Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** HB1526

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

2. **Patron:** Sullivan

3. **Committee:** Passed the Senate.

4. **Title:** Electric utility regulation; environmental goals.

5. **Summary:** Establishes a schedule by which Dominion Energy Virginia and American Electric Power are required to retire electric generating units located in the Commonwealth that emit carbon as a byproduct of combusting fuel to generate electricity and by which they are required to construct, acquire, or enter into agreements to purchase generating capacity located in the Commonwealth using energy derived from sunlight or onshore wind. The measure replaces the existing voluntary renewable energy portfolio system (RPS) program with a mandatory RPS that applies to electric utilities and licensed competitive suppliers. Under the mandatory RPS, utilities and suppliers are required to produce their electricity from 100 percent renewable sources by 2045 for Dominion Energy Virginia and any retail supplier operating in the service territory of Dominion Energy Virginia and by 2050 for American Electric Power and any retail supplier operating in the service territory of American Electric Power. A utility or supplier that does not meet its targets is required to pay a specific deficiency payment or purchase renewable energy certificates. The proceeds from the deficiency payments are to be deposited into an account administered by the Department of Mines, Minerals and Energy, which is directed to distribute specific percentages of the moneys to job training and renewable energy programs in historically-disadvantaged communities, energy efficiency measures, and administrative costs. The measure directs the Department of Environmental Quality to incorporate into regulations previously adopted by the State Air Pollution Control Board certain provisions establishing a carbon dioxide cap and trade program to reduce emissions released by electric generation facilities. Such provisions are required to comply with the Regional Greenhouse Gas Initiative model rule.

   The measure authorizes the Director of the Department of Environmental Quality to establish, implement, and manage an auction program to sell allowances into a market-based trading program. The measure requires revenues from the sale of carbon allowances, to the extent permitted by Article X, Section 7 of the Constitution of Virginia, to be deposited in an interest-bearing account and to be distributed without further appropriation to the Virginia Community Flood Preparedness Fund, to the Department of Housing and Community Development for low-income energy efficiency programs, for administrative expenses, and for statewide climate change planning and mitigation activities. The measure continues the Virginia Shoreline Resiliency Fund as the Virginia Community Flood Preparedness Fund for the purpose of creating a low-interest loan program to help inland and coastal communities that are subject to recurrent flooding.

Among other things, the measure also (i) requires, by 2035, American Electric Power and Dominion Energy Virginia to construct or acquire 400 and 2700 megawatts of energy storage capacity, respectively; (ii) establishes an energy efficiency standard under which each investor-owned incumbent electric utility is required to achieve incremental annual energy efficiency savings that start in 2022 at 0.25 percent of the average annual energy retail sales by that utility in 2019 and increase annually. Beginning in 2026 and every three years thereafter, the Commission is required to adjust the required energy efficiency goals for the successive three years. and thereafter when energy efficiency savings of at least two percent of the average annual energy retail sales by that utility in the three preceding calendar years are required; (iii) exempts large general service customers from energy savings requirements; (iv) revises the incentive for electric utility energy efficiency programs; (v) provides that if the Commission finds in any triennial review that revenue reductions related to energy efficiency measures or programs approved and deployed since the utility's previous triennial review have caused the utility to earn more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for Dominion Energy Virginia and after December 31, 2013, for American Electric Power, more than 70 basis points below a fair combined rate of return on its generation and distribution services, the Commission shall order increases to the utility's rates for generation and distribution services necessary to recover such revenue reductions; (vi) establishes requirements regarding the development by Dominion Energy Virginia of qualified offshore wind projects having an aggregate rated capacity of not less than 5,200 megawatts by January 1, 2034 and that in constructing any such facility, the utility shall (a) identify options for utilizing local workers; (b) identify the economic development benefits of the project for the Commonwealth, including capital investments and job creation; (c) consult with relevant governmental entities, including the Commonwealth's Chief Workforce Development Officer and the Virginia Economic Development Partnership, on opportunities to advance the Commonwealth's workforce and economic development goals, including furtherance of apprenticeship and other workforce training programs; and (d) give priority to the hiring of local workers, including workers from historically economically disadvantaged communities: (vii) requires each utility to include, and the Commission to consider, in any application to construct a new generating facility the social cost of carbon, as determined by the Commission, as a benefit or cost, whichever is appropriate; (viii) removes provisions that authorize nuclear and offshore wind generating facilities to continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind; (ix) removes a provision that declares that planning and development activities for new nuclear generation facilities are in the public interest; (x) increases the limit from 5000 megawatts to 16,1000 megawatts on those solar and onshore wind generation facilities that are declared to be in the public interest and increases the limit from 16 megawatts to 5000 megawatts on those offshore wind generation facilities that are declared to be in the public interest; (xi) amends the net energy metering program by increasing the maximum capacity of renewable generation facilities of participating nonresidential eligible customer-generators from one to three megawatts, increases the cap on the capacity of generation from facilities from the customer's expected annual energy consumption to 150 percent of such amount, increases each utility's system wide cap from one percent of its adjusted Virginia peak-load forecast for the previous year to six percent of such amount, five percent of which is available to all customers and one percent of which is available only to low-income customers; (xii) establishes the Percentage of Income Payment Program (PIPP), which caps the monthly electric utility payment of low-income participants at six percent, or, if the participant's home uses electric heat, 10 percent, of the participant's household income and sets forth eligibility criteria for participation in PIPP, establishes the PIPP Fund to pay electric utility providers the balance of low-income participants' accounts and to fund energy efficiency and weatherization initiatives, and provides directives to the Department of Housing and Community Development regarding the administration of PIPP; (xiii) requires each investor-owned utility to consult with the Clean Energy Advisory Board in how best to inform low-income customers of opportunities to lower electric bills through access to solar energy (xiv) requires the Department of Mines, Minerals and Energy to prepare a report to the House and Senate Committees on Commerce and Labor and to the Governor's Advisory Council on Environmental Justice that ensures that the implementation of this act does not impose a disproportionate burden on minority or historically disadvantaged communities (xv) requires the Secretary of Natural Resources and the Secretary of Commerce and Trade, in consultation with the State Corporation Commission and the Council on Environmental Justice and appropriate stakeholders, shall report to the General Assembly by January 1, 2022, any recommendations on how to achieve 100 percent carbon free electric energy generation by 2050 at least cost for ratepayers; and (xvi) provides that it is the policy of the Commonwealth that the State Corporation Commission, Department of Environmental Quality, Department of Mines, Minerals and Energy, Virginia Council on Environmental Justice, and other applicable state agencies, in the development of energy programs, job training programs, and placement of renewable energy facilities, shall consider those facilities and programs being to the benefit of low-income geographic areas and historically economically disadvantaged communities that are located near previously and presently permitted fossil fuel facilities or coal mines.

The bill specifies that all costs incurred by a Phase I or Phase II Utility related to the required procurement of zero-carbon electric generating capacity and energy storage resources as set forth in subsections C and D, including costs of generation facilities powered by sunlight or onshore wind, or energy storage facilities, that are constructed or acquired by a Phase I or Phase II Utility after July 1, 2020, by the utility, and incremental costs of capacity, energy, or environmental attributes from generation facilities powered by sunlight or onshore wind, or falling water, or energy storage facilities purchased by the utility from persons other than the utility shall be recovered from all customers of a Phase I or Phase II Utility in the Commonwealth as a non-bypassable charge, irrespective of the generation supplier of such customer, unless such customer has entered into an agreement with their incumbent utility to meet or exceed the RPS Program requirements.

6. **Budget Amendment Necessary**: See item 8.

7. **Fiscal Impact Estimates:** Preliminary.

7a. Expenditure Impact: State Corporation Commission (SCC) – Item 484 of HB30/SB30

Fiscal Year	*Dollars*	*Positions*	*Fund*
2021	$76,000	1	NGF
2022	$152,000	2	NGF
2023	$156,500	2	NGF
2024	$161,200	2	NGF
2025	$166,000	2	NGF
2026	$171,000	2	NGF

8. Fiscal Implications: The overall statewide fiscal impacts of this bill are indeterminate.

This bill directs the Department of Environmental Quality (DEQ) to manage a program that is consistent with Regional Greenhouse Gas Initiative (RGGI). The provisions require DEQ to promulgate and make effective these regulations no later than July 31, 2025. The cost to duplicate a program similar to RGGI is indeterminate. The impact estimates provided in this statement are based on full participation in RGGI.

DEQ anticipates that joining the RGGI program will generate proceeds that will vary in magnitude from year-to-year based on market fluctuations. Revenues for the coming six fiscal years are estimated to be between $104 million to $109 million, starting at the lower end of the range. The bill authorizes DEQ to utilize three percent of the revenue to cover reasonable administrative expenses in the administration of the revenue allocation, carbon dioxide emissions cap and trade program and auction, and to carry out statewide climate change planning and mitigation activities. HB30/SB30, as introduced, includes $31 million in general fund support over the biennium to restore and enhance DEQ's capacity in several programs, $2.32 million of which is to support the agency's regulatory activities, including ten new regulatory review positions in its Air Protection program and ongoing support for contractual work related to greenhouse gas reporting. Budget amendments to HB30/SB30 adopted by the House and the Senate, respectively, reduce funding proposed for DEQ in the introduced budget bill, but it is unclear whether these reductions affect the funding DEQ would use toward the implementation of this bill. According to DEQ, the agency will require $630,000 for consultants and two staff. Staff would develop regulatory program to achieve carbon-free energy sector by 2025 and conduct specific regulatory drafting. Consultant work would be related to modeling.

The bill continues the Virginia Shoreline Resiliency Fund as the Virginia Community Flood Preparedness Fund. Currently, statute designates the Virginia Department of Emergency Management as the administrator of the Fund, with management also provided by the Virginia Resources Authority (VRA). This bill shifts the administration to the Department of Conservation and Recreation (DCR).

The fourth enactment clause provides that any moneys in the Virginia Shoreline Resiliency Fund shall remain in the Virginia Community Flood Preparedness Fund. However, the Virginia Shoreline Resiliency Fund has never been capitalized, and there is no cash balance. To make the Fund operational, a budget amendment is required. The bill provides that the Fund shall be on the books of the Comptroller; however, VRA is not a part of the state accounting system. Section 10.1-603.26 of the provisions states that all moneys in the Fund shall be deposited in an account or accounts in banks or trust companies and shall be managed by VRA.

The provisions authorize VRA to disburse from the Fund its reasonable costs and expenses incurred in the management of the Fund, however, VRA is not part of the state's accounting system. As written, it is unclear if this authorization applies to the costs to DCR to administer the Fund. It is anticipated that DCR will require resources to administer this Fund, but as the scope of the Fund is unknown, such costs are indeterminate.

The bill requires that 45 percent of any revenue generated from the sale of emissions allowances sold through a market-based trading program consistent with RGGI are to be deposited to the Fund. Moneys in the Fund are to be used to support localities in implementing flood prevention and protection projects in areas that are subject to recurrent flooding, mitigating future flood damage, and to assist communities that are subject to recurrent or repetitive flooding. Fifty percent of any revenue generated from the sale of emissions allowances is to be deposited into subsequent accounts to support programs that the bill requires the Department of Housing and Community Development (DHCD) to implement, and to fund the costs incurred by DHCD, the Department of Environmental Quality (DEQ), and the Department of Mines Minerals and Energy (DMME) while implementing those programs. For the purposes of this impact statement, accounts is interpreted to mean fund. The proposed legislation states that, "To the extent permitted by Article X, Section 7 of the Constitution of Virginia, [DEQ] shall (…) (ii) use the proceeds without further appropriation…." State expenditures require an appropriation. The bill does not identify where the 50 percent of revenue generated from the sale of emissions allowances and utilized by DHCD, DEQ, and DMME is to be deposited. These agencies will need appropriations in order to expend the revenue.

The bill allows DHCD and DMME to use two percent of the revenue generated from the sale of allowances to support the administration and implementation of the low-income energy efficient programs required by this bill.

Under this bill, utilities and suppliers are required to produce their electricity from 100 percent renewable sources by 2045 for Dominion Energy Virginia and any retail supplier operating in the service territory of Dominion Energy Virginia and by 2050 for American Electric Power and any retail supplier operating in the service territory of American Electric Power. The bill specifies that all costs incurred by a Phase I or Phase II Utility related to the required procurement of zero-carbon electric generating capacity and energy storage resources shall be recovered from all customers of a Phase I or Phase II Utility in the Commonwealth as a non-bypassable charge. The rate of this charge is to be set by the State Corporation Commission (SCC). The bill provides an exemption for low-income residential customers from paying for off-shore wind facilities. According to SCC, the number of customers who may qualify for this exemption is unknown. Assuming that 15% of Dominion's customers may qualify, SCC estimates that approximately 342,000 customers could be eligible. The customer is required to ask for the exemption. It is anticipated that SCC's customer call volume will increase substantially. SCC estimates the need of two additional utility analysts, one added beginning in FY 2021 and a second added beginning in FY 2022 requiring an appropriation of $76,000 in FY 2021 and $152,500 in FY 2022. Salary and benefit increases of three percent per year have been applied to FY 2023 through FY 2026. Further, a call center through a third-party vendor may be required or additional full-time personnel may need to be hired, depending on the actual call volume that materializes.

The bill establishes the Percentage of Income Payment Program (PIPP), which caps the monthly electric utility payment of low-income participants at six percent, or, if the participant's home uses electric heat, 10 percent, of the participant's household income and sets forth eligibility criteria for participation in PIPP. The bill establishes the Percentage of Income Payment Program Fund to pay electric utility providers the balance of low-income participants' accounts and to fund energy efficiency and weatherization initiatives. The non-bypassable fee established by SCC shall be deposited to the Fund. The Program and Fund are to be administered by DHCD. The bill provides that up to 12 percent of the Fund may be used by DHCD for administration costs.

9. **Specific Agency or Political Subdivisions Affected:** DEQ; VRA; DCR; DMME; DHCD; SCC; VEDP; Chief Workforce Advisor; Secretaries of Natural Resources and Commerce and Trade; localities.

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

11. **Other Comments:** None.