Department of Planning and Budget
2016 Fiscal Impact Statement

1. **Bill Number:** HB8

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

2. **Patron:** Bell, Richard P.

3. **Committee:** Finance

4. **Title:** Virginia Virtual School; Board established.

5. **Summary:** Establishes the Board of the Virginia Virtual School as a policy agency in the executive branch of state government for the purpose of governing the full-time virtual school programs offered to students enrolled in the Virginia Virtual School. The Secretary of Education is responsible for such agency. The 13-member Board is given operational control of the School and assigned powers and duties. The bill requires the School to be open to any school-age person in the Commonwealth and provide an educational program meeting the Standards of Quality for grades kindergarten through 12. The bill requires the average state share of Standards of Quality per pupil funding for each enrolled student to be transferred to the School. The bill also requires the Virginia Virtual School to submit to periodic audits by the Auditor of Public Accounts, as required by the Code of Virginia.

6. **Budget Amendment Necessary**: Yes. Item 135 if the Department of Education requires additional administrative funding. A standalone agency also may be considered for this Board.

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

8. **Fiscal Implications:** The total potential cost implications of this legislation are uncertain as a number of specific issues would need to be addressed.

   This bill would fund the Virginia Virtual School (VVS) with the average state share of the Standards of Quality (SOQ) per pupil funding for each enrolled student. Since the number of students who will enroll in VVS cannot be known prior to the opening of the school, it cannot be determined if the cost of the multidivision online providers and operating the VVS will exceed the state per pupil funding that VVS will receive. If costs do exceed the revenues provided in this legislation, the state likely would be responsible for funding the difference. VVS likely will need to be provided start-up funding in FY 2017 prior to the receipt of per pupil SOQ funding beginning in FY 2018. Any amount would be in excess of the initial amount transferred from the SOQ funding in Direct Aid to Public Education. The House amendments to HB 30, 2016 General Assembly Session, include $275,000 in FY 2017 from the general fund for a one-time start-up payment and $550,000 in FY 2018 from non-general funds, which would be generated from payments from the multidivision online providers to DOE, for the VVS. The $275,000 would cover the start-up cost of 4.00 full-time-equivalent positions employed by the VVS and VVS Board members' costs during the first year. Once students have enrolled in the VVS in the fall of 2017, the costs of the administration of the VVS will be provided for by the multidivision online providers that contract to provide full-time virtual school programs with the VVS. It cannot be determined if the amount provided in the budget amendment is sufficient.

The cost impact for this program for students currently enrolled in the public school system depends on each student's locality of residence and the locality's unique composite index of local ability-to-pay. The state will pay the average per pupil amount to VVS, but the amount paid to each locality varies depending on the locality's wealth and its composite index of ability-to-pay. If the majority of enrolled students are from localities receiving state per pupil payments that are more than the average amount, the state would save money. However, if the majority of students are from wealthier localities, the state will pay more to VVS than it would have paid to the local school divisions with participating students. The fiscal impact will depend on the residences of the enrolled students and may vary each fiscal year.

The provisions of the bill would require changes to the process the Department of Education (DOE) uses to determine the state costs of public education. The amount appropriated for the SOQ is based off local school divisions' average daily membership (ADM). Since the bill states that the students enrolled in VVS are not to be included in school divisions' ADM counts, the budget will need to contain a separate appropriation for VVS, similar to how funding is appropriated to the Virginia School for the Deaf and the Blind (VSDB). DOE will need to forecast the enrollment numbers for VVS and apply an estimated per pupil funding amount to determine the required appropriation amount. DOE will have to identify the localities from which the students are likely to come in order to be able to adjust each division's ADM projections used in developing the budget. Budget amendments will need to be made if actual enrollment numbers or the per pupil amount differ from the projections and increase or lower the cost of VVS.

The bill places an enrollment cap on VVS, stating that the number of persons of school age for whom public schools are free pursuant to § 22.1-3, Code of Virginia, and who reside in any one local school division and enroll in VVS shall not exceed two percent of the number of students enrolled in such local school division. Based on the projected FY 2017 ADM, the total enrollment in VVS could be as high as approximately 25,000 students. Based on a maximum cap of 25,000 students, a maximum impact can be determined. The bill does not define how DOE should calculate the statewide average per pupil amount. Using a simple average with all divisions weighted equally, the estimated FY 2017 state share SOQ per pupil amount, based on HB 30, 2016 General Assembly Session, is $5,076. Assuming the full two percent capped enrollment across all school divisions, the funding to support the VVS based on this per pupil amount is approximately $126.9 million annually. Using an average weighted for ADM, the estimated FY 2017 state share SOQ per pupil amount, based on HB 30, 2016 General Assembly Session, is $4,568. Assuming the full two percent capped enrollment across all school divisions, the funding to support the VVS based on this per pupil amount is approximately $114.2 million annually.

VVS is open to all school-age persons, and students may enroll in VVS if they complete the enrollment process through an approved multidivision online provider. Private and home-schooled students enrolling in VVS will create a state fiscal impact since these students are not currently included in the cost of the SOQ. There are approximately 32,000 home-schooled students in Virginia as well as approximately 120,000 private school students. It cannot be determined at this time how many of these students may enroll in VVS and what the cost to the Commonwealth might be.

Local school divisions will need to create processes to track previously enrolled students who move to VVS. Local school divisions may experience difficulties in identifying private or home-schooled students who are not currently in the division's enrollment records. In addition, since students enroll directly with one of the multidivision online providers, it is not clear how localities will interact with the enrollment process to determine if the cap has been met. The bill does not specify how students are to be selected to attend VVS if enrollments within a local school division exceed the division's two percent limit.

The Board of VVS is established as a policy board and given the authority to establish rules, policies, and regulations for the governance of the school and for the multidivision online providers that will offer services to students enrolled in VVS. The bill directs that any costs or fees associated with the administration of VVS are to be borne proportionally by each of the schools' online providers. Such an assessment of multidivision online providers would have to be developed by the Board.

Although it possessed a different mission than VVS, the Opportunity Educational Institution (OEI) also was envisioned as a standalone state school division that would receive state per pupil SOQ funding. The 2013 budget included substantial language specifying the flow of state and federal funding to OEI in order to ensure that the full funding amounts were available to the institution. Similar budget language may be needed to implement the VVS.

VVS is to provide appropriate special education for students with disabilities participating in the school. The student's local school division of residence is released from its obligations to the student. DOE is to transfer to VVS all federal funds directly associated with any pupil served by the school. The bill does not specify how the federal per pupil funding amount is to be calculated. Any transferred funds must be spent on uses permitted under the federal grant and would require the US Department of Education to first classify VVS as a local education agency (LEA).

The bill requires each student enrolled in VVS to take each applicable Standards of Learning (SOL) assessment, but the bill is unclear where students enrolled in VVS will take the SOL assessments. Since the students will not be enrolled in the school division of residence, there may be complications in determining suitable testing locations. Addressing this issue may result in additional costs. In addition, as VVS must be eligible for state accreditation under the bill, failure to achieve full accreditation could trigger state costs related to assisting VVS achieve accreditation. It is also not clear what type of diploma will be awarded through VVS.

The bill requires a member of the staff of DOE to serve as a consultant to the VVS Board pertaining to instruction, federal and state special education requirements, and school accreditation and to provide technical assistance to the Board in meeting specific instructional and school accreditation needs. DOE also would have to administer the state per pupil payments to the VVS, which would require constant tracking of enrollment and adjusting the semi-monthly payments throughout the year as students enroll and exit the program. Additionally, DOE presumably would have to administer the federal per pupil payments in the same or similar manner as they are administered with local school divisions. Depending on the actual workload, these requirements could require the need for additional positions at DOE. The bill does not, however, include provisions allowing DOE to be reimbursed for expenses related to VVS.

The provisions regarding a DOE consultant mirror the requirement for DOE to provide a consultant to the Board of Visitors of VSDB. It is assumed that the services provided by the DOE consultant will be similar to those that DOE currently provides to the VSDB Board. The provisions in the bill do not direct DOE to provide any staff work related to vendor contracts review and evaluations, special education instruction services, or support for board meetings and reports.

The bill directs that members of the VVS Board shall receive compensation for their service and expenses as set out in the Code of Virginia. The costs of this would be dependent on the number and location of meetings. Any amounts that are paid to board members would need to be appropriated to VVS in the Appropriation Act and cannot be determined at this time.

The Auditor of Public Accounts states that it can use existing resources to perform any audits of the Virginia Virtual School required by this bill.

9. **Specific Agency or Political Subdivisions Affected:** Department of Education, local school divisions, Board of Education, Virginia Virtual School, Auditor of Public Accounts

10. **Technical Amendment Necessary:** HB 8 does not define how the Department of Education should calculate the statewide average per pupil amount or the federal per pupil amount.

11. **Other Comments:** The VVS is exempt from the Public Procurement Act under this legislation, an exemption which is not typically provided to executive branch agencies.