Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** SB7

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

2. **Patron:** Saslaw

3. **Committee:** Passed Both Houses

4. **Title:** Minimum wage; increases to $9.50 per hour effective January 1, 2021

5. **Summary:** This bill increases the minimum wage from its current federally mandated level of $7.25 per hour to $9.50 per hour, effective January 1, 2021; to $11.00 per hour, effective January 1, 2022; to $12.00 per hour, effective January 1, 2023 until January 1, 2025, unless a higher minimum wage is required by the federal Fair Labor Standards Act (FLSA). This bill provides that provisions of subsections E and F shall become effective if reenacted by a regular or special session of the General Assembly prior to July 1, 2024. Subsection E of this bill increases the minimum wage to $13.50, from January 1, 2025 until January 1, 2026; Subsection F of this bill increases the minimum wage to $15.00 from January 1, 2026 until January 1, 2027. If the General Assembly does not reenact subsections E and F by July 1, 2024, then the Commissioner of Labor and Industry shall establish the adjusted state hourly minimum wage to reflect increases in the Consumer Price Index as provided in subsection H of this bill by October 1, 2024, and annually thereafter; and from and after January 1, 2025, every employer shall pay to each of his employees' wages at a rate not less than the greater of the adjusted state hourly minimum wage or the federal minimum wage as specified in subsections G. This bill also provides that the Virginia minimum wage applies to persons whose employment is covered by the FLSA.

   This bill requires that beginning January 1, 2022, the Virginia Department of Housing and Community Development, the Virginia Economic Development Partnership Authority, and the Virginia Employment Commission (the agencies) shall conduct a joint review of the feasibility and potential impact of instituting a regional minimum wage in the Commonwealth. The agencies also shall provide an assessment of options for utilizing a minimum wage in the Commonwealth and the economic benefits or impacts of utilizing a minimum wage. The agencies also shall assess the effects of the minimum wage increases scheduled in § 40.1-28.10 of the Code of Virginia, as amended by this bill.

6. **Budget Amendment Necessary**: Yes, Item 120 (Department of Labor and Industry); Item 477 (Central Appropriations): Item 313 (Department of Medical Assistance Services); Item 282 (Department of Taxation); and Items 68, 70, 71, 72, 73, 74 (Compensation Board) of the introduced budget, HB30/SB30. See Item 8, below.

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

Expenditure Impact: Department of Labor and Industry:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2020	N/A	N/A	N/A
2021	$250,145	5	GF
2022	$500,290	5	GF
2023	$500,290	5	GF
2024	$500,290	5	GF
2025	$500,290	5	GF
2026	$500,290	5	GF

Expenditure Impact: Central Appropriations:

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	$1,271,306	GF
	$1,731,660	NGF
2022	$4,500,301	GF
	$4,930,432	NGF
2023	$8,607,741	GF
	$8,092,383	NGF
2024	$10,757,492	GF
	$9,787,222	NGF

*****In Central Appropriations, the nongeneral fund portion is an estimate of the impact across all nongeneral funded programs in state agencies, however, no appropriation is needed.

Expenditure Impact: Compensation Board (Item 68):

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	N/A	N/A
2022	$25,001	GF
2023	$153,914	GF
2024	$285,391	GF

Expenditure Impact: Compensation Board (Item 70):

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	N/A	N/A
2022	$11,034	GF
2023	$64,944	GF
2024	$118,791	GF

Expenditure Impact: Compensation Board (Item 71):

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	N/A	N/A

2022	$23,519	GF
2023	$117,700	GF
2024	$203,455	GF

Expenditure Impact: Compensation Board (Item 72):

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	$11,170	GF
2022	$32,273	GF
2023	$45,854	GF
2024	$54,154	GF

Expenditure Impact: Compensation Board (Item 73):

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	N/A	N/A
2022	N/A	N/A
2023	$398	GF
2024	$956	GF

Expenditure Impact: Compensation Board (Item 74):

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	$51,567	GF
2022	$25,522	GF
2023	$77,958	GF
2024	$135,996	GF

Expenditure Impact: Department of Taxation (Contract employees)

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	$23,705	GF
2022	$47,409	GF
2023	$208,652	GF
2024	$360,429	GF

Expenditure Impact: Department of Medical Assistance Services:

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	$1,140,679	GF
	$1,193,516	NGF
2022	$20,021,395	GF
	$20,959,100	NGF
2023	$56,522,621	GF

2024	$59,145,731	NGF
	$73,841,853	GF
	$77,243,002	NGF

Resource Impact: Alcoholic Beverage Control Authority:

Fiscal Year	*Dollars*	*Fund*
2020	N/A	N/A
2021	N/A	N/A
2022	($9,649)	GF
2023	($675,018)	GF
2024	($690,889)	GF

8. **Fiscal Implications:** This fiscal impact statement is based on preliminary data and information collected to date, which remains incomplete. For agencies other than the Department of Labor and Industry (DOLI), impact estimates for January 1, 2025, and after are unavailable, as the adjusted minimum wage rates depend on future action by the General Assembly.

   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.

Department of Labor and Industry

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 U.S. 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 January 1, 2021.

Due to federal oversight of almost all employees in the state, the U.S. 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, the Commonwealth will be responsible for minimum wage compliance. DOLI anticipates it will have to conduct the same number of inspections as the U.S. 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), since the U.S. Department of Labor will no longer have primary responsibility for conducting these investigations. DOLI's impact is due to regulatory enforcement of the bill.

Central Accounts – State Agency Impact

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 obtained 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. As such, data used in the Central Accounts estimates does not include the following: Virginia Port Authority, Virginia Tourism Authority, Virginia Economic Development Partnership, Board of Bar Examiners, Virginia Workers Compensation Commission, State Corporation Commission, Virginia Retirement System, Auditor of Public Accounts, Virginia State Bar, Judicial Inquiry and Review Commission, Joint Legislative Audit and Review Commission, Division of Legislative Automated Systems, Virginia House of Delegates, Senate of Virginia, Supreme Court of Virginia, Circuit Courts, General District Courts, Juvenile and Domestic Relations District Courts, Combined District Courts, and University of Virginia Medical Center. In addition, data for wage employees does not include any higher education institutions with the exception of Norfolk State University, Virginia State University, and Richard Bland.

Based on data provided by the Department of Human Resource Management, the minimum wage increase that would be effective on January 1, 2021, would have a total expenditure impact of approximately: $3.0 million (from both general and nongeneral fund sources) in FY 2021; $9.43 million (from both general and nongeneral fund sources) in FY 2022; $16.70 million (from both general and nongeneral fund sources) in FY 2023; $20.54 million (from both general and nongeneral fund sources) in FY 2024. 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 obtained or that may go into effect in the future. 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 their respective nongeneral fund portions.

State Compensation Board (SCB)

The State Compensation Board (SCB) has identified that it will experience additional general fund cost associated with establishing the budget for each constitutional office. The introduced budget, HB 30/SB 30, contains a number of salary actions for Compensation Board-supported positions in locally elected constitutional offices. The estimates in the table below assume that the increases provided in the introduced budget are maintained. If these provisions are removed from HB 30/SB 30, the costs associated with raising wages for state-supported employees in constitutional offices will be higher.

	Item 68	Item 70	Item 71	Item 72	Item 73	Item 74
FY2021				$11,170		$51,567
FY2022	$25,001	$11,034	$23,519	$32,273		$25,522
FY2023	$153,914	$64,944	$117,700	$45,854	$398	$77,958
FY2024	$285,391	$118,791	$203,455	$54,154	$956	$135,996

Institutions of Higher Education

While an estimate specific to hourly rates prescribed in this bill was not provided by Virginia's public higher education institutions, they have indicated that increasing the minimum wage for its wage employees, excluding student employees who are enrolled in a work-study program, from the current rate of $7.25 an hour to $9.75 an hour is anticipated to cost $9.64 million ($3.09 million from the general fund and $6.55 million from nongeneral fund sources) and increasing the minimum wage to $15.00 an hour is anticipated to cost $83.39 million ($25.18 million from the general fund and $58.20 million from nongeneral fund sources for a full fiscal year. These costs are not reflected in the tables on Line 7 above.

Department of Taxation

The Department of Taxation has identified that it will experience additional costs associated with its seasonal contract employees. In addition to the impacts reflected in the table above for Central Accounts, it is anticipated that this bill will result in an additional general fund expenditure impact to the Department of Taxation in the amounts of $23,705 in FY 2021, $47,409 in FY 2022, $208,652 in FY 2023, and $360,429 in FY 2024 primarily for its seasonal contract employees.

Virginia Employment Commission

It is anticipated that the Virginia Employment Commission (VEC) will need a general fund appropriation of $37,250 in FY2022 and $74,500 in FY2023 to conduct a joint review of the feasibility and potential impact of instituting a regional minimum wage in the Commonwealth. The general fund appropriation is needed as the joint review provided in the bill is outside of the scope of VEC's U.S. Bureau of Labor Statistics (BLS) 2020 Labor Market Information Cooperative Agreement. According to VEC, only actual costs involved in operating the funded BLS statistical programs are allowable under the federal grant. VEC assumes that the work associated with the joint review will require the staff time of four analysts, including a senior economist, at an average of 10 hours a week for one hundred weeks over two years. Accordingly, general fund appropriation of $37,250 in FY2022 and $74,500 in FY2023 is required to support such staff hours and associated benefits.

Department of Medical Assistance Services

Raising the minimum wage in the Commonwealth 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 are paid rates at or near minimum wage. 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. The following paragraphs discuss estimates that assume reimbursement rates would only be adjusted to reflect the direct impact of higher minimum hourly wages. It should be noted that there are numerous indirect impacts of a state higher minimum wage that may increase provider costs. However, there is not sufficient data to estimate the effect of these factors, so the associated fiscal impact is indeterminate at this time.

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	$764,454	$787,826	$2,541	$1,554,820
SFY22	$13,367,950	$13,784,398	$45,449	$27,197,798
SFY23	$37,360,179	$38,524,051	$127,019	$76,011,250
SFY24	$48,403,529	$49,911,432	$164,565	$98,479,525
Agency Directed Attendant Care				
	General Fund	Federal	Special	Total Funds
SFY21	$376,225	$400,473	$2,677	$779,374
SFY22	$6,578,883	$7,007,057	$47,324	$13,633,263

SFY23	$18,386,382	$19,583,024	$132,259	$38,101,665
SFY24	$23,821,240	$25,371,599	$171,353	$49,364,192

*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 hourly 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). 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	$18,285	$18,439	$17	$36,741
SFY24	$48,918	$49,330	$46	$98,294

*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 per hour in Northern Virginia and $10.87 per hour 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. 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	$74,562	$74,841	$31	$149,434
SFY23	$752,499	$755,321	$314	$1,508,134
SFY24	$1,555,470	$1,561,304	$648	$3,117,423

*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, a $1.00 per hour wage increase would result in an average hourly rate increase of $0.53 in Northern Virginia and $0.52 in the rest of state. 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.

Community Engagement				
	General Fund	Federal	Special	Total Funds
SFY21	$0	$0	$0	$0
SFY22	$0	$0	$0	$0
SFY23	$1,000	$1,001	$0	$2,002
SFY24	$2,436	$2,438	$0	$4,874

*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, a $1.00 per hour wage increase would result in an average hourly 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 in-home residential care due to the need to adjust rates over the next six years.

Day Support				
	General Fund	Federal	Special	Total Funds
SFY21	$0	$0	$0	$0
SFY22	$0	$0	$0	$0
SFY23	$4,275	$4,285	$1	$8,561
SFY24	$10,260	$10,284	$3	$20,547

*SFY refers to state fiscal year

DMAS Summary

Total Impact				
	General Fund	Federal	Special	Total Funds
SFY21	$1,140,679	$1,188,298	$5,218	$2,334,195
SFY22	$20,021,395	$20,866,296	$92,804	$40,980,495
SFY23	$56,522,621	$58,886,122	$259,609	$115,668,352
SFY24	$73,841,853	$76,906,387	$336,615	$151,084,855

*SFY refers to state fiscal year

The above estimated impacts on DMAS are based on projected utilization of services and proposed rate increases, based on hourly wages, 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 may have wage employees with rates below $15.00 per hour. These services were not included in the DMAS estimates because either the rates are marginally below the proposed minimum wage or the affected services experience utilization levels that are too low to estimate.

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 hourly 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 may 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 may become ineligible for any program. Movement of people from Medicaid to CHIP or expansion or to no longer being covered, could reduce general fund cost. 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.

Alcoholic Beverage Control (ABC)

Any expenditure impact of this legislation to the Alcoholic Beverage Control (ABC) Authority will result in a corresponding decrease in ABC profits transferred to the general fund. ABC indicates that this bill will result in an expenditure impact of $9,649 in FY 2022, $675,018 in FY 2023, and $690,889 in FY 2024.

Other Potential Impacts

The Department of Social Services (DSS) indicates that an increase in the minimum wage may create cost savings related to Medicaid, SNAP, and TANF because fewer people likely would be eligible for these programs. Many families on SNAP and Medicaid currently have some earnings and an increase in the minimum wage may push some of these families over the income threshold for program participation. The savings for SNAP will be related to the eligibility determination and case management workload; SNAP benefits are 100 percent federal and are not appropriated at the state level. The savings at DSS for Medicaid will be related both to eligibility determination and case management. For TANF, some TANF participants who work part time may exit the program more quickly. Finally, the increase could generate increased revenue for the child support enforcement program for collections from noncustodial parents who are affected by the wage increase.

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 (DSS) 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. The introduced budget, HB 30/SB 30, provides an increase to local salary minimums and adds a three percent compression increase for local departments of social services. These estimates assume that the increases provided in the introduced budget are maintained. If these provisions are removed from HB 30/SB 30, the costs associated with raising wages for local departments of social services employees will be higher. These costs are not reflected in the tables on Line 7 above.

Local departments of social services employees - total cost of the increases until January 1, 2025				
Number of Employees	Total cost	General fund	Nongeneral fund	Local match
52	$66,973	$23,044	$33,396	$10,353

In addition to the local departments of social services funded through DSS and the constitutional offices supported through SCB, discussed previously, other agencies that fund state-supported local government employees include the Department of Juvenile Justice (DJJ). DJJ supports court services unit staff. Impact estimates for affected employees are indeterminate.

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 custodial staff are examples of positions that 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 2024-2026 biennium.

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:** This bill is the companion to HB 395.