expenditure impact of this legislation to the Alcoholic Beverage Control (ABC) Authority will likely result in a corresponding decrease in ABC profits. ABC profits are deposited into the general fund. ABC indicates that this bill will result in an expenditure impact of $2,466 in FY 2022, $901,286 in FY 2023, $1.91 million in FY 2024, $3.24 million in FY 2025, and $3.34 million in FY 2026.

Based on data provided by the Department of Human Resource Management, the minimum wage increase that would be effective on July 1, 2020, would have a total expenditure impact of approximately: $7.07 million (from both general and nongeneral fund sources) in FY 2021; $11.37 million (from both general and nongeneral fund sources) in FY 2022; $18.44

million (from both general and nongeneral fund sources) in FY 2023; $29.02 million (from both general and nongeneral fund sources) in FY 2024; $49.06 million in FY 2025; and $71.28 million in FY 2026. The additional benefit costs that would result from a minimum wage increase are included in these estimates.

These are preliminary estimates for current state employees and do not account for any salary or wage increases that have been implemented since the PMIS data were pulled or that may go into effect. The proposed minimum wage adjustment would impact the state salary structure, and may result in additional future costs to mitigate compression, and address occupational and employee alignment. Budget amendments would be needed to adjust the general fund transfers and appropriations to reflect the bill's general fund impact; agencies supported in part or in whole from nongeneral fund sources would be responsible for providing support for the nongeneral fund portion.

Raising the minimum wage in the Commonwealth also impacts the Department of Medical Assistance Service's (DMAS) expenditures because it increases the rates paid for attendant care providers, home and community based waiver services, and other provider types that currently receive rates at or near minimum wage. However, in addition to these direct effects, DMAS has identified adult day health care, in-home residential care, community engagement, and group day support as services that will require rate increases to keep the services viable, as the rates for these services are benchmarked against providers that currently receive wages near minimum wage. In summary, DMAS identified five main areas in which rates would increase based on this bill. Those areas include: 1) attendant care, 2) adult day health care, 3) in-home residential care, 4) community engagement, and 5) day support.

Attendant Care

Consumer-directed attendants are currently paid $9.40 an hour outside of Northern Virginia and $12.17 an hour in Northern Virginia. Agency-directed attendants are paid similar amounts. DMAS assumes their rates would be similarly impacted. Attendant care includes personal care, respite, and companion care authorized through the home and community based waivers and through Early and Periodic Screening, Diagnostic, and Treatment (EPSDT). The majority of the hours are paid through the Commonwealth Coordinated Care Plus (CCC Plus) program, with fewer paid through fee-for-service. DMAS expects to pay for more than 30 million hours of agency directed care and more than 40 million hours of consumer directed care in FY 2021 through base Medicaid (program 456), Medicaid Expansion (program 45611), and the Medicaid-Children's Health Insurance Program (CHIP) hybrid program (M-CHIP program 466). In addition to the hourly rate, DMAS pays a 10 percent tax for typical employer responsibilities of social security. DMAS estimates that the proposed legislation would have the following fiscal impact due to the need to adjust rates over the next six years.

Consumer Directed Attendant Care				
	General Fund	Federal	Special	Total Funds
SFY21	$5,886,295	$6,059,978	$18,866	$11,965,139
SFY22	$23,354,159	$24,081,705	$79,401	$47,515,265

SFY23	$41,995,051	$43,303,312	$142,777	$85,441,140
SFY24	$63,339,690	$65,259,877	$209,484	$128,809,051
SFY25	$92,338,251	$95,041,520	$294,774	$187,674,545
SFY26	$116,873,822	$120,236,970	$366,641	$237,477,433
Agency Directed Attendant Care				
	General Fund	Federal	Special	Total Funds
SFY21	$2,896,931	$3,079,576	$20,162	$5,996,669
SFY22	$11,493,481	$12,241,511	$82,676	$23,817,668
SFY23	$20,667,381	$22,012,477	$148,667	$42,828,525
SFY24	$33,920,590	$35,929,688	$221,649	$70,071,927
SFY25	$54,409,044	$57,301,585	$318,373	$112,029,002
SFY26	$71,856,633	$75,494,636	$399,971	$147,751,241

*SFY refers to state fiscal year

Adult Day Health Care

Adult day health care is paid by the day and is provided in a group setting. The current wage for the individual adult day health wage employee is $15.55 in Northern Virginia and $11.53 in the rest of the state. Benchmark rates for this service are built on wage earners being paid for nine hours each day and serving five members at the same time. Based on these benchmarks, DMAS estimates a dollar increase in wages will lead to an increase of $1.80 daily in rates ($1 dollar * 9 hours per day / 5 members with paid claims). Utilization of adult day health care is expected to be over 100,000 hours in FY 2023, which is the first year these rates are impacted by the wage increase proposed in this legislation. DMAS estimates that the proposed legislation would have the following fiscal impact on adult day health care due to the need to adjust rates over the next six years.

Adult Day Health Care				
	General Fund	Federal	Special	Total Funds
SFY21	$0	$0	$0	$0
SFY22	$0	$0	$0	$0
SFY23	$18,829	$18,988	$18	$37,835
SFY24	$119,198	$120,203	$112	$239,512
SFY25	$278,310	$280,657	$261	$559,228
SFY26	$447,366	$451,139	$419	$898,924

*SFY refers to state fiscal year

In-Home Residential

In-home residential care is provided to an individual member enrolled in the Community Living or Family and Individual Support (FIS) waivers on an hourly basis. Providers earn $13.53 in Northern Virginia and $10.87 in the rest of state. Unlike rates for care provided in a group setting, DMAS assumes a one to one impact of wage increases, so $1.00 wage increase would increase DMAS paid rates by $1.00. In FY 2023, which is the first year these rates are impacted by the wage increase proposed in this legislation, DMAS estimates over three million hours of in-home residential care to be provided. DMAS estimates that the proposed

legislation would have the following fiscal impact on in-home residential care due to the need to adjust rates over the next six years.

In-home Residential				
	General Fund	Federal	Special	Total Funds
SFY21	$0	$0	$0	$0
SFY22	$0	$0	$0	$0
SFY23	$1,110,395	$1,114,559	$463	$2,225,417
SFY24	$2,473,152	$2,482,427	$1,031	$4,956,610
SFY25	$4,227,223	$4,243,675	$1,828	$8,472,726
SFY26	$5,775,957	$5,799,602	$2,627	$11,578,185

*SFY refers to state fiscal year

Community Engagement

Community engagement is a service for authorized members in the Developmentally Disabled waivers program and is paid hourly and in a group setting. There are eight rates: four tiers of care each with different rates for Northern Virginia and for the rest of the state. Rates are developed based on different numbers of members within each group according to the tier, from 2.64 members per staff for tier one to 1.32 members per staff for tier four. Based on historical utilization in the tiers and assuming distribution across claims, $1.00 in wage increases would result in an average rate increase of $0.53 in Northern Virginia and $0.52 in the rest of state. DMAS expects over 1.2 million hours paid per year for community engagement services. DMAS estimates that the proposed legislation would have the following fiscal impact on day support services due to the need to adjust rates beginning in FY 2024. No rate adjustment would be required in FY 2021, FY 2022 or FY 2023.

Community Engagement				
	General Fund	Federal	Special	Total Funds
SFY21	$0	$0	$0	$0
SFY22	$0	$0	$0	$0
SFY23	$0	$0	$0	$0
SFY24	$169,930	$170,081	$17	$340,028
SFY25	$472,013	$472,427	$46	$944,485
SFY26	$762,130	$762,766	$71	$1,524,967

*SFY refers to state fiscal year

Day Support

Day support or group day support, is a service for authorized members in the Developmentally Disabled waivers program and is paid hourly and in a group setting. There are eight rates: four tiers of care each with different rates for Northern Virginia and for the rest of the state. Rates are developed based on different numbers of members within each group according to the tier, from 7.0 members per staff for tier one to 2.0 members per staff for tier four. Based on historical utilization in the tiers and assuming distribution across claims, $1.00 in wage increases would result in an average rate increase of $0.36 in Northern Virginia and $0.34 in the rest of state. DMAS expects approximately 7.5 million hours paid

per year for day support services. DMAS estimates that the proposed legislation would have the following fiscal impact on day support services due to the need to adjust rates beginning in FY 2024. No rate adjustment would be required in FY 2021, FY 2022 or FY 2023.

Day Support				
	General Fund	Federal	Special	Total Funds
SFY21	$0	$0	$0	$0
SFY22	$0	$0	$0	$0
SFY23	$0	$0	$0	$0
SFY24	$714,768	$716,452	$187	$1,431,407
SFY25	$1,985,407	$1,990,012	$512	$3,975,930
SFY26	$3,143,454	$3,151,170	$857	$6,295,482

*SFY refers to state fiscal year

DMAS Summary

Total Impact				
	General Fund	Federal	Special	Total Funds
SFY21	$8,783,226	$9,139,554	$39,028	$17,961,808
SFY22	$34,847,640	$36,323,217	$162,077	$71,332,933
SFY23	$63,791,657	$66,449,337	$291,924	$130,532,917
SFY24	$100,737,328	$104,678,728	$432,479	$205,848,535
SFY25	$153,710,248	$159,329,875	$615,794	$313,655,917
SFY26	$198,859,362	$205,896,282	$770,587	$405,526,231

*SFY refers to state fiscal year

The above estimated impacts on DMAS are based on projected utilization of services and proposed rate increases for the stated providers. DMAS assumes that utilization grows consistent with current data trends and as such includes an annual utilization inflation factor where appropriate. The services outlined above currently have a differential between Northern Virginia and the rest of the state. As the agency could not find a requirement that those differentials be maintained, no differential adjustment was included in this analysis. Maintaining differentials would have additional costs not estimated here. In addition, most of the stated services have rates based on benchmarks. Should overall costs increase with only the identified rates being adjusted for the minimum wage, a rate's percentage of benchmark may drop. As such, maintaining current benchmarking also may increase costs.

DMAS further notes that upward pressure on other rates may occur in addition to those estimated above. Moreover, other services, such as some within behavioral health and nursing facilities, also have wage employees with rates below $15.00 per hour. However, these services were not included in the DMAS estimates due to rates either marginally below $15.00 per hour or low utilization of services.

Other providers, including nursing facilities, hospitals and non-emergency transportation providers, may face increased costs for low-wage workers, especially as the minimum wage approaches $15.00 per hour. Both institutional and transportation providers may seek rate increases outside of the regulatory rate adjustment periods to compensate for these higher costs. Direct evidence of this potential cost pressure comes from the annual DMAS Nursing Facility Wage Survey. Certified nursing assistants (CNAs) provide the majority of nursing care. The calendar year 2018 nursing facility wage survey indicates that the median hourly wage for CNAs is $14.29. In 2018, 20 percent of nursing facilities have an average wage lower than $13.05.

In addition to the costs associated with increased rates, eligibility for Medicaid and CHIP is subject to income requirements. Raising the minimum wage may have an effect on the household income of members. As household income increases, some members will move from base Medicaid to a CHIP program, either Family Access to Medical Insurance Security (FAMIS) or M-CHIP or from base Medicaid to expansion. Additionally, other members in Medicaid, CHIP or in expansion will become ineligible for any program. Movement of people from Medicaid to CHIP or expansion or to no longer covered, would save general fund dollars. The state share of base Medicaid is 50 percent, the state share of CHIP will be 35 percent as of October 2020, and the state share of Medicaid expansion is 10 percent (paid by provider assessment). These savings are not estimated because DMAS does not have the required income and employment information to make a valid estimate of how many people this would affect.

Other Potential Impacts

This bill may have fiscal impacts on state agencies that fund state-supported local employees. Any such costs are indeterminate; however, the most recent data from the Department of Social Services indicates that there are currently employees at local departments of social services (LDSSs) whose hourly rates are below the amounts provided in the bill. The costs to increase the wages of this population, as prescribed by the bill, can be found in the tables below. HB/SB 30 provides an increase to local salary minimums and adds a three percent compression increase for local departments of social services. If these provisions are removed from HB/SB 30, the costs associated with raising wages for local departments of social services employees will be higher. These estimates do not reflect the potential inflationary impact of adjusting the rates by the consumer price index.

Local departments of social services employees - total cost of the increases through July 1, 2025				
Number of Employees	Total cost	General fund	Nongeneral fund	Local match
491	$1,405,950	$485,053	$702,975	$217,922

In addition to the local departments of social services funded through the Virginia Department of Social Services, other agencies that fund state-supported local government employees include the Department of Juvenile Justice (DJJ) and the State Compensation Board (SCB). DJJ supports court services unit staff, and the SCB supports permanent positions in constitutional offices. Impact estimates to DJJ and SCB for affected employees are indeterminate. The Compensation Board does not establish specific wage levels for individuals or how local offices must use the funds received from the state. The funds are allocated as a lump-sum and can be reimbursed in whatever increments are expended by the local office each month up to the maximum budgeted amount.

Another area that receives state funds and may be impacted by this bill is public education, specifically wage labor and full-time positions that presently may or will be paid a wage lower than the prescribed minimum wage in the bill for the next and future biennia. Support positions such as bus drivers and janitorial staff may be impacted. Although any cost impact would initially fall directly on local governments, any increase in the costs of public education will translate into additional state support being required in the Direct Aid to Public Education budget in future biennia when costs are re-benchmarked. Those costs are indeterminate at this time; however, any increase in prevailing costs would not impact the re-benchmarking costs of public education until the 2022-2024 biennium.

Finally, this bill may have indeterminate fiscal implications on agencies that employ contractors for services such as security or custodial care to the extent that the contract prices are based on paying wages that are currently less than the minimum wage thresholds established in this bill. These indeterminate impacts also may include labor costs associated with capital outlay projects.

9. **Specific Agency or Political Subdivisions Affected:** Department of Labor and Industry; Department of Human Resource Management; all state agencies; local school divisions and local governments.

10. **Technical Amendment Necessary:** No.

11. **Other Comments:** Other similar minimum wage bills include SB 7, SB 73, SB 816, HB 395, HB 433, and HB 615.