

**REPORT OF THE DEPARTMENT OF HOUSING  
AND COMMUNITY DEVELOPMENT, VIRGINIA  
ECONOMIC DEVELOPMENT PARTNERSHIP, AND  
VIRGINIA EMPLOYMENT COMMISSION**

**Joint Review of the Feasibility and  
Potential Impact of Instituting a  
Regional Minimum Wage in the  
Commonwealth  
(Chapter 1242, 2020)**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**SENATE DOCUMENT NO. 6**

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# JOINT REVIEW OF THE FEASIBILITY AND POTENTIAL IMPACT OF INSTITUTING A REGIONAL MINIMUM WAGE IN THE COMMONWEALTH

December 2023



# EXECUTIVE SUMMARY

Since the mid-1930s, the U.S. federal government has set a minimum wage. This wage level is intended to provide a “minimum standard of living necessary for health, efficiency, and general well-being of workers” (§ 202 of the Fair Labor Standards Act, as amended), and is the lowest wage level employers can legally compensate employees.<sup>1</sup> Currently, 30 states have a minimum wage above the federal minimum, while the remainder of states adhere to the federal minimum wage. In April 2020, Governor Ralph Northam signed the Virginia Minimum Wage Act into law which raised the minimum wage to \$9 per hour upon enactment and provided a set schedule of additional increases. Virginia’s current minimum wage is \$12 per hour, \$4.75 above the federal minimum wage of \$7.25 per hour.<sup>2</sup>

The Virginia Minimum Wage Act, in addition to increasing the state’s minimum wage and setting prescribed increases, also directs the Virginia Department of Housing and Community Development (DHCD), the Virginia Economic Development Partnership Authority (VEDP), and the Virginia Employment Commission (VEC) to convene a work group (the "working group") to conduct a joint review to assess options for utilizing a minimum wage in the Commonwealth, the feasibility and economic advantages and disadvantages of a regional minimum wage, and review the implications of the proposed minimum wage increases per subsections E and F of § 40.1-28.10 of the Virginia Code, as amended by the act.

This report contains the working group’s efforts to fulfill the mandate set out by the Virginia Minimum Wage Act. The first sections provide a brief overview of the historic development of minimum wage legislation in the United States and in Virginia, as well as a high-level review of the academic literature on the impacts of minimum wage legislation. The next sections overview the challenges and limitations faced by the working group in conducting its research and then go on to detail the adopted methodological approach and data sources. The following sections provide the results of analysis undertaken by the working group to characterize Virginia’s minimum wage population – including demographics, industry, occupation, region – before a discussion of the impacts of minimum wage increases to date. The subsequent section features various perspectives on the regional minimum wage debate, provides brief case studies of other states having adopted a regional minimum wage, and a discussion of various other specific questions raised by the study mandate, such as the exemption of agricultural workers from the minimum wage.

The final section of the report presents an overview of the working groups findings and considerations. The working group did not find sufficiently compelling evidence to make recommendations related to the state’s minimum wage, the feasibility or implementation of a regional minimum wage, or the increases in Virginia’s minimum wage. However, the working group was able to make several findings related to these subjects, as follows:

- 1) Estimating the size and makeup of Virginia's minimum wage workforce is challenging in the current environment. However, the working group was able to make broad generalizations through leveraging different data sources, methodologies, and areas of expertise, including:

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<sup>1</sup> The [Fair Labor Standards Act](#) provides notable exceptions for certain employers and employees, who are not required to adhere to the federal minimum wage. These exceptions are discussed in detail through this report.

<sup>2</sup> States may set a minimum wage above the federal minimum and may expand the application of the minimum wage standard to employers excluded from the federal minimum wage. In states where there are two minimum wages, the greater of the two wage rates applies. [U.S. Department of Labor](#), 2023.

- Approximately a half million Virginians made \$12 per hour or less and one million made \$15 per hour or less in 2021;
  - Minimum wage workers are younger, more likely to be female, less educated, and more likely to belong to a racial or ethnic minority than the total labor force; and,
  - The Accommodation and Food Services, Retail Trade and Health Care and Social Assistance industries are the most reliant on minimum wage labor.
- 2) The prevalence and nature of minimum wage work varies across the state, although it is present in all regional economies. Minimum wage labor is most prevalent in GOVA (GO Virginia) Region 1 and least prevalent in GOVA Region 7. <sup>3</sup> Furthermore, the cost of living varies greatly across the state, ranging from the highest cost in Alexandria City (where a family must earn at least \$22.42 per hour to afford basic necessities) to the lowest cost in Tazewell County (where the same family must earn only \$14.55 per hour).
  - 3) There is not conclusive evidence demonstrating the clear advantage or disadvantage of a regional minimum wage over a statewide minimum wage. While a regional minimum wage might reflect regional variations in standards of living and economic need, in practice, there are substantial barriers in implementing and enforcing a regional minimum wage.
  - 4) Should policymakers consider enacting a regional minimum wage, there are several important factors to consider. These involve determining the number of wage regions, the method and maintenance of wage differentials between regions, and the communication and enforcement of different wages to relevant stakeholders, among others.

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<sup>3</sup> Throughout the report, the working group used GO Virginia economic development regions as the basis for its regional analysis. Please see Appendix E for a listing of each region's member localities, and a map of these regional groupings.

# TABLE OF CONTENTS

- STUDY MANDATE .....1**
  
- POLICY CONTEXT.....2**
- HISTORICAL CONTEXT OF WAGE LEGISLATION .....2
- VIRGINIA'S MINIMUM WAGE LEGISLATION .....3
- LITERATURE REVIEW .....3
  
- CHALLENGES AND LIMITATIONS .....6**
  
- METHODOLOGICAL APPROCH.....6**
- METHODS.....8
- DATA SOURCES.....8
  
- CHARACTERISTICS OF THE MINIMUM WAGE POPULATION.....11**
- ANALYSIS OF THE U.S. MINIMUM WAGE POPULATION .....11
- ANALYSIS OF VIRGINIA'S MINIMUM WAGE POPULATION .....12
- REGIONAL ANALYSIS OF VIRGINIA'S MINIMUM WAGE POPULATION.....15
  
- IMPACT OF VIRGINIA'S MINIMUM WAGE INCREASES TO DATE.....18**
- CHALLENGES AND LIMITATIONS .....18
- ANALYSIS OF MINIMUM WAGE IMPACTS .....18
  
- PERSPECTIVES ON A REGIONAL MINIMUM WAGE .....24**
- ASSESSING THE MERITS OF A REGIONAL MINIMUM WAGE .....24
- EXPERIENCES OF OTHER STATES ADOPTING A REGIONAL MINIMUM WAGE .....28
- OTHER CONSIDERATIONS TO A REGIONAL MINIMUM WAGE .....30
  
- WORKING GROUP FINDINGS AND CONSIDERATIONS.....36**
- METHOD FOR DISCERNING FINDINGS.....36
- FINDINGS ON VIRGINIA’S CURRENT AND PROPOSED MINIMUM WAGE INCREASES .....36
- CONSIDERATIONS FOR ESTABLISHING A REGIONAL MINIMUM WAGE .....37
- OTHER CONSIDERATIONS.....39
  
- APPENDICES.....41**

# STUDY MANDATE

During the 2020 Session, the General Assembly passed HB 395 and SB 7 (Chapter 1204/Chapter 1242 2020 Acts of Assembly), or the “Virginia Minimum Wage Act” and was signed into law by Governor Northam in April of 2020.<sup>4</sup> Chapter 1204 and 1242 directs the Virginia Department of Housing and Community Development (DHCD), the Virginia Economic Development Partnership Authority (VEDP), and the Virginia Employment Commission (VEC) to convene a work group comprising relevant stakeholders (the "working group") to conduct a joint review of the feasibility and the potential implementation of a regional minimum wage in the Commonwealth.<sup>5</sup> The working group was charged with exploring various related subjects including the cost of living, the potential impact on employers and employees, the experiences of other states with a regional minimum wage, and the implications of exempting agricultural employees from the minimum wage under § 40.1-28.10 of the Virginia Code. The working group was also required to provide an assessment of options for utilizing a minimum wage in the Commonwealth, the feasibility and economic advantages and disadvantages of a regional minimum wage, and to review the implications of the proposed upcoming minimum wage increases per subsections E and F of § 40.1-28.10 of the Virginia Code, as amended by this act.

Pursuant to Chapter 1204 and 1242, the working group was additionally required to make findings and recommendations based on its assessments of the topic above and provide them to the Governor and General Assembly by December 1st, 2023.

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<sup>4</sup> A copy of the legislative text – [Chapter 1204](#) and [Chapter 1242](#), 2020 Acts of Assembly, is found in Appendix A of this report.

<sup>5</sup> A copy of the working group’s members and meeting schedule is found in Appendix B of this report.

# POLICY CONTEXT

*This section provides a brief overview of the historic development of minimum wage legislation in the United States and at state level in Virginia. While federal legislation largely defined minimum wage policy in the post-Great Depression era, the working group found that state-level policy making has increasingly driven policy developments over the past decade. Rather than being a new trend, it harkens back to minimum wage legislation's early, largely local roots.*

*To inform the research conducted by the working group, the working group also conducted a high-level overview of the academic literature on the impacts of minimum wage legislation and is presented in this section. The working group found that the consensus in current minimum wage literature does not present a significantly clear relationship between minimum wage and employment, but trends tend to sway towards a possible negative relationship for the more sensitive groups of workers.*

## HISTORICAL CONTEXT OF WAGE LEGISLATION

The path to establishing minimum wage laws in the United States began as a state-level initiative in the early 20<sup>th</sup> century. The first legislation related to minimum wage was passed in Massachusetts in 1912 and applied to women and children only. The law did not set a specific wage; instead, it established a commission to investigate whether wages paid to women and children were adequate to sustain their health and well-being.

Several other states followed Massachusetts's lead and enacted their own minimum wage laws, but these statutes were often met with legal challenges. The U.S. Supreme Court's 1923 decision in "Adkins v. Children's Hospital" significantly limited state's abilities to enact minimum wage thresholds. The court ruled 5-3 that a minimum wage law in Washington D.C. was unconstitutional because it interfered with employers' right to set wage rates through free contract. This ruling prevented enactment of minimum wage legislation or its enforcement at the state level for more than a decade.

During the Great Depression, there was federal action on the minimum wage. President Franklin D. Roosevelt pushed for an introduction of a federal minimum wage. After years of debate and negotiation, the Fair Labor Standards Act (FLSA) was passed in 1938 and established a federal minimum wage of 25 cents per hour.<sup>6</sup> The Supreme Court upheld the law later in 1941 in "United States v. Darby Lumber Co."

Congress has increased the federal minimum wage 22 times since the enactment of the Fair Labor Standards Act. The most recent increase was in 2007 as part of the Fair Minimum Wage Act of 2007. This legislation initiated a gradual raise of the minimum wage from \$5.15 per hour to \$7.25 per hour by 2009, where it has remained for the last 14 years.

Since 2009 a majority of states – including Virginia – have set minimum wages above the federal minimum wage. Additionally, some localities, especially those in high-cost areas, have enacted local

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<sup>6</sup> This negotiation also created the exclusion for workers in the agriculture and service-sector industries, which persists to this day. Title 29, Chapter 8, [The Fair Labor Standards Act of 1938](#), as Amended.



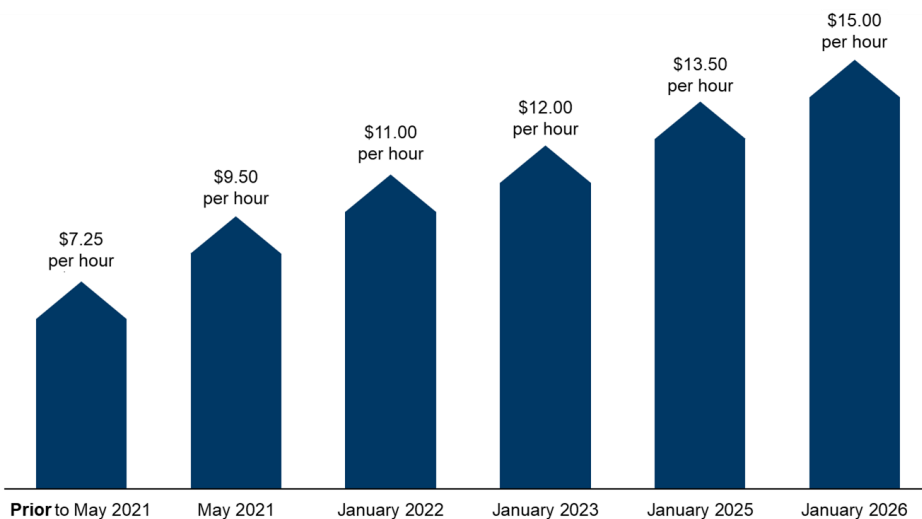
minimum wage laws that exceed both federal and state levels. The remainder of states have effective minimum wage rates at the federal minimum wage.<sup>7</sup>

## VIRGINIA'S MINIMUM WAGE LEGISLATION

For much of its modern history, Virginia has followed the federal minimum wage. Throughout the 2010s, several bills were introduced in the Virginia General Assembly to increase the state's minimum wage. In 2014, legislators introduced a bill to increase the minimum wage to \$8.50 per hour effective from July 1, 2015, and then to \$10.10 effective from July 1, 2016 (HB 32). Further attempts were made in 2016 to increase the minimum wage. During that legislative session, one bill aimed to raise the wage to \$10 per hour effective from July 1, 2017, and then to \$11.25 effective from July 1, 2018, and then \$13 effective from July 1, 2019 (HB 623). Another bill attempted to increase the wage to \$15.15 per hour effective from July 1, 2017 (HB 597).

In April 2020, Governor Ralph Northam signed a bill into law raising the minimum wage. Chapter 1204 initially provided that the minimum wage would increase to \$9 per hour upon enactment, \$9.50 per hour in May 2021, \$11 per hour in January 2022, and \$12 per hour in January 2023. Future planned increases (\$13.50 per hour set for January 2025 and \$15 per hour in January 2026) must be reenacted by the General Assembly by July 1, 2024. If not reenacted, the minimum wage is set to increase at the same rate as increases in the consumer price index.

**Figure 1: Enacted and Forthcoming Changes in Virginia's Minimum Wage Level**



**Note:** The increases scheduled for 2025 and 2026 are dependent upon reenactment by the General Assembly before July 1, 2024.

## LITERATURE REVIEW

Examining the impact of minimum wage legislation has been a topic of rigorous debate and research across disciplines. The resulting literature is extensive and complex, reflecting a multitude of factors and methodologies. Today, there is no strong consensus around the effects of minimum wage increases on

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<sup>7</sup> Economic Policy Institute, [Minimum Wage Tracker](#), 2023.

the labor market. This section provides a brief overview of academic literature that informed the working group's efforts.

The stated goal of a minimum wage is to keep workers out of poverty, to ensure that workers can afford housing, food, and other basic necessities, and to increase consumer purchasing power to stimulate economic growth (§ 202 of the Fair Labor Standards Act, as amended). The discussion of minimum wages begins as far back as the 19<sup>th</sup> century, with more quantitative and empirical studies beginning in the 20<sup>th</sup> century. This research has led to two general schools of thought on the impact of minimum wage increases. One view, rooted in neoclassical economics, posits that increasing the minimum wage can lead to employment loss among low-wage workers. An opposing view that emerged in the 1990s challenges this perspective and argues that increases in the minimum wage do not necessarily lead to job loss. These schools of thought (commonly referred to as the "classical" and "modern" view in academic literature), have broadly defined the academic conversation on the economic impacts of changes to the minimum wage since their inception.

While most research attempts to measure the effect of minimum wage increases on employment, the resulting outcomes vary widely depending upon the research methods used and specific population examined. Research has generally focused on narrowly defined population subgroups that are paid the minimum wage and/or are affected by changes to the wage level. These include teens, postsecondary students, and workers in occupations with minimal education or entry requirements, as well as women and ethnic minorities. While a wide range of results have been detected for these subgroups, several of these studies have detected adverse effects for groups which are more sensitive to minimum wage increases, including net decreased employment levels. Some studies have hypothesized that this is because minimum wage increases may discourage firms from employing workers with fewer skills or lower levels of education and/or reduce the number of positions available for these types of workers (Neumark, 2018). It should be noted, however, that most meta-analyses of these studies show a significant lack of correlation between minimum wage increases and overall employment even while slight negative effects for these targeted groups can be detected.<sup>8</sup>

Most research points to the fact that workers in low-wage industries and tradeable sectors are more vulnerable to the negative effects of minimum wage. Evidence shows reduced employment in these industries because of minimum wage increases.<sup>9</sup> <sup>10</sup> Some studies have detected an effect on workers at firms of varying sizes, with some showing modest disemployment effects for smaller firms as opposed to larger firms, particularly among those with younger-than-average employees.<sup>11</sup> One study examined the effect on the number of hours worked and found a negative relationship between a minimum wage increase and the overall number of hours worked. This study found that the effect size was greater in service-based sectors, with a significant reduction in hours worked for male workers and no significant impact for female workers.<sup>12</sup>

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<sup>8</sup> Giotis, G., & Mylonas, N., [Employment Effect of Minimum Wages](#), November 2022.

<sup>9</sup> Cengiz, D. et al., [The effect of minimum wages on low-wage jobs](#), May 2019.

<sup>10</sup> Neumark, D. & Shirley, P., [Myth or measurement: What does the new minimum wage research say about minimum wages and job loss in the United States?](#), April 2022.

<sup>11</sup> Neumark, D. & Shirley, P., April 2022.

<sup>12</sup> Jesse Wursten and Michael Reich, [Small Businesses and the Minimum Wage](#), March 2023.

Some studies have pointed to actions employers have taken in light of minimum wage increases, including bolstering minimum educational qualifications for lower-skilled jobs, which can result in excluding many lower-skilled workers from jobs they could have held prior to the increases (Clemens, et al., 2021). When employers decrease the number of available positions or the number of hours granted to minimum wage workers in response to minimum wage increases, some studies have even observed increased out-migration of low-skilled workers immediately following minimum wage increases (Monras, 2019). Some studies have also detected effects for firms, noting that firms in some industries with high numbers of minimum wage workers showed decreased revenue following minimum wage increases (Agarwal, et al., 2023).

More recently, a school of thought has emerged arguing that increases in the minimum wage do not necessarily lead to job loss. Economists David Card and Alan Krueger advanced this school of thought. Their study in 1994, where they compared fast-food employment in New Jersey and Pennsylvania after New Jersey increased its minimum wage, found no evidence of job loss from the wage increase.<sup>13</sup> Perhaps most recently, research has focused its efforts on investigating new methods of data collection (as exemplified in Dustman, et al., 2021). However, these studies have tended to rely on advanced quantitative methods and have attracted criticism for the complexity of their methodological approach.

The consensus in current minimum wage literature does not present a significantly clear relationship between minimum wage and employment but trends tend to sway towards a negative relationship for the more sensitive working groups including teens, young adults, and low-skilled workers (although the size of the impact can vary greatly).

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<sup>13</sup> David Card and Alan B. Krueger, [Minimum Wages and Employment: A Case Study of the Fast-Food Industry in New Jersey and Pennsylvania](#), September 1994.

# CHALLENGES AND LIMITATIONS

*This section provides an overview of the challenges and limitations faced by the working group and, considering these, the methodological approach adopted for the analysis contained in the report.*

Research on the minimum wage and measuring the impacts thereof is challenging for researchers across academic disciplines. The working group faced similar methodological challenges when examining the characteristics of Virginia’s minimum wage population, considering the impacts of increases in the minimum wage and measuring the potential implementation of a regional minimum wage. In particular, the working group faced several significant challenges in performing data analysis on the minimum wage labor force, as described below.

## **Definitional challenges**

The definitions of the “minimum wage” or a “minimum wage worker” vary greatly between data sources. A “minimum wage” can refer to the federal mandated minimum of \$7.25 per hour, a state set minimum, a locally set minimum, or some other standard for measuring the lowest level of income an individual can earn and maintain a “minimum” standard of living. This definition also varies by the category of worker or exemption applied (e.g., if the worker receives a “tipped” minimum wage or is not included under the FLSA).

Furthermore, who “counts” as a minimum wage worker can vary depending on how inclusive the definition is. For example, the Bureau of Labor Statistics (BLS) publishes information on minimum wage workers using the Current Population Survey (CPS); their estimate of ~2.0% of Virginia’s workforce making the minimum wage or less is based on the federal minimum wage rate of \$7.25 per hour for hourly wage worker only. In contrast, estimates produced by the non-profit Oxfam calculate that over 30% of the state makes less than a “minimum wage” of \$15 per hour and includes corrections for non-hourly wage earners and other data discrepancies.<sup>14</sup>

The consequence of these differences is a wide range of estimates for the size of the minimum wage workforce. This increases the difficulty of comparing results between sources and making conclusive statements on the number of “minimum wage workers” in the state.

## **Limitations in data availability**

Critical data sources often lack either the detail, recency, or geographic granularity to comprehensively address questions of a regional minimum wage. Regardless of how it is defined, the working group found that most referenced labor market information sources are inadequate to study a minimum wage workforce.

For example, BLS Occupational Employment and Wages Survey (OEWS) data is a leading source of occupational wage information but contains no demographic detail. The BLS Current Employment Statistics (CES) data is produced monthly, can be studied over time and contains wage information, but it is published at an aggregated industry level which makes it difficult to isolate minimum wage workforce. Similarly, the BLS Quarterly Census of Employment and Wages (QCEW) data contains

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<sup>14</sup> Please see the “Characteristics of the Minimum Wage Population” section for a discussion of these estimates.

historical wage information, but it is presented in terms of overall industry employment averages and cannot be studied reliably over time.<sup>15</sup>

Describing the size and makeup of the minimum wage labor force within different regions of the Commonwealth presents an even greater challenge. Generally speaking, the geographic and industry granularity decreases significantly at a sub-state level in public data sources. Another reason for this is that commonly used sub-state wage data is not usually presented on an hourly basis, but on a weekly, monthly, or annual basis. Also, this data is only geographically compiled in a few ways—usually by county or by metropolitan statistical area (MSA)—and can't easily be aggregated into other, custom regions.

### **The Stepwise Nature of Virginia's Minimum Wage Increase**

As discussed in the previous section, Virginia's increases in the minimum wage were done in a stepwise manner – rather than increase from \$7.25 per hour to \$15 per hour in a single year, the legislature set a more gradual increase schedule, with the minimum wage increasing by \$1.00 - \$1.50 per hour each year until January 2026.<sup>16</sup> This increases the difficulty of isolating the effects of wage increases.

Furthermore, the stepwise increases set minimum wage levels that do not align with many federal data sources. For example, many data sources do not report wage levels at the level of specificity needed to align with the state's intermediate wage levels (e.g., a data source reports wage data under \$15 per hour or \$7.25 per hour, but not for wages in between that range such as the state's current level of \$12 per hour).

### **Timing of Wage Increases**

Perhaps most importantly, Virginia's minimum wage increases corresponded with the beginning of the SARS-CoV-2 (COVID-19) pandemic.<sup>17</sup> As stated in countless sources, the economic impacts of the pandemic on Virginia's economy cannot be overstated. From February 2020 to April 2020, Virginia's statewide unemployment rate went from 2.9% to 12.0%.<sup>18</sup> The state's labor force participation rate, hourly earnings, and job turnover statistics saw similar levels of disruption.<sup>19</sup> In response to these impacts were unprecedented levels of state, federal and local spending to support individuals during this time period. These efforts included additional Pandemic Unemployment Assistance, stimulus checks to certain individuals and households, loans and grants to small businesses, among other actions.<sup>20</sup>

The pandemic's impact and the economic response to it had the effect of creating labor market distortions large enough to “drown out” the impacts of a minimum wage increase; a 10% change in the

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<sup>15</sup> This means that they are averages of the many types of jobs that an industry must staff—from dish washers to managers; from low wage waitresses to high wage waitresses; from fry cooks to master chefs—with few ways to isolate the focus of the analysis on minimum wage workers.

<sup>16</sup> See Figure 1 on Page 4 which provides a more detailed description of Virginia's minimum wage schedule.

<sup>17</sup> The Sars-CoV-2 (COVID-19) virus was first declared by Virginia as a public health threat on [February 7<sup>th</sup>, 2020](#), and then as a public health emergency on July 28<sup>th</sup>, 2023. The federal government declared COVID-19 as a national emergency beginning on [March 1<sup>st</sup>, 2020](#). Both Virginia's and the federal declarations ended on [May 11<sup>th</sup>, 2023](#).

<sup>18</sup> Virginia Employment Commission, [Current Local Area Unemployment Statistics \(LAUS\)](#), August 2023.

<sup>19</sup> Federal Reserve Bank of Richmond, [Regional Economic Snapshot](#), October 2023.

<sup>20</sup> NPR, "[What's Inside The Senate's \\$2 Trillion Coronavirus Aid Package](#)," March 2020

unemployment rate will hide a relatively small (0-1%) change in employment due to minimum wage increases.

Additionally, the minimum wage labor market was among the most impacted by this economic shock. Businesses depending on human interaction like those in the leisure and hospitality sectors and others were severely influenced due to the protective measures taken to prevent the spread of COVID-19 coronavirus.<sup>21</sup> Furthermore, demographic groups overrepresented in the minimum wage labor force, such as younger workers, females, and workers with educational attainment of a high school degree or less were the most impacted by the pandemic's impacts. This further complicates efforts to isolate the impact of the state's minimum wage increases during this time period.

## METHODOLOGICAL APPROACH

*This section discusses the methodological approach adopted for the analysis contained in the report and the data sources used by the working group.*

### METHODS

Through collaboration and study, the working group determined that the best method to address the aforementioned challenges was to triangulate the presence, impact, and geographic characteristics of Virginia's minimum wage population; that is, the working group used different data sources and methods to validate results and compensate for the weaknesses of any individual source. This approach allowed the group to:

- provide a range of definitions and levels of a "minimum wage,"
- study the minimum wage workforce at a regional level, and
- produce different types and levels of characterization of this workforce (e.g., provide demographic detail v. economic, etc.).

In addition to this data analysis with multiple data sources, the working group also used several methods to provide additional context for the analysis. This included a review of academic and policy-oriented literature, research and interviews with other states implementing a regional minimum wage, and stakeholder feedback on relevant subjects.

Overall, the working group judged this approach to best address the challenges presented in analysis of the state's minimum and potential regional minimum wage and presents the most accurate picture of who is a minimum wage worker in the state.

### DATA SOURCES

The working group used several data sources throughout the report to characterize Virginia's minimum wage workforce, to measure the impacts of Virginia's minimum wage increases to date, and to assess the feasibility and implementation of a regional minimum wage.<sup>22</sup>

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<sup>21</sup> Please see the "Characteristics of the Minimum Wage Population" Section for additional discussion of these industries and the minimum wage.

<sup>22</sup> Please see Appendix D for a summary table of each data source used by the working group.

First, the working group used research by the BLS in order to perform analysis on the basic demographic and social characteristics of minimum wage workers at the national and statewide level. The BLS uses unpublished microdata from the CPS ("Household Survey") in order to describe minimum wage work and workers at the federal and state level.<sup>23</sup> While this data source provides insightful demographic information, such as gender, age, race, employment status, etc., it offers limited geographic detail. Furthermore, the estimates only include hourly wage workers making less than the federal minimum wage rate (\$7.25 per hour).<sup>24 25</sup>

Given the narrow definition of a minimum wage worker provided through BLS unpublished microdata, the working group also used estimates from policy institutes, namely the Economic Policy Institute and Oxfam America, to provide similar demographic and social characteristics at different wage levels.<sup>26</sup> Similar to the BLS, the Oxfam Minimum Wage Model sources microdata from a Census product (5-year Census American Community Survey (ACS-PUMS)) to analyze wages, demographics, and household data at the state level. However, the data here includes all wage and salary workers with valid wage and hour data, rather than just hourly employees. Furthermore, the model is built to estimate the impact of a \$15 per hour minimum wage, rather than a \$7.25 per hour federal minimum or the current \$12 per hour Virginia minimum wage. Therefore, this source presents a broader definition of "minimum wage" work in Virginia than the one presented by the BLS.

For regional analysis, the working group used the Census Bureau product "OntheMap," produced by the Census Bureau's Longitudinal Employer-Household Dynamics (LEHD) program.<sup>27</sup> The LEHD program produces public-use information combining federal, state and Census Bureau data on employers and employees under the Local Employment Dynamics (LED) Partnership. This data provides the most detailed geographic description of minimum wage workers (down to the census block level) in addition to basic demographic, social, and economic characteristics. This enabled the working group to describe a

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<sup>23</sup> Given the scarcity of detailed, published data available to study minimum wage issues, several organizations have instead analyzed unpublished data from household surveys. Such an undertaking requires considerable resources to process the data, interpret analysis results accurately, and to handle the data properly. Even when such analysis is undertaken, there are constraints on what analysis is possible from the survey design and questions asked. In addition, the more detailed the geographic, demographic, or occupational analysis, the less confidence researchers may have in the results due to reduced sample sizes.

<sup>24</sup> As stated by the BLS itself, "estimates of the number of minimum wage workers in this report pertain only to workers who are paid hourly rates. Salaried workers and other workers who are not paid by the hour are excluded, even though some have earnings that, if converted to hourly rates, would be at or below the federal minimum wage. Consequently, the estimates presented in this report likely underestimate the actual number of workers with hourly earnings at or below the minimum wage. BLS does not routinely estimate the hourly earnings of workers not paid by the hour because of data quality concerns associated with constructing such an estimate." Bureau of Labor Statistics, [Characteristics of Minimum Wage Workers](#), 2021.

<sup>25</sup> "The CPS does not include questions on whether workers are covered by the minimum wage provisions of the federal Fair Labor Standards Act (FLSA) or by individual state or local minimum wage laws. The estimates of workers paid at or below the federal minimum wage are based solely on the hourly wage they report, which does not include overtime pay, tips, or commissions. It also should be noted that the CPS sample is based on residence; workers report their earnings on their job, which may or may not be located in the same state in which they live. In addition, the degree of sampling error may be quite large for some state estimates." Bureau of Labor Statistics, [Characteristics of Minimum Wage Workers](#), 2021.

<sup>26</sup> "Oxfam America, [Low Wage Scorecard – Virginia](#), 2022.

<sup>27</sup> U.S. Census Bureau, Longitudinal-Employer Household Dynamics Program, [LEHD OntheMap Data](#), 2023.

minimum wage worker by geographic region – a factor not available most sources. However, the data provides limited income sorting options, which potentially excludes or miscategorized worker’s income, and is the most dated data source used by the group (from the second quarter of 2020).

Finally, to gauge the impacts of an increase in the minimum wage, the working group used data from the Virginia Employment Commission, the Congressional Budget Office (CBO), and the BLS’ Occupational Employment and Wage Statistics (OEWS) series.<sup>28</sup> The VEC and the CBO data was used to perform a speculative comparison of what a predicted impact of a minimum wage would be and the actual observed outcomes in the state.<sup>29</sup> The OEWS data was used to produce a detailed analysis of which occupations in the state would experience the greatest impact by an increase to \$12 per hour and to \$15 per hour. The OEWS provides employment and wage estimates annually for approximately 830 occupations, making it the most detailed wage and occupation data source used by the workgroup. However, it does not provide demographic data on the workers in these occupations, or precise wage estimated (wage levels are provided in percentiles rather than continuous measures).

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<sup>28</sup> Bureau of Labor Statistics, U.S. Department of Labor, [Occupational Employment and Wage Statistics](#), December 1, 2023,

<sup>29</sup> Please see the following section on the impacts of Virginia’s minimum wage increases, and Appendix H for more information on this analysis.



# CHARACTERISTICS OF THE MINIMUM WAGE POPULATION

*Understanding the potential impacts of minimum wage increases and a regional minimum wage begins with a sound understanding of Virginia’s “minimum wage population.” As of January 1, 2023, that would include all Virginia workers making at or below an hourly rate of \$12.<sup>30</sup> This section provides a discussion of the characteristics of minimum wage workers in the United States and Virginia, based on extensive research and original analysis conducted by the working group. This analysis found that about a half million Virginians likely earn \$12 or less per hour, while over one million earn less than \$15. While a disproportionately young population, the vast majority of Virginians earning less than \$15 per hour are largely working adults helping to support themselves and their families. This population also tends to be disproportionately women and ethnic minorities and highly concentrated in service-oriented occupations such as food preparation and sales, as well as transportation and material moving, administrative support and healthcare support occupations.*

## ANALYSIS OF THE U.S. MINIMUM WAGE POPULATION

The working group’s first analysis was to examine the nationwide minimum wage workforce level as measured by the BLS’s unpublished microdata from the CPS. This data source provided insightful demographic information, such as gender, age, race, employment status, etc. While the BLS minimum wage data is limited based on the fact that the federal and state minimum wages differ and the BLS narrowly defines minimum wage work, it does provide a useful snapshot of the lowest earning workers in the United States. These statistics also represent public data tabulated and published by a highly reputable federal agency. Given this, it is worth providing a summary of the insights that can be gleaned from this data.<sup>31</sup>

According to the BLS, 78.7 million workers aged 16 and older in the United States were paid at hourly rates in 2022, representing 55.6% of all wage and salary workers. Among hourly workers, 141,000 earned exactly the prevailing federal minimum wage of \$7.25 per hour and about 882,000 workers had wages below the federal minimum. These approximately one million workers with wages at or below the federal minimum made up 1.3% of all hourly paid workers.

As defined by the federal minimum wage, 36,000 Virginia workers earn at or below the federal minimum wage. Given Virginia’s statewide minimum wage is higher than the federal minimum wage, this population would consist of categories of workers not subject to the state (and often federal) minimum wage such as tipped workers or seasonal agricultural workers. While Virginia’s minimum wage population could be characterized as small in absolute terms, Virginia nonetheless has the ninth largest minimum wage workforce in the country in absolute terms and the eight largest in terms of percentage of hourly workers.

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<sup>30</sup> There are 16 different categories of exemptions in the [Virginia Minimum Wage Act](#). These exempted employers or workers could potentially make less than the minimum wage of \$12 per hour, as they are not bound by the legislative minimum.

<sup>31</sup> Bureau of Labor Statistics, [Characteristics of Minimum Wage Workers](#), 2021.

From the BLS data, we can glean that age plays a significant role in the distribution of minimum wage earners. Workers under 25, though constituting nearly a fifth of hourly-paid workers, represent 44% of those earning at or below the federal minimum wage. In this age group, 4% of teenagers earn the minimum wage or less, which is substantially higher compared to just 1% of those aged 25 and above.

In terms of gender, women are slightly more likely than men to be paid the federal minimum wage or below, with 2% of hourly-paid women and 1% of men falling into this category. When observing racial and ethnic groups, the disparities are minimal. Approximately 1% of White, Black, Asian, and Hispanic workers earn the minimum wage or below.

Education also affects earnings. About 2% of hourly-paid workers without a high school diploma, those who've graduated high school, or have some college education earn the minimum or less. This figure drops to 1% for those with a bachelor's degree or higher. Marital status is another variable, with single workers being slightly more likely than their married counterparts to earn the federal minimum wage or below, by a difference of 2 to 1%.

The nature of employment matters as well. Part-time workers, or those working less than 35 hours a week, are three times more likely to earn the minimum wage or below compared to full-time workers. Notably, the service industry, especially food preparation and serving roles, has the highest concentration of minimum wage earners, with 5% in this bracket. Moreover, 75 % of those earning at or below minimum wage in 2021 were from the service sector.

Lastly, the industry with the most significant portion of minimum wage earners has historically been the leisure and hospitality sector, with 8 percent in 2021. Most of these individuals work in restaurants, bars, and related services, where tips often supplement their hourly earnings.

## **ANALYSIS OF VIRGINIA'S MINIMUM WAGE POPULATION**

Given the limitations discussed elsewhere in this report, there is no publicly available data source that would allow the working group to provide robust estimates of the minimum wage population in Virginia (workers earning at or below \$12 in 2023) or the characteristics of these workers. Given the dearth of publicly available data, the working group looked to work published by third party organizations such as Oxfam and the Economic Policy Institute (EPI). The working group also took non-standard approaches to leveraging publicly available data sets to provide an independent point of reference.<sup>32</sup>

### **Third-party modelling**

One such reference is from the organization Oxfam, which annually produces estimates of workers making less than \$15 per hour for every state and nationwide. The Oxfam Minimum Wage Model sources microdata from the 5-year Census American Community Survey (ACS-PUMS) to analyze wages, demographics, and household data.<sup>33</sup>

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<sup>32</sup> Given recent pushes at the federal level to set the minimum wage at \$15 per hour, most modelling and research has used this threshold and it is used here even though Virginia's minimum wage is below this level at this time.

<sup>33</sup> For details, see the report. Oxfam America, [Low Wage Scorecard – Virginia](#), 2022.

**Table 1: Oxfam Minimum Wage Model (2022)**

**Virginia Workers Making Less than \$15 per Hour - Approximately 1,399,200 workers in Virginia make less than \$15 per hour.**

<b>Percentage of all workers less than \$15 per hour</b>		
	<b>Virginia</b>	<b>U.S. Average</b>
	32.8%	31.9%
<b>Gender</b>		
Working Men	567,350 (25.5%)	21,121,952 (24.7%)
Working Women	831,850 (40.9%)	30,802,707 (39.9%)
<b>Race/Ethnicity</b>		
White	26.3%	25.9%
Black/African American	47.3%	47.0%
Hispanic/Latinx	50.7%	46.2%
Asian American and American Indian	25.3%	19.8%
Women of Color	51.9%	50.3%
Men of Color	35.4%	34.1%
<b>Family Composition</b>		
Single Parents	285,206 (61.9%)	11,236,239 (57.5%)
Married parents	162,039 (15.7%)	6,068,482 (16.0%)
Working Mothers	283,563 (40.1%)	10,909,799 (40.2%)
Working Fathers	163,682 (20.8%)	6,394,922 (21.1%)
<b>Worker Age</b>		
16-24 years old	80.1%	76.5%
25-39	33.7%	33.2%
40-54	19.7%	19.5%
55+	20.4%	18.6%
<b>Workers Age – Teenager v. Adult</b>		
Teenager	156,820	
Adult	1,242,381	

**Source:** Oxfam America, [Low Wage Scorecard – Virginia](#), 2022

Based on the Oxfam modelling, there are approximately 1.4 million workers earning at or below \$15 per hour in Virginia, making up 32.8% of the entire working population of the state. This percentage is slightly higher than the U.S. average of 31.9% for workers in the same wage bracket.

Dissecting this data further, there is a significant gender wage disparity. In Virginia, 25.5% of working men earn at or below \$15 per hour, slightly higher than the national average of 24.7%. On the other

hand, 40.9% of working women in Virginia, totaling 831,850, earn less than this threshold, with the U.S. average for working women at 39.9%. Analyzing the data by race and ethnicity offers similar contrasts. In Virginia, 26.3% of White workers, 47.3% of Black or African American workers, and 50.7% of Hispanic or Latinx workers earn at or below \$15 per hour.

Virginians earning at or below \$15 per hours are disproportionately young, with 80% of these workers being between the ages of 16 and 24. That said, the overwhelming majority of minimum wage workers are adults, with only about 156,000 of the total 1.4 million being younger than 18 years old. . Focusing on family composition, 61.9% of single parents in Virginia, or 285,206 individuals, earn less than \$15, a figure higher than the U.S. average of 57.5%. 40.1% of working mothers in Virginia earn less than \$15, almost mirroring the national figure of 40.2%. Meanwhile, 20.8% of working fathers in Virginia earn below this amount, compared to 21.1% across the U.S.

Like Oxfam, other policy institutions have produced state-level estimates using similar methodologies. The EPI, collaborating with the Commonwealth Fiscal Institute, estimated in 2019 that raising the minimum wage in Virginia to \$15 per hour would directly impact just over one million people earning under \$15 per hour.<sup>34</sup> This microdata analysis yielded slightly higher results than previous estimates produced for all states using their Minimum Wage Simulation Model (895,000 workers earning below \$15 per hour).<sup>35</sup>

**Modelling of OEWS data**

An economist with the Virginia Employment Commission participating in the working group developed static, model-based estimates using OEWS data in order to provide independent analysis of Virginia’s minimum wage population and the impact of raising the minimum wage. While limited, the model enabled the working group to estimate the occupation groups with the largest numbers of workers making less than the current \$12 minimum wage, as well as a hypothetical \$15 minimum wage.<sup>36</sup>

Using 2021 data, an estimated 490,000 jobs, or 13% of payroll employment, paid less than \$12 per hour. The OEWS data indicates that approximately 1.1 million payroll workers in Virginia made under \$15 per hour in May 2021, or 28.5% of the 3.8 million payroll workers at that time. These workers were concentrated in service occupations such as food preparation and sales, as well as transportation and material moving, administrative support and healthcare support occupations.

**Table 2: Estimated number of workers by hourly earnings and occupation group**

<b>Occupation group</b>	<b>Less than \$12 per Hour</b>	<b>Less than \$15 per Hour</b>
Food Preparation and Serving Related Occupations	143,669	236,711
Sales and Related Occupations	99,500	194,803
Office and Administrative Support Occupations	34,739	128,075

<sup>34</sup> The Commonwealth Institute, [Raising the Wage in Virginia Will Benefit Working Families](#), February 2019.

<sup>35</sup> Economic Policy Institute, [Minimum Wage Simulation Model](#), 2019.

<sup>36</sup> The model developed by the working group, while not able to provide demographic characteristics or make estimates over time due to data limitations. For more detailed discussion of the data model, please see Appendix I.

Transportation and Material Moving Occupations	56,781	125,606
Building and Grounds Cleaning and Maintenance Occupations	32,647	92,239
Healthcare Support Occupations	43,502	90,511
Production Occupations	19,987	53,513
Personal Care and Service Occupations	26,647	42,534
Protective Service Occupations	8,749	20,200
Construction and Extraction Occupations	4,818	18,534
Source: Modelling based on OEWS data (2021)		

In sum, through triangulating these data sources, the working group can draw some broad conclusions about Virginia’s minimum wage work force. First, as the wage threshold is increased, the size of the workforce concerned increases; for example, Virginia’s current minimum wage workforce (those earning less than \$12 per hour) numbers approximately 500,000, while another half million earn less than \$15 per hour.

Secondly, the vast majority of Virginians earning less than \$15 per hour are working adults helping to support themselves and their families (e.g., those older than 18). The population earning less than \$15 per hour also tends to be disproportionately women and ethnic minorities.

Finally, these workers are concentrated in service occupations such as food preparation and sales, as well as transportation and material moving, administrative support and healthcare support occupations.

## REGIONAL ANALYSIS OF VIRGINIA'S MINIMUM WAGE POPULATION

A major challenge when analyzing sub-state wage data is the overlapping nature of regional economies and labor markets. A higher minimum wage paid at an establishment in one region may affect the employment status of workers who commute to that employer from another region. As minimum wage workers are subject to high rates of job churn that therefore cause dynamic flows of workers into and out of these positions, estimating a narrowly defined number of minimum wage workers is an imprecise process subject to fluctuation. This fact has only increased since the COVID-19 pandemic and the labor market disruptions it caused.

To address these challenges, the working group identified data from the Census Bureau product 'OntheMap,' to create custom GO Virginia economic development regions for analysis. For each region, the working group could produce statistics on employment, earnings, and job flows at detailed levels of geography and industry and for different demographic groups. In addition, the OntheMap program produced information on workers' residence-to-work commuting patterns. For the analysis included here, the working group separated and analyze the workforce who made \$1,250 month or less in each region, which served as a more broadly defined proxy for an \$7.25 hourly wage.<sup>37</sup>

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<sup>37</sup> [OntheMap](#) estimates describe workers that made \$1,250 a month or less. While this corresponds to \$7.25 per hour, it potentially contains part-time jobs at higher hourly wages, non-hourly wage work, and multiple job holders, not just those making the \$7.25 hourly minimum wage or less. 2020 data is the most recent available. Therefore, this data predates the effective period of the state’s minimum wage increases.

**Table 3: Number and Percent of Minimum Wage Primary Jobs by GO Virginia Region**

GO Virginia Regions	Total Number of Primary Jobs	Number of Minimum Wage Jobs*	Minimum Wage Jobs (% of Total Primary Jobs)
Region 1	81,562	21,081	25.8%
Region 2	255,460	57,579	22.5%
Region 3	96,651	25,119	26.0%
Region 4	512,299	99,544	19.4%
Region 5	546,446	129,189	23.6%
Region 6	108,779	27,249	25.0%
Region 7	993,825	165,478	16.7%
Region 8	159,927	35,570	22.2%
Region 9	110,773	24,870	22.5%
Virginia	2,869,515	587,307	20.5%

Source: U.S. Census Bureau, LEHD OntheMap Data (2020), Version 20211018\_1647.

\*“Minimum wage” is defined as any worker whose primary job earns \$1,250/month or less.

**Table 4: Worker Demographics in Minimum and All Primary Jobs, By GOVA Region**

GO Virginia Region	Percent of Workers 29 or Younger		Percent of Female Workers		Percent of Minority Workers	
	Minimum Wage Jobs	All Primary Jobs	Minimum Wage Jobs	All Primary Jobs	Minimum Wage Jobs	All Primary Jobs
Region 1	37.1%	24.4%	58.8%	47.1%	37.7%	5.9%
Region 2	42.9%	23.8%	57.7%	47.2%	42.7%	18.3%
Region 3	43.7%	22.0%	58.5%	48.8%	47.3%	30.2%
Region 4	44.5%	23.1%	60.1%	48.9%	31.8%	34.6%
Region 5	41.3%	23.9%	58.7%	49.3%	38.3%	39.5%
Region 6	41.5%	25.8%	58.9%	50.7%	16.0%	27.7%
Region 7	41.6%	21.8%	58.9%	45.4%	25.7%	34.4%
Region 8	41.5%	23.9%	58.9%	47.3%	16.0%	12.7%
Region 9	41.6%	23.4%	58.9%	48.3%	25.7%	20.2%
Virginia	42.3%	23.1%	57.1%	47.5%	23.4%	31.0%

Source: U.S. Census Bureau, LEHD OntheMap Data (2020), Version 20211018\_1647.

\*“Minimum wage” is defined as any worker whose primary job earns \$1,250/month or less.

**Table 5: Representation of Worker Industry in Minimum and All Primary Jobs, By GOVA Region**

GO Virginia Region	Percent of Workers in Accommodation and Food Services		Percent of Workers in Retail Trade		Percent of Workers in Health Care and Social Assistance	
	Minimum Wage Jobs	All Primary Jobs	Minimum Wage Jobs	All Primary Jobs	Minimum Wage Jobs	All Primary Jobs
Region 1	21.0%	9.0%	18.8%	17.7%	16.4%	17.3%
Region 2	23.2%	8.4%	19.5%	13.4%	14.5%	18.1%
Region 3	28.8%	8.0%	19.7%	15.2%	12.9%	17.3%
Region 4	28.6%	7.1%	22.5%	11.9%	14.6%	15.4%
Region 5	24.3%	10.3%	20.8%	13.2%	12.0%	16.1%
Region 6	26.8%	11.1%	17.0%	17.8%	13.2%	15.5%
Region 7	26.2%	7.0%	19.5%	10.3%	11.9%	10.2%
Region 8	26.8%	9.1%	17.0%	12.7%	13.2%	15.6%
Region 9	26.2%	9.6%	19.5%	14.6%	11.9%	13.7%
Virginia	25.0%	8.3%	19.1%	12.4%	14.3%	14.0%

Source: U.S. Census Bureau, LEHD OntheMap Data (2020), Version 20211018\_1647.

\*“Minimum wage” is defined as any worker whose primary job earns \$1,250/month or less.

The OntheMap data showed differences in the prevalence of minimum wage labor in different regions. For example, Northern Virginia (Region 7) had the lowest low concentration (16.7%) of minimum wage jobs. However, supporting industries like hotels and restaurants in business centers and retail in residential areas require many such workers, and these industries represent a large share of that region’s minimum wage jobs.

Additional analysis displays further nuance between regional minimum wage labor markets. In rural regions, healthcare represents a larger share of minimum wage labor, in part due to the overrepresentation of female workers in this industry.

However, there are similarities across regions as well, especially in terms of industries occupied by minimum wage workers. Accommodation and food service and retail were the largest employers of minimum wage workers. These were followed by others like; administrative and support services; health care and social services; and arts, entertainment, and recreation. Similarly to health care, female workers are overrepresented in industries like accommodation and food services and retail.

# IMPACT OF VIRGINIA'S MINIMUM WAGE INCREASES TO DATE

*Over the last three years, the Virginia hourly minimum wage increased from \$7.25 in 2020 to \$9.50 in 2021, from \$9.50 to \$11 in 2022, and from \$11 to \$12 in 2023. As part of its efforts, the working group sought to analyze the impacts of the recent increases to the minimum wage and to provide perspective on what these impacts indicate about future planned increases. While this task was met with significant challenges and limitations, this section provides an overview of the analysis undertaken.*

## CHALLENGES AND LIMITATIONS

As noted previously, the effects from changes in the minimum wage take time to move through labor markets, so the few years since the implemented increases may not be sufficient to fully capture resulting impacts on commonly referenced measures. Moreover, the incremental nature of Virginia's legislated minimum wage increases adds more imprecision.

Furthermore, economic data and labor market information have numerous, very large outliers due to the COVID-19 pandemic. As the BLS stated, "Data on minimum wage workers for 2021 continue to reflect the impact of the coronavirus (COVID-19) pandemic on the labor market. Comparisons with data on minimum wage workers for earlier years should be interpreted with caution."<sup>38</sup>

Despite these difficulties, the working group wished to provide an assessment of some labor market indicators potentially impacted by the minimum wage. To do so, the working group used did a preliminary analysis of in Virginia's labor market measures as shown in Virginia Employment Commission Data. The working group also used OEWS data to identify which industries and occupations would face the greatest impacts from the increase to \$12 per hour and a hypothetical increase to \$15 per hour.<sup>39</sup>

## ANALYSIS OF MINIMUM WAGE IMPACTS

### Virginia's Labor Market Supply and Demand

As discussed in the literature review, some economists have theorized that increased wages resulting from a minimum wage increase may equip employers with greater ability to attract and retain workers, especially in the leisure and hospitality sectors. Others believe that employers may grow more reluctant to fully staff at new, higher wage levels and, instead, get by with few workers.

The working group found little evidence to show that increases in the minimum wage in 2021, 2022, and 2023 decreased labor demand or created excess labor supply as the number of Virginia job openings climbed to, and held at, historically high levels over the last two years. Using data from the Virginia Employment Commission, the number of July 2023 job openings in Virginia fell from June's revised

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<sup>38</sup> Bureau of Labor Statistics, [Characteristics of Minimum Wage Workers](#), 2021.

<sup>39</sup> Additionally, the working group compared these outcomes to those predicted by the Congressional Budget's Offices' labor market projections as a result of minimum wage increases. For a more detailed analysis of this comparison, please see Appendix H.



290,000 level to 245,000.<sup>40</sup> However, job openings remained over 20% higher than five years earlier in July 2018. Analyzing the relationship between the unemployment rate and job openings rate indicates a period of great labor market tightness, not one of excess labor supply that some associate with minimum wage increases. From 2021 to July 2023, there was approximately one unemployed worker per two job openings in the Commonwealth. That period marked the lowest rates since January 2001, when BLS began collecting data on this subject.

### **Occupational Specific Impacts**

One of the objectives of this report is to describe the impacts of minimum wage changes over the last three years from the vantage point of businesses. The source data chosen to explore likely impacts on occupations in the workplace is the published May 2021 edition of the Virginia OEWS estimates by detailed Standard Occupational Classification (SOC) code.<sup>41</sup>

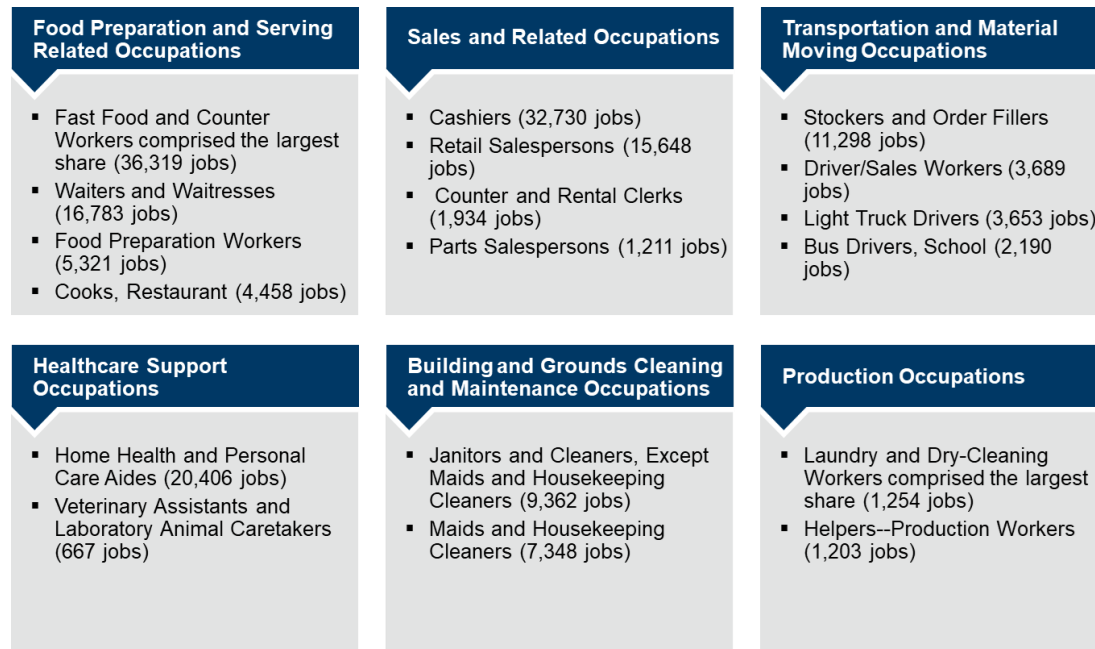
As discussed previously in the report in Table 2, OEWS occupation and wage data indicate that relatively few numbers of Virginia jobs - an estimated 489,000 jobs, or 13.0 % of payroll employment - paid less than \$12 per hour. Food Preparation and Serving Related Occupations comprised the largest share of this wage group (143,700 jobs), followed by Sales and Related Occupations (99,500 jobs), Transportation and Material Moving Occupations (56,800 jobs), and Healthcare Support Occupations (43,500 jobs). Figure 2 displays the occupations with the greatest concentration of minimum wage workers.

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<sup>40</sup> Virginia Employment Commission, [Virginia Job Openings Fall By 45,000 in July. Latest BLS Jobs Openings and Labor Turnover Survey Shows Job Openings Remained Well Above Pre-Pandemic Levels](#). September 21, 2023.

<sup>41</sup> As noted earlier in this report, OEWS occupational wage data is ill-suited to describe wage trends over time or demographic characteristics of workers. However, it can be used to describe what occupations pay, and by extension, provide estimates of the number of individuals in specific occupations impacted by a given increase in the minimum wage. Impacts on worker pay may be significant, as in the case of a cashier going from \$7.25 to \$9.50 per hour. Or they may be small, as in the case of a customer service representative going from \$10.95 to \$11.00 per hour.. See Appendix I for the methodology used to estimate these hypothetical occupational impacts.

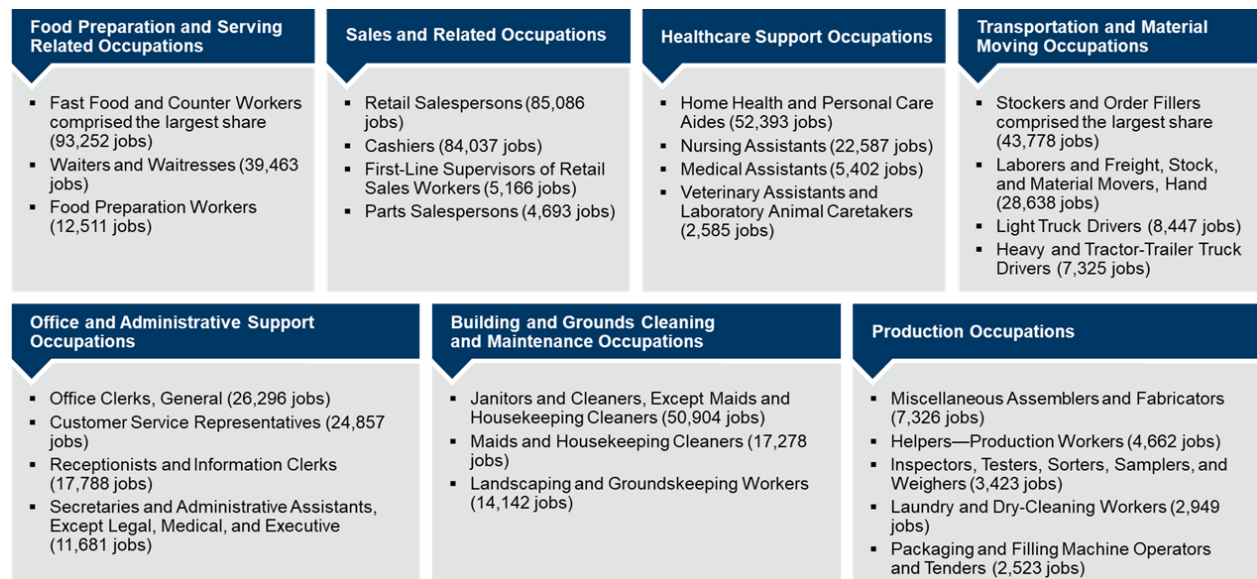
**Figure 2: Primary Occupations Earning \$12 per Hour or Less in Virginia.**



**Note:** Figure does not list all jobs contributing to occupation total.

Using the same OEWS data, approximately 1.1 million payroll workers in Virginia made under \$15 per hour in May 2021, or 28.5% of the 3.8 million payroll workers at that time. Food Preparation and Serving Related Occupations comprised the largest share (237,000 jobs), followed by Sales and Related Occupations (195,000 jobs), Office and Administrative Support Occupations (128,000), and Transportation and Material Moving Occupations (126,000 jobs). Figure 3 displays the occupations which comprised the majority of minimum wage jobs paying under \$15 per hour in May 2021.

**Figure 3: Primary Occupations Earning \$15 per Hour or Less in Virginia**



**Note:** Figure does not list all jobs contributing to occupation total

As shown in Figure 2 and Figure 3, most of the occupations with large numbers of workers making less than \$15 were the same as those with workers making less than \$12 per hour. However, there were some sectors like Office and Administrative Support Occupations and Production Occupations that had fewer workers making less than \$12 per hour but many more who made between \$12 and \$15 per hour.

For some broad occupational groups, few workers are impacted by a \$12 minimum wage, but many would be impacted by an increase to a higher, \$15 minimum wage. For example, under 35,000 workers in Office and Administrative Support Occupations would be impacted by a \$12 minimum wage but nearly 130,000 would be impacted by a \$15 minimum wage. Less than 20,000 workers in Production Occupations would be impacted by a \$12 minimum wage but 54,000 would be impacted by a \$15 minimum wage.

There is a range of wages in all occupations, but some jobs are more likely to be lower paying than others. Within broad occupational categories, Figure 2 displays the following occupations made up the majority of 'minimum wage' jobs making under \$12 per hour in May 2021.

### **Regional Differences in the Occupational Specific Impacts**

Analysis of OEWS wage data from May 2021 indicates that the percentage of workers making under \$12 per hour and those making under \$15 per hour varied by region. Most notably, rural areas had a significantly higher percentage of workers that would be impacted by a \$12 or \$15 minimum wage than metropolitan areas.<sup>42</sup>

For \$12 an hour, for example, 25% of payroll workers in the Southside Virginia Nonmetropolitan area fell under that threshold compared to 13% in metropolitan areas like Charlottesville, as well as statewide. Furthermore, approximately 41,000—or 41% of payroll workers in the Southside Virginia Nonmetropolitan area—would fall under the \$15 per hour threshold compared to the lower rate of approximately 28% to 30% percent in metropolitan areas like Charlottesville, Richmond, as well as statewide.<sup>43</sup>

Occupational distribution of minimum wage jobs varied by region. For example, Healthcare Support occupations comprised a larger share of those jobs in the rural Southside area (17% of the total) than statewide (9% of the total). Conversely, Food Preparation and Serving Related Occupations comprised a smaller percentage, with 24% in the Southside nonmetropolitan area versus 30% statewide.

Using the hypothetical model to examine a \$15 per hour minimum wage threshold, the Southside nonmetropolitan area had a broader distribution of occupations with workers making less than \$15 than was the case statewide. For example, urban areas would have had a higher percentage in the core minimum wage occupational groups of Food Preparation and Serving Related Occupations and Sales and Related Occupations with few in other occupational groups. The rural Southside area would be more broadly impacted by a \$15 minimum wage because other occupational groups like Transportation and Material Moving Occupations (14% of the total), Healthcare Support Occupations (13% of the total), and Production Occupations (7% of the total) comprised larger shares than was the case in metropolitan areas and statewide.

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<sup>42</sup> These estimates describe pay levels at the place of work, not necessarily where the workers live. Many workers who reside in rural areas commute to higher paying jobs at businesses in metropolitan areas, for example.

<sup>43</sup> ~30,000 workers (28% of payroll employment) in the Charlottesville MSA are estimated to have made under \$15 per hour.

Conversely, urban areas such as Northern Virginia ( captured within the larger, multi-state Washington-Arlington-Alexandria, DC-VA-MD-WV metropolitan statistical area ("Washington area")) would be less impacted by a hypothetical \$15 per hour minimum wage. Only 4% of Washington area workers are estimated to have been impacted by a hypothetical \$12 minimum wage. And only 14% (413,000 of 2.9 million MSA payroll employment) are estimated to have been impacted by a hypothetical \$15 minimum wage in 2021, compared to 28% in Virginia as a whole. There are several possible explanations for this difference. In addition to a higher cost of living and a high concentration of white-collar jobs, most Washington area jobs were subject to a higher minimum wage than was the case across Virginia in 2021. For example, the District of Columbia minimum wage in 2021 was \$15.20 per hour.<sup>44</sup> While Maryland's minimum wage was \$11.75 statewide in 2021, Montgomery County's minimum wage reached \$15 per hour in 2021.<sup>45</sup>

The occupational distribution of these Washington area impacts is like that of Virginia as a whole, with a few differences. At the \$12 minimum wage level, workers in Food Preparation and Serving Related Occupations would comprise a larger share of impacted (37% compared 29% in Virginia), but relatively more few impacted in Sales and Related Occupations. Because of the importance of office work and educational activities in the Washington area, workers in Educational Instruction and Library Occupations and Office and Administrative Support Occupations would also be more impacted by a \$15 minimum wage than across the Commonwealth of Virginia.

### **Industry Impacts**

Estimates of occupational employment impacted by minimum wage increases can provide insights into expected employment impacts among industries that most rely upon them. Analyzing 2021 industry staffing requirement information along with the 2021 occupational minimum wage data can indicate industries that may be most touched by minimum wage increases. Those most affected by an increase from \$9.50 to \$12 would also be by an increase from \$12 to \$15. Examples include accommodation, administrative and support services, ambulatory health care services, amusement and recreation services, various types of retail stores, food services and drinking places, home health care services, personal services, and building services. However, there are some industries which are relatively better paying and would experience a much larger increase in impact from a \$12 to \$15 per hour rise. Some of these include professional services, doctor's offices, hospitals, banks, specialty trade contractors, and warehousing.

The food services industry would likely have the largest numbers of workers affected by minimum wage changes. This would be especially true at the \$9.60 level, with occupations including: wait staff, counter workers, dish washers, fast food and counter workers, fast food cooks, and hosts/hostesses. At the \$12 level, it could expand by adding occupations like: restaurant/cafeteria cooks, janitors and cleaners, bakers, butchers, food batch makers, stockers. At the \$15 level, in addition to those types of jobs, impacts could cover more specialized, skilled jobs like: chefs and head cooks, bookkeeping and payroll clerks, and maintenance and repair workers.

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<sup>44</sup> Office of D.C. Mayor Muriel Bowser, "[Mayor Bowser Announces Minimum Wage Increase Effective July 1, 2023](#)," June 2023

<sup>45</sup> Maryland Association of Counties, "[Montgomery County Minimum Wage Increases July 1](#)," March 2023.

Though the total numbers affected would likely be smaller, the amusement and recreation industry could be more deeply and broadly impacted at the low \$9.60 level to include occupations in food services (wait staff, counter workers, dish washers) but also in other jobs like: lifeguards, amusement and recreation attendants, and cashiers. At the \$12 level, it would likely expand by adding occupations like: fitness/enrichment instructors, recreation workers, retail sales workers, and receptionists. At the \$15 level, it would likely expand into more specialized, skilled jobs like secretaries, maintenance workers, vending machine sales and service, and motor vehicles operators-all other.

Although among the most impacted, the accommodation industry would likely be less touched less at the \$9.60 level, with hotel occupations providing food services mostly included (wait staff, counter workers, dish washers). At the \$12 level, it could expand within food services by adding occupations like bartender and restaurant cook. In addition, it may reach other, key jobs like maids/janitors, hotel desk clerks, and laundry workers. At the \$15 level, in addition to those types of jobs, it would likely expand into more specialized, skilled jobs like: bookkeeping clerks, childcare workers, recreation workers, and meeting/event planners.

# PERSPECTIVES ON A REGIONAL MINIMUM WAGE

*This section provides a brief overview of key factors and perspectives that are helpful when considering how a regional minimum wage in Virginia could be structured. They include a focus on Virginia's divergent costs of living across its more rural and more urban regions, the potential impact of a minimum wage from an economic competitiveness perspective, and other considerations important for state policymakers weighing the options of whether to adopt a regional minimum wage and, if so, how to structure it.*

## ASSESSING A REGIONAL MINIMUM WAGE

A regional minimum wage is a policy in which the minimum wage is set according to the cost of living and economic conditions within a particular region, rather than having a uniform rate across a larger jurisdiction like a country or state. In 2016, University of Massachusetts economist Arindrajit Dube working as part of Brookings's Hamilton Project proposed a state and local approach to adjusting the minimum wage in line with the local-area median wage.<sup>46</sup> Third Way proposed a five-tier regional minimum wage system in 2019.<sup>47</sup> However, some have raised concerns that a regional minimum wage could entrench income disparities and fail to lift struggling households out of poverty.

While the intended purpose of a minimum wage is to create a minimum standard of living, this aspiration is quickly confronted with the diverse economic landscape and significantly varying cost of living.<sup>48</sup> Virginia may be one state, but the Commonwealth is comprised of many regional economies with starkly different characteristics. Reflecting this, the cost of living varies widely between different places.<sup>49</sup> A regional minimum wage, some argue, could thus create more flexibility to strike a balance between these trade-offs at a regional level.

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<sup>46</sup> Brookings, Hamilton project, "[Proposal 13: Designing Thoughtful Minimum Wage Policy at the State and Local Levels](#)," 2016.

<sup>47</sup> Third Way, "[A Regional Minimum Wage](#)", 2019.

<sup>48</sup> Title 29, Chapter 8, [The Fair Labor Standards Act of 1938](#), as amended.

<sup>49</sup> One of the largest drivers in regional cost of living disparities is housing. The median sale price for a single-family home in Loudoun County over the past 12 months is \$924,000. In comparison, the median sale price in Pittsylvania County is \$280,000.

Cletus C. Coughlin & Charles S. Gascon & Kevin L. Kliesen, "[Living Standards in St. Louis and the Eighth Federal Reserve District: Let's Get Real](#)," 2017.

Redfin Market Insights, [Virginia Housing Market](#), August 2023.

## Measuring the cost of living

Measuring the cost of living involves evaluating the total expenditure needed to maintain a certain standard of living, including basic necessities like housing, food, transportation, healthcare, and education. There are numerous different approaches and datasets available to measure and compare cost of living across geographies, including the Consumer Price Index, Cost of Living Indexes and other calculations.

The working group has opted to use the Massachusetts Institute of Technology's (MIT) calculator as a tool for comparing cost of living across the Commonwealth. Their model, which calculates the minimum wage needed for a family to afford likely minimum food, childcare, health insurance, housing, transportation, and other basic necessities costs, draws upon geographically specific expenditure data. These calculations that measure of the cost of basic needs that is useful in the context of the regional minimum wage debate.

MIT's model is widely used by researchers, publicly available, and offers more granular data than other available tools. While the components defined as basic necessities may be subject to some debate, it is the relative cost of this basket of goods and services that is analyzed by this report. The use of this tool, however, does not constitute a recommendation that it is an appropriate tool for setting minimum wage levels.<sup>50</sup>

According to the MIT calculation, such a wage for a single adult living in Virginia is \$19.04 per hour. A single adult with children must earn between \$38.12 and \$64.98 hourly, depending on the number of children they are supporting. Reported values for Virginia are calculated as the average values of all localities, weighted by population.

MIT also calculates wages for each locality across Virginia. In Alexandria City, for example, the hourly wage needed to afford necessities is \$22.42 per hour for a single adult and between \$45.23 and \$80.65 per hour for single parents, depending on the number of dependents. This cost of living was nearly 18% higher than the state average. By contrast, in Pittsylvania County, the hourly wage needed is \$14.46 for a single adult, and between \$31.54 and \$51.80 hourly for single parents, depending on the number of dependents, reflecting a cost of living that is 24% lower than the state average. Multiple localities have the same highest and lowest hourly wages required to support the cost of living for a single adult with no dependents.

The gap between these two localities alone is \$7.87, a wide gap given the two costs of living estimates, which reflects the divide that exists between higher-cost and more affordable localities. Both diverge similarly from the state average wage (\$19.04), with Alexandria City's wage of \$22.42 nearly 18% higher than the state average and Pittsylvania County's (\$14.46) 24% lower.

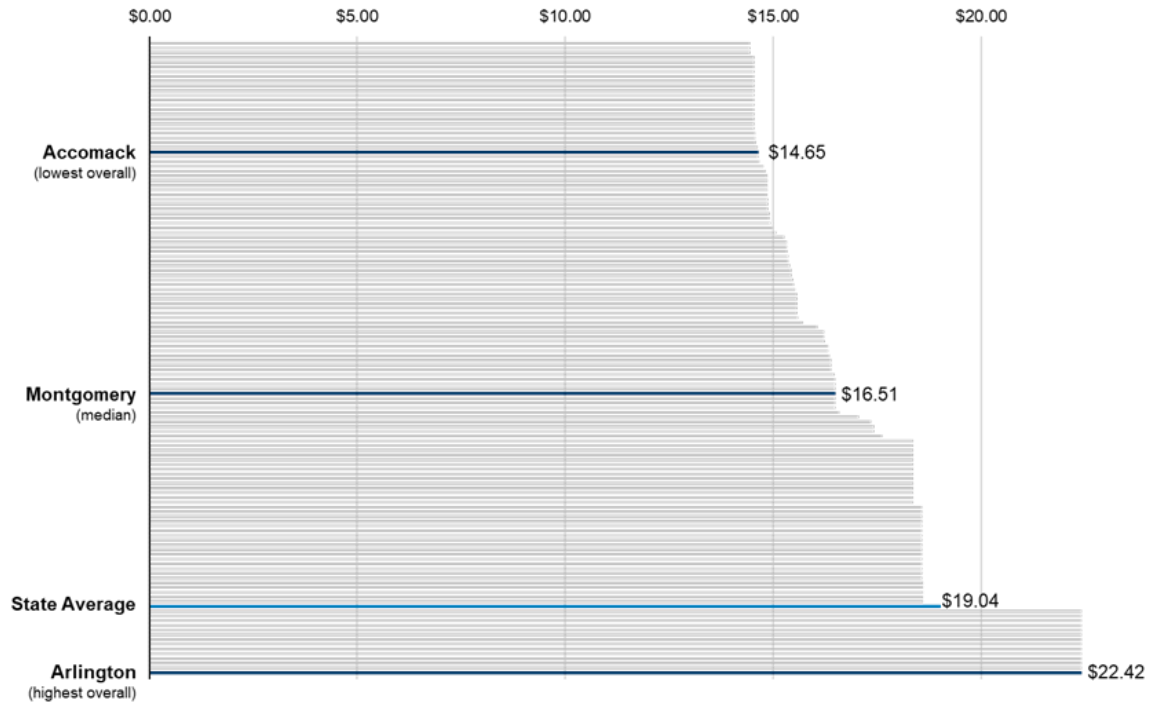
See below for graphics outlining the full gap between the highest and lowest-cost localities in Virginia, depending on the earnings and dependency status of residents, as well as a map that shows each locality as the percentage it is of the statewide average.

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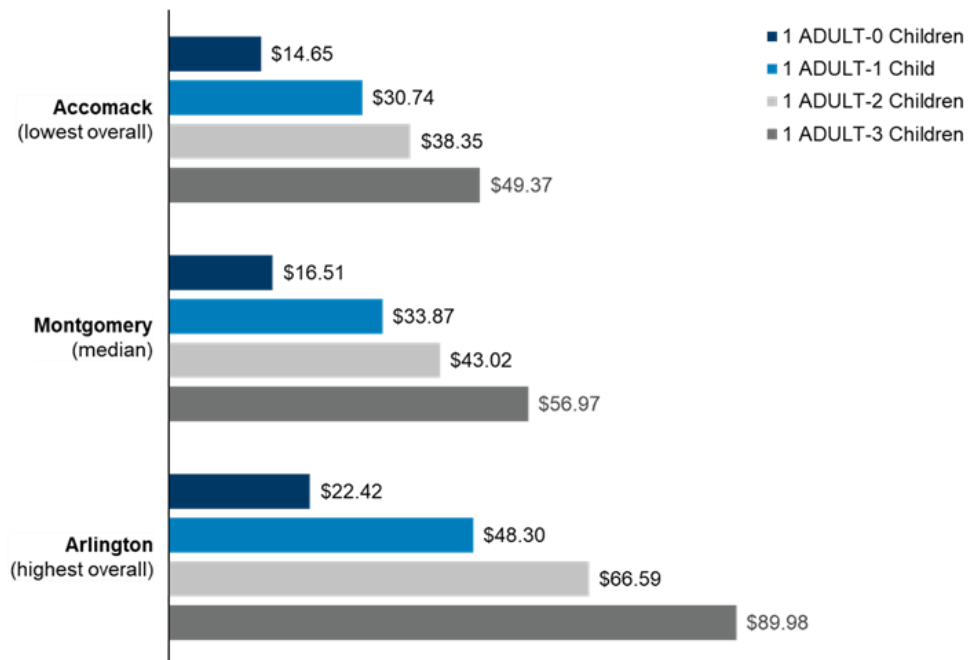
<sup>50</sup> Massachusetts Institute of Technology, [Living Wage Calculator Methodology](#), 2023.

## Ranking the most and least expensive localities in Virginia

### Virginia Localities by Hourly Wage Needed to Afford Basic Necessities

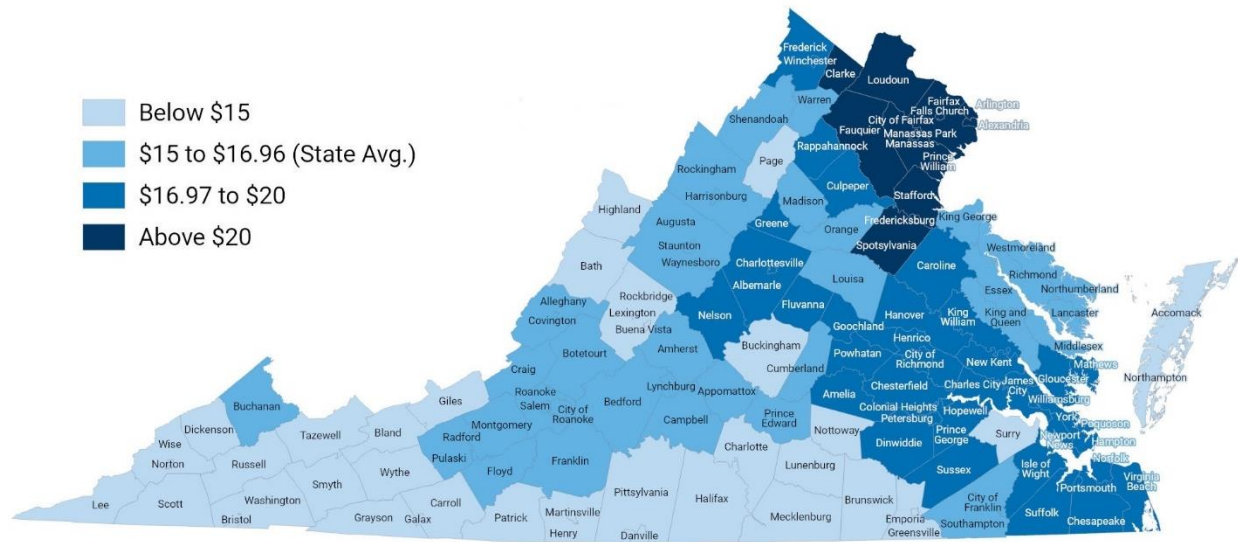


### Hourly Wage Needed for a Single Adult to Afford Basic Necessities for Select Localities





**Figure 5. Map of Hourly Wages by Locality:** *Hourly minimum wage needed for one adult and no children to afford basic necessities (\$ per hour).*



While a regional minimum wage may be able to better reflect varying cost of living, opponents have argued that different minimum wages might exacerbate inequalities between regions rather than promoting convergence between them. Public data show significant divergence between Virginia's urban and rural areas, with median household income ranging from \$156,821 in Loudoun County to \$33,905 in Dickenson County.<sup>51</sup> A 2019 analysis by the Economic Policy Institute found that 15.6 million fewer American workers would get a raise under a regional minimum wage regime compared with a \$15 per hour national minimum wage. The total increase in wages for affected workers would be reduced from \$118.0 billion to an estimated \$35.7 billion under the regional proposal.<sup>52</sup>

A similar line of argument is that, even with regional variations, the minimum wage might still be too low and may result in maintaining poverty wages in certain areas. In the context of the recent national debate on a \$15 minimum wage, many economists have pointed out that the federal "floor" is far below the minimum income necessary for a family to be self-sufficient. Analysis by the Economic Policy Institute found that there is not a county in the U.S. where an individual working full time, year-round could achieve a secure standard of living earning less than \$15 per hour.

Conversely, a regional minimum wage could lead to a wage that is too high, potentially leading to a reduction in employment among low wage workers in particular. Aggregate cost of living data at a regional level can easily mask significant disparities. While Northern Virginia is home to some of the richest localities in the country, there remain significant pockets of vulnerability within the region.

Proponents of a regional minimum wage have argued, to the contrary, that a lower minimum wage in less expensive regions may make it more feasible for businesses to operate, potentially fostering economic growth in those areas. Some economists have posited that a minimum wage can act like an

<sup>51</sup>American Community Survey, [Table S1901, Median household income in the past 12 months in 2021 inflation-adjusted dollars](#), 2021.

<sup>52</sup> Economic Policy Institute, "[Fact sheet on regional minimum wage proposals](#)", 2019.

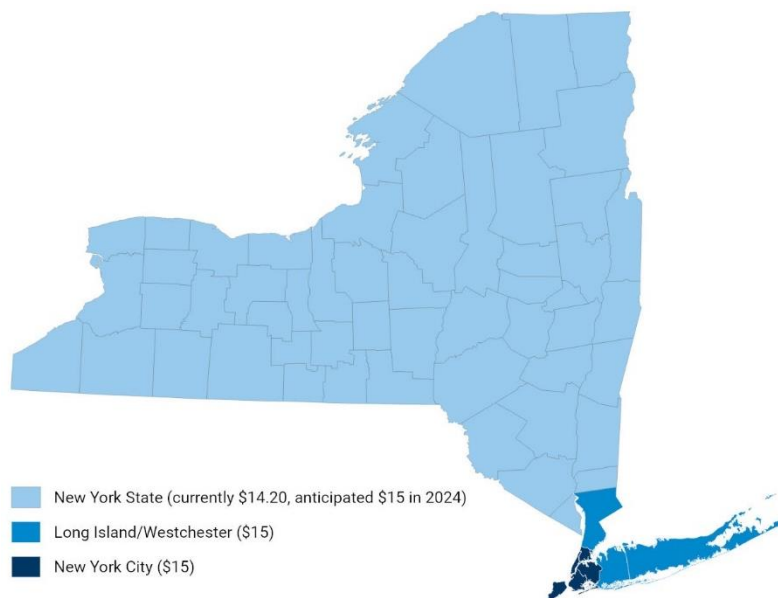
internal tariff and erode the comparative advantages of lower wage areas when it comes to competing nationally or internationally for these jobs.

## EXPERIENCES OF OTHER STATES ADOPTING A REGIONAL MINIMUM WAGE

As part of the requirements set out in Chapter 1204, the working group was required to consider the experiences of other states that adopted a regional minimum wage. As of 2023, two states have adopted a regional minimum wage framework – New York and Oregon. The working group conducted independent research and also interviewed staff from their respective Departments of Labor (responsible for monitoring and regulating their respective minimum wages). A summary of this information is included below.<sup>53</sup>

### New York State

**Figure 6: New York State's Regional Minimum Wage**



New York's regional minimum wage was enacted in 2016, through state budget legislation passed by then Gov. Cuomo, intended to increase the statewide minimum wage from its minimum of \$9.70 per hour to \$15.00 per hour.<sup>54</sup> Although initial debate centered around increasing the minimum wage to \$15 per hour specifically for fast food workers, the legislative process led to a proposal that increased the minimum wage of all workers to \$15 per hour, but with variations in the rate of increase depending

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<sup>53</sup> Additionally, the working group is aware of several localities nationwide have varying authority to adopt higher minimum wages than the state minimum. Although the working group noted this variation, a full analysis of minimum wage levels generated by local options was outside the scope of their analysis.

<sup>54</sup> New York State Statute, [Chapter 31, Article 19, Section 652](#), May 2023.

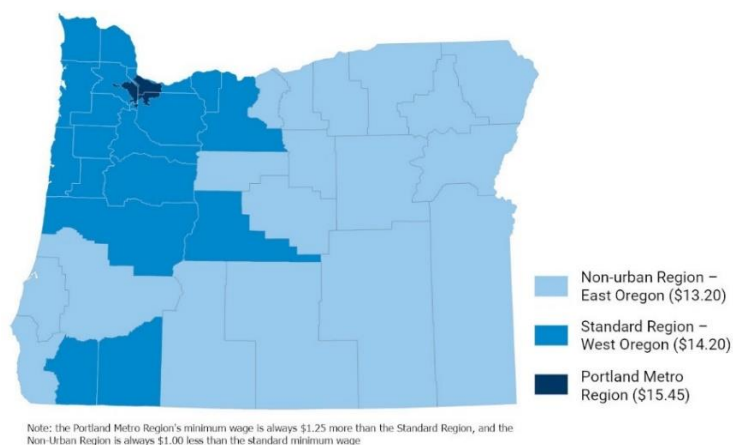
upon three factors: the worker's occupation, the size of their employer, and what region a worker performed labor in.<sup>55 56</sup>

The budget legislation created three regions within the state: New York City, New York City suburbs (Nassau, Suffolk and Westchester Counties) and Upstate New York (See Figure 6). The regions were designed to account for differences in cost of living between New York City, its immediate suburbs, and the remainder of the state.<sup>57</sup> As of 2023, all workers minimum wage workers in New York City and suburbs receive a \$15 per hour minimum wage. Minimum wage workers across the rest of the state receive a wage of \$14.20 per hour, with an anticipated increase to \$15 per hour in 2024 (please see Appendix F for a more detailed table of minimum wage rate increases in New York State).<sup>58</sup>

### Oregon State

Oregon enacted its regional minimum wage in its 2016 Regular Session, through legislation passed by Governor Kate Brown intended to increase the statewide minimum wage from \$9.25 per hour to approximately \$15.00 per hour.<sup>59</sup> Similarly to New York State, Oregon's regional minimum wage created three regions: the Portland metro area, a Standard region (West Oregon), and a Non-Urban Region (East Oregon) (See Figure 7).<sup>60</sup> However, a worker's minimum wage in Oregon is based solely upon the region they work in and does not consider the occupation or size of an employer. Furthermore, there are set differentials between the regions' minimum wages, where the Portland Metro Region's minimum wage is always \$1.25 more than the Standard Region, and the Non-Urban Region always \$1.00 less than the standard minimum wage.

**Figure 7: Oregon State's Regional Minimum Wage**



<sup>55</sup> New York State Department of Labor, [New York State's Minimum Wage](#), 2023.

<sup>56</sup> Economic Policy Institute, [Raising the New York state minimum wage to \\$15 by July 2021 would lift wages for 3.2 million workers](#), January 2016.

<sup>57</sup> New York State Division of the Budget, [Report on New York's Minimum Wage Increases Scheduled for 2023](#), September 2023.

<sup>58</sup> Increases for 2024 and beyond are based on NYS's FY24 Enacted Budget, signed into law on May 12th, 2023. Beginning in 2027, wages will be indexed to inflation. New York Assembly, FY 2024 Enacted Budget, [Article VII, Education Labor and Family Assistance, Part S](#), May 2023.

<sup>59</sup> 78<sup>th</sup> Oregon Legislative Assembly, [Senate Bill 1532](#), 2016 Regular Session.

<sup>60</sup> Oregon Bureau of Labor and Industry, [Minimum Wage Increase Schedule](#), 2023.

## Consideration from Other State Experiences

From the working group's research and conversations from each state's respective Department of Labor, the working group has identified several major considerations from each state's experience with a regional minimum wage: <sup>61</sup>

### *Transparent process*

Individuals from both New York and Oregon emphasized the importance of providing a transparent process for employers to be aware of any increases in the minimum wage rate, and what those variations between regions would be. The working group heard from New York's Department of Labor that the former process for determining a minimum wage rate increase was a source of concern from business, where the state's Department of Budget would make a decision based off of undefined economic criteria in the state. The lack of transparency made it difficult for some employers to predict any changes. In contrast, Oregon noted that having the criteria for an increase delineated in the statute allowed for a transparent process whereby employers had ample notice of any increases to the minimum wage rate.

### *Timely process for increases*

Similarly to the importance of transparency, both New York State and Oregon noted the importance of providing sufficient lead time to make employers aware of any changes to their minimum wages. New York State's increases were made public by their Department of Budget in early December, with potential enactment less than 30 days later on December 31<sup>st</sup> and employers struggled with the short timeline for planning and employment purposes. Oregon's statute laid out the dates for all increases for each region, which provided sufficient time for employers to plan for any changes in the wage rate.

### *Established Methods for Determining Unclear Wage Cases*

In both states, the working group heard the importance of having a set procedure to determine edge cases for worker pay; for example, if a worker performs labor in two different regions, or if the worker's place of employment was on the edge between two regions. Clear procedures and simple tests were important in facilitating implementation of the regional minimum wage's regulations.

## **OTHER CONSIDERATIONS TO A REGIONAL MINIMUM WAGE**

### **Potential Impact on Virginia's Economic Competitiveness**

Aside from the concerns about the effects of increases to the minimum wage on a state's existing workers and existing employers, another concern is whether or not increases to a state's minimum wage would have an impact on economic competitiveness, whether in disincentivizing new businesses from relocating to or existing businesses from expanding in the state.

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<sup>61</sup> Members of the working group interviewed staff from New York's Department of Labor and Oregon's Bureau of Labor and Industries as part of the research process. The interviews were semi-structured and discussed questions that would illustrate each state's experience developing, implementing, and monitoring their regional minimum wage. The findings in the paragraphs below are derived from these discussions, working group research, and observations made by the working group's members.

VEDP attempts to collect average salary information for all the economic development projects in which it plays an active role, including both those which ultimately select Virginia and those which do not.<sup>62</sup> Just over 80% of the total projects (393 of 491 projects) supported by the agency from FY19 to FY23 contained average salary information provided by the company. Of these projects for which average salary information existed, 389 (or 98.9%) paid an average salary above \$12 per hour, while 372 (or 94.7%) paid an average salary above \$15 per hour.

Of the four projects paying less than \$12 per hour, all four were announced in FY2019. All four projects were in rural counties or smaller metropolitan areas/independent cities surrounded by rural counties. While each of the four projects were in very different industries, all involved the use of positions requiring less than a bachelor's degree level of education.

While the overwhelming majority of projects supported by VEDP had average salaries in excess of \$15 an hour, future increases in the minimum wage, beyond just impacting those paid the minimum, would likely also put upward pressure on those making slightly above the minimum wage. Many economists believe that an increase in the minimum wage tends to have a “ripple effect” on other workers earning wages near that threshold.<sup>63</sup>

It is important to note that that VEDP focuses exclusively on the development of the traded sector economy. The tradeable sectors of the economy are made up of the industry sectors whose output in terms of goods and services are primarily sold outside of the state. This includes industries like manufacturing and professional business services. Wages in these industries tend to be higher, reflecting the higher level of education and skills typically required. Negative economic consequences could be felt in non-traded industries like hospitality where a higher concentration of lower-wage workers can be found, as discussed elsewhere in this report.

### **Potential Impact on Agricultural Workers**

The Virginia Minimum Wage Act exempts 16 different categories of employees, including any person employed as a farm laborer or farm employee (§ 40.1-28.9.1). Agricultural workers are widely exempt from minimum wage and overtime provisions primarily due to historical, economic, and political reasons. While employment in Virginia’s agricultural sector is significant – likely ranging from 40,000 to 60,000 workers – there are a number of factors that likely limit the potential impact of minimum wage legislation on the industry.

Economic and practical rationales underpin many minimum wage exemptions in modern policy debates, but the complex historical context of the farmworker and other exemptions has also raised questions around the equity and fairness of these exemptions. As charged in Chapter 1204, the working group analyzed available data on Virginia's agricultural workforce and provides considerations regarding the impact of a regional minimum wage on these workers including the equity and fairness of the exemptions present in current Code.

*Virginia’s agricultural workforce*

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<sup>62</sup> It should be noted that average salary can be an imperfect metric for calculating how many jobs pay at or above a particular wage threshold, because higher-paying jobs can obscure the fact that there are jobs at the project which are paid a salary below the threshold.

<sup>63</sup> Brookings Institute, ["The “Ripple Effect” of a Minimum Wage Increase on American Workers,"](#) 2014.

Characterizing Virginia's agricultural workforce is challenging due to regulatory complexity and data limitations. First, there are many different definitions of "agricultural worker," or similar terms used by state and federal entities.<sup>64</sup> The absence of a clear definition of agricultural work in statute and data increases the challenge in estimating impacts on this class of worker. Furthermore, data for estimating the wages of individuals in this industry is also limited. Similar to the more general challenges with analyzing Virginia's minimum wage workforce, the data either lacks the level of occupational, frequency, or geographic detail to perform rigorous analysis in addition to lacking a uniform definition.

However, available data points to an agricultural workforce of approximately 40,000 to 60,000. For example, a report from the Weldon Cooper Center estimates that agricultural production employs approximately 52,700 workers in 2021.<sup>65</sup> Figures collected by the USDA's 2017 Census of Agriculture state that 10,954 Virginian operations employed 40,000 workers and 5,000 migrant workers.<sup>66</sup> Using results from the American Community Survey for 2021, there are approximately 62,000 workers in the Agriculture, Forestry, Fishing and Hunting Industry across all occupations associated with that industry.<sup>67</sup>

#### *Impact of minimum wage legislation on the agricultural workforce*

While Virginia's agricultural industry employs a significant number of workers, there are a number of factors that would likely limit the impact of minimum wage legislation on the industry. This includes structural characteristics of the industry – high prevalence of small, individual or family-owned farm operations – the high demand for labor across the industry, which is driving up wages, and the prevalence of federally regulated migrant workers in the industry.

The state's agricultural production is generally produced without external labor. This is primarily due to the nature of farms in Virginia; most agricultural work is performed by primarily of family-owned small operations with relatively low annual sales in low-labor demand crops. For instance:

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<sup>64</sup> For example, Federal regulation defines "agricultural labor" in sec. 3121(g) of the Internal Revenue Code to include all services performed on a farm by persons employed in connection to the cultivation, raising, harvesting, and or general operation of the farm (see [26 U.S.C. 3121\(g\)](#) for a more comprehensive definition) ([26 U.S.C. 3121\(g\)](#), pg 2607). This definition would include both supervisory (such as farm owners) and nonsupervisory workers (unpaid labor, migrant workers, etc.)<sup>64</sup> Conversely, Chapter 1204 does not define the term "agricultural worker" or "farm laborer" when exempting those individuals from the provisions of the bill; a definition of "agricultural labor" exists separately in Code for determining eligibility for unemployment insurance.<sup>64</sup> There are additional definitions used by the USDA, BLS, and other data collection agencies when measuring the type and quantity of agricultural work done in Virginia.

<sup>65</sup> Approximately 23,000 more individuals are employed in core processing, 26,000 in extended processing, and 41,000 distribution of these agricultural products. This figure would include all individuals involved with agricultural production across occupations, including the supervisory and non-supervisory workers. Terance J. Rephan, [The Economic Impact of the Agriculture and Forest Industries in Virginia](#), November 2022.

<sup>66</sup> The estimation made by the Census is a complete count of Virginian farms and ranches, where a farm is defined as "any place where \$1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year." USDA National Agricultural Statistics Service (NASS), [2017 Census of Agriculture](#), 2019. The figures cited here excludes unpaid labor. USDA National Agricultural Statistics Service (NASS), [QuickStats](#), 2023.

<sup>67</sup> However, this estimate includes all occupations (including management, sales, etc.) in the industry, and does not exclude Forestry, Fishing and Hunting occupations. Further, it is the result of survey rather than establishment data. American Community Survey, [Table B24050, Industry by Occupation for the Civilian Labor Force Population](#), 2021 1-Year Estimates.

- The average Virginian farm size of 186 acres, compared to the 445 average nationwide;
- 90% of farm operations have sales of < \$249,000 annually; moreover, over half of all farms (~23,200, or 56%) reported sales of less than \$10,000 annually;<sup>68</sup>
- ~90% of farms are owned by families and individuals;<sup>69</sup> and,
- Virginia’s agricultural production centers around commodity farming, rather than labor intensive crops such as fruits and vegetables.

The small need for agricultural labor is further demonstrated in the number of H-2A visas awarded for Virginian farming operations, which serves as a reasonable estimator of the demand for temporary, low-skill labor in the state’s agricultural industry.<sup>70</sup> In the 2023 program year, the VEC Foreign Labor Program reported that 348 employers requested 4,877 H-2A visas. These characteristics indicate that the need for external labor is relatively small in Virginia, especially when compared to other states. For example, North Carolina awarded ~25,600 H-2A visas in 2022, while Florida (the leader in H-2A visa demand) awarded ~50,900 visas.<sup>71</sup>

As such, changes to the minimum wage would have limited impact on this industry and labor force, given how the industry is driven primarily by self and family employment in small, low labor demand operations.

Although Virginia has a relatively small demand for agricultural labor when measuring the total number of positions needed, the supply of this labor is inadequate to meet this demand. Data indicates that the supply for agricultural labor is limited, leading to wages well exceeding the state’s current minimum wage threshold of \$12 per hour. Table 6, statistics from the QECW indicate the lowest average annual weekly wage of agricultural industry workers to be at approximately \$12.40, for workers in the Fruit and Tree Nut farming industry (assuming a 40-hour workweek); all other workers make more than \$15 per hour, the final threshold set forth in Chapter 1204 for the state minimum wage. These statistics would further indicate that the changes to Virginia’s minimum wage would have limited impacts on the agricultural industry.

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<sup>68</sup> USDA National Agricultural Statistics Service (NASS), [Virginia Agricultural Statistics 2022 Annual Bulletin](#), May 2022.

<sup>69</sup> Moreover, given the family operation of farms, a majority of reported farm labor in Virginia is unpaid. A much larger number of operations - 21,386 - reported unpaid labor (typically family members or workers in informal labor arrangements) working in their operations, with 46,653 unpaid workers. This is in contrast to the ~11,000 operations that hired workers and ~500 that hired migrant labor in that same time period. USDA National Agricultural Statistics Service (NASS), [QuickStats](#), 2023.

<sup>70</sup> The federal H-2A visa program allows for agricultural employers to bring nonimmigrant foreign workers into the country to perform agricultural labor on a seasonal basis. The program is an important method to hire temporary labor related to seasonal needs (primarily harvesting and/or hand-picking certain crops). Given the purpose of the program to fill these seasonal labor needs, it can serve as a reasonable estimate of the need for low-skill labor needed for agricultural production. Virginia Employment Commission, [Agricultural Labor](#), 2023.

<sup>71</sup> Carly Haugh, [Adverse Effect Wage Rates of H-2A Workers Increase in 2023](#), 2023.



**Table 6: Annual averages for Virginia’s Agricultural Industry**

NAICS 4 Digit Industry Code	Total Establishments	Average Employment	Average Weekly Wage	Average Hourly Wage
NAICS 1111 Oilseed and grain farming	98	398	\$892	\$22.30
NAICS 1112 Vegetable and melon farming	64	618	\$700	\$17.50
NAICS 1113 Fruit and tree nut farming	73	962	\$496	\$12.40
NAICS 1114 Greenhouse, nursery, and floriculture production	152	3,113	\$755	\$18.88
NAICS 1119 Other crop farming	149	636	\$673	\$16.83
NAICS 1121 Cattle ranching and farming	283	1,483	\$668	\$16.70
NAICS 1122 Hog and pig farming	27	108	\$900	\$22.50
NAICS 1123 Poultry and egg production	55	548	\$778	\$19.45
NAICS 1124 Sheep and goat farming	4	6	\$602	\$15.05
NAICS 1125 Aquaculture	36	363	\$1,248	\$31.20
NAICS 1129 Other animal production	119	535	\$730	\$18.25
NAICS 1151 Support activities for crop production	119	736	\$754	\$18.85
NAICS 1152 Support activities for animal production	165	695	\$702	\$17.55
Total	1,344	10,201	n/a	n/a

Source: Quarterly Census of Employment and Wages - Bureau of Labor Statistics, Private, NAICS 4-Digit Industries, Virginia; 2021 Annual Averages, All establishment sizes

Other data sources help paint the picture of the tight labor market conditions prevailing in the agricultural industry contributing to increased wages. For example, data collected from 2022 to present from employment platforms like Indeed shows \$16 to \$20 range for agriculture hourly wage. As discussed above, the number of H-2A visa applications is also high and increasing (48,000 positions certified nationwide in fiscal 2005 to around 371,000 in fiscal year 2022), indicating scarcity of farm labor.<sup>72</sup>

Finally, the federal government regulates the minimum amount operations can pay foreign labor. For operations that do hire labor under the H-2A visa program – which allows for employers to hire temporary foreign workers on agricultural visas and is a primary means to hire low skill labor – wages are set by the federal Adverse Effect Wage Rate (AEWR). The AEWR is determined by the Farm Labor

<sup>72</sup> USDA Economic Research Service, [Farm Labor](#), 2023.



Survey, conducted by the US Department of Agriculture National Agricultural Statistics Service, and is specifically set so that foreign labor wage rates cannot undercut domestic labor wage rates. The current AEW in Virginia of \$14.91 per hour sets the wage floor for all the growers using the H-2A program, well above the state's current minimum wage and close to the \$15 threshold set by Chapter 1204.<sup>73</sup>

#### *Considerations on the agricultural worker minimum wage exemption*

Economic and practical rationales underpin many minimum wage exemptions in modern policy debates and agricultural workers are not an exception. The often-thin profit margins in agriculture, especially for small and family farms, mean that mandated wage increases could undermine the economic viability of such farms. Income in the agricultural industry is also highly variable due to fluctuations in commodity prices, weather conditions, and other factors. The seasonal and variable nature of agricultural work can require flexibility in employment arrangements, which might be hindered by rigid wage regulations.

There are additional considerations to note when discussing the impact of the agricultural exemption. As indicated by the USDA's Agricultural Census, non-supervisory workers (who would consist of farm laborers, among other positions), are predominantly male. However, they are much more likely to belong to a minority group – particularly of Hispanic origin – and be non-citizens.<sup>74</sup> This demonstrates that farm worker's demographic characteristics are substantially different than the total workforce and the minimum wage exemption for agricultural labor would disproportionately impact these minority groups. However, as described in the section above, the absolute number of these workers are reasonably small, especially when compared to other low wage-earning sectors such as the food and accommodations industry.

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<sup>73</sup> U.S. Department of Labor, [H-2A Adverse Effect Wage Rates](#), June 2023.

<sup>74</sup> Although this data is taken at the national level, as state level demographic data for the agricultural industry is severely limited, it is reasonable to assume that Virginia's characteristics would not substantially differ from the national trends. USDA Economic Research Service, [Farm Labor](#), 2023.

# WORKING GROUP FINDINGS AND CONSIDERATIONS

*As provided in Chapter 1204/1242, the working group was required to provide an assessment of options for utilizing a minimum wage in the Commonwealth, the feasibility and economic advantages and disadvantages of a regional minimum wage, and to review the implications of the proposed upcoming minimum wage increases. The legislation additionally required for the working group to make and present findings and recommendations related to these subjects.*

*As detailed in the working group's report above, the group did not find sufficiently compelling evidence to make recommendations related to the Commonwealth's current or proposed minimum wage increases or the feasibility of enacting a regional minimum wage. However, it did make several findings for the General Assembly and other stakeholders to evaluate.*

## METHOD FOR DISCERNING FINDINGS

The working group bases its findings on the research presented within this report, including the review of academic and policy-oriented literature, data analysis of Virginia's minimum wage workforce and regional characteristics, the experience of other states implementing a regional minimum wage, and stakeholder feedback on the relevant subjects.

The working group held a facilitated discussion on August 11, 2023, in order to identify these findings. The discussion included a presentation of the research of the working group within this report. Additionally, it presented several discussion questions to the working group to address. The findings below represent a summary of the working group's discussions and conclusions.<sup>75</sup>

## FINDINGS ON VIRGINIA'S CURRENT AND PROPOSED MINIMUM WAGE INCREASES

As noted previously in the report, the working group was limited by the lack of data available and timing of the study's analysis. This limited the ability of the group to make findings or recommendations based on likely impacts to the Commonwealth's minimum wage population, and also impacts of the increases to the minimum wage to date. However, the working group was able to make general statements about Virginia's minimum wage population on a statewide and regional basis.

***Finding 1: Accurately measuring the number of Virginians who are making or are impacted directly by a minimum wage increase presents significant challenges. However, the working group was able to make broad generalizations based on different data sources.***

Estimates of the number of Virginians making the minimum wage or less vary broadly, with results dependent upon the definition of a minimum wage worker (e.g., the wage threshold used to discern the sample analyzed), the data source and timing of data collection, among other factors. In general, the lower the wage threshold and the narrower the definition of a minimum wage worker, the lower prevalence of minimum wage work. For example, the working group's minimum estimate of the

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<sup>75</sup> Please see Appendix B for a copy of the discussion questions proposed to the working group.

prevalence of minimum wage work comes from the BLS, which defines a minimum wage worker as an individual reporting hourly income below the federal minimum of \$7.25 per hour. According to this definition, 36,000 (2.2%) of Virginians earn equal to or less than the minimum wage. In contrast, Oxfam, which uses five-year estimates from the American Community Survey and set the minimum wage threshold at \$15 per hour, estimates that 1.4 million (32.8%) of Virginians, earn the “minimum wage” or less.

However, the working group found that, across data sources examined, the general demographic characteristics of minimum wage workers remained consistent in addition to the industries most reliant on minimum wage work. Minimum wage workers are younger, more likely to be female, less educated, and more likely to belong to a racial or ethnic minority than the workforce as a whole. Additionally, the Accommodation and Food Services, Retail Trade and Health Care and Social Assistance industries are the most reliant on minimum wage labor as demonstrated in several data sources.

***Finding 2: The prevalence and nature of minimum wage work varies across the state, although it is present in all regional economies and is concentrated in the same industries. Additionally, the cost of living varies greatly across the state.***

Using regional data from On the Map, the working group found that minimum wage labor (defined as making less than \$1,250 a month, or approximately \$7.25 per hour) was most prevalent in GOVA Region 1 (Southwest Virginia) where they represent 25.8% of all primary jobs in the region, and least prevalent in GOVA Region 7 (Northern Virginia) where they represent just 16.7%.<sup>76</sup>

Furthermore, the industries occupied by minimum wage workers are consistent across the state. For all GOVA regions, the Accommodation and Food Service industry, followed by the Retail Trade, and then Health Care and Social Assistance industries were most reliant on minimum wage work (with 25%, 19.1%, and 14.3% of the industries’ employment paying \$1,250 or less, respectively).

However, the purchasing power of the minimum wage varies greatly across the state due to differences in the cost of living. The greatest cost of living was in Alexandria City (where a family must earn at least \$22.42 per hour according to MIT’s calculator) to the lowest cost in Tazewell County (where the same family must earn only \$14.55 per hour).

## **CONSIDERATIONS FOR ESTABLISHING A REGIONAL MINIMUM WAGE**

In addition to making determinations about characteristics of the state’s minimum wage population, the working group also made findings related to the feasibility and advantages or disadvantages from implementing a regional minimum wage. However, these findings did not indicate a conclusive recommendation on the feasibility of a regional minimum wage. Therefore, the workgroup could make the following finding:

***Finding 3: There is not conclusive evidence demonstrating the clear advantage or disadvantage of a regional minimum wage over a statewide minimum wage. While a regional minimum wage might reflect regional variations in standards of living and economic need, in practice, there are substantial barriers in implementing and enforcing a regional minimum wage.***

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<sup>76</sup> Please see Appendix E for a listing of each region’s member localities, and a map of these regional groupings.

The primary advantage offered by a regional economic wage was its theoretical ability to better – although not perfectly – balance the potential benefits and harms caused by increases to the minimum wage. Although the working group found mixed academic evidence on the precise impacts of minimum wage increases, the mainstream literature generally identified a tradeoff between wage increases and employment changes. Through incorporating variations in cost of living across the state, a regional minimum wage could optimize these variables by maximizing the economic benefit of minimum wage increases (increasing a household’s standard of living, lift families out of poverty, etc.) and minimizing the potential harms caused by such an increase (that businesses reduce hours or automation/offshore jobs, etc.). In sum, it could allow for the state’s minimum wage to better reflect regional variations in standards of living and economic need and presents a more politically feasible option for making changes to a state’s minimum wage.

It is important to also note that, while a regional minimum wage may be able to better reflect varying cost of living, regional minimum wages could potentially further entrench or even exacerbate inequalities between regions rather than promoting convergence between them. Public data show significant divergence between Virginia's urban and rural areas, with median household income ranging from \$156,821 in Loudoun County to \$33,905 in Dickenson County. Indeed, it is in areas with lower wages – and cost of living – where a higher minimum wage could lift the largest share of families into self-sufficiency.

However, the state would face substantial barriers in implementing a regional minimum wage. These include a lack of data to perform regional analysis, difficulties in defining and implementing unequal wage rates across regions, and resistance from both employer and worker stakeholder groups to a regional minimum wage. The working group identified several barriers likely to be experienced should Virginia opt to implement a regional minimum wage.

#### *Lack of granular data to inform policymaking and evaluate impacts*

The lack of quality data at a detailed regional level would significantly hinder analysis of the potential or ongoing effects of changes to the minimum wage. As discussed previously in the report, most publicly available data lacks the demographic, economic, or geographic specificity needed in order to undertake meaningful regional analysis. Although the working group was able to triangulate and make estimates at the regional level, policy makers would ideally need an ongoing data source with these features in order to monitor the implementation of a regional minimum wage system. Furthermore, the limited case study analysis available (e.g., only two states with a “regional” minimum wage), means that policymakers have limited examples to draw upon or comparison points when predicting the impacts of a regional minimum wage.

#### *Challenges in implementing and enforcing multiple minimum wages*

Implementing a regional minimum wage would require a more complex regulatory framework. This framework would need to address the size/area of any regions, the wage differentials between these regions, timeline for regulatory enactment, the degree and timing of any future increases, among many other items.

The working group received feedback from the Department of Labor and Industry (DOLI), the agency responsible for enforcing Virginia’s minimum wage law, which contained additional considerations for any regional minimum wage. Given that DOLI enforces wage laws based on where work is performed, issues such as the identification of a worker’s place of work, particularly in the instance of workers

traveling between regions (such as truck drivers or traveling home health care aids) would become relevant.

Additionally, the increase in the regulatory burden presented by implementing regional minimum wage rates would be borne by employers, particularly those who operated statewide or in multiple regions. This was indicated by stakeholder feedback (see the section below). Conversations with New York State and Oregon further supported the need for a clear regulatory framework, particularly in “edge cases” (where a worker may be between two regions, or where an employer has more than one location) and other instances in order to minimize the impact of such changes on these employers.

#### *Stakeholder buy-in*

Finally, the working group notes that implementing a regional minimum wage may face considerable stakeholder resistance in the state. The working group received feedback from both employer and worker stakeholder groups. This feedback broadly indicated opposition to a regional minimum wage. Employer groups expressed concern regarding the regulatory and compliance burden of a regional minimum wage, as any regional variation in minimum wage rates would impact employers who operated in multiple regions or on a statewide basis. Worker groups were hesitant to implement regional minimum wages, as they anticipated that it would “lock in” lower wages for workers in certain regions.

## **OTHER CONSIDERATIONS**

Finally, the working group identified several key factors in establishing and implementing a regional minimum wage. Some of the primary considerations are discussed further below.

***Finding 4: Should policymakers consider enacting a regional minimum wage, there are several important factors to consider. These include, but are not limited to, the number and size of wage regions, and the setting of wage differentials between regions, among others.***

At face value, a regional minimum wage is a simple concept. However, the working group identified a number of important – and complex – questions that would need to be answered by the General Assembly while crafting legislation.

### **Size of potential regions**

A key point of discussion for the working group was considering the size and composition of the regions used for a regional minimum wage. In its facilitated discussion, members of the working group suggested using a rural v. urban regional definition, GO Virginia economic development regions, Planning District Commission regions, Metropolitan Statistical Areas, or localities as the basis for a regional wage.

The group noted the tradeoff between the specificity of a region and the complexity of implementation – although smaller regions better reflect local economies, they also could lead to more challenging regulation or compliance from employers and employees. They further noted that the two case studies available – New York and Oregon – created only three regions, generally defined by a central urban area (New York City and Portland).

### **Wage differentials between regions**

Another consideration from the working group included the method for defining wage differences between regions. Ideas included using set wage differentials (such as the ones used by New York and Oregon), using a Cost-of-Living Index, or using a propriety measure of cost differences (e.g., one offered

by an economic analysis service such as Chmura's JobsEQ database). Similarly to defining the size of regions, the working group noted a tradeoff between specificity and implementation complexity.

Additionally, the working group surfaced a number of additional topics that would merit consideration during the legislative process:

- Timelines for implementation and/or wage increases,
- Impact of regional variations on employers with multiple locations,
- Impact of a regional minimum wage on public transit,
- Changes in commuting patterns by workers due to a regional wage,
- Method for determining wage increases, if any,
- Method of enforcement or monitoring compliance, and
- Distinguishing between or providing exemptions to regional enforcement based on employer characteristics (e.g., gross sales, number of employees, industry, etc.).

This does not represent a complete list of factors policymakers should consider if implementing a regional minimum wage; the working group acknowledges that there may be other items not listed here or outside the scope of their analysis.

# APPENDICES

List of appendices enclosed with this report:

Appendix A: Chapter 1204 and 1242 Legislative Text, 2020 Acts of Assembly

Appendix B: Working Group

Appendix B1: Working Group Participants

Appendix B2: Meeting Schedule

Appendix B3: Facilitated Discussion Agenda

Appendix C: Stakeholder Outreach Materials

Appendix C1: Sample Prompt Provided

Appendix C2: Responses from Stakeholders

Appendix D: Data Source Comparison Table

Appendix E: Regional Maps

Appendix E1: Map of GO Virginia Economic Development Regions

Appendix E2: Map of Planning District Commission Regions

Appendix E3: Map of Virginia's Localities

Appendix F: Table of New York State's Regional Minimum Wage Rates

Appendix G: Table of Oregon State's Regional Minimum Wage Rates

Appendix H: Comparison of Employment and Other Outcomes (CBO v. VEC Comparison)

Appendix I: OEWS Model Methodology

## APPENDIX A: Chapter 1204 and 1242 Legislative Text, 2020 Acts of Assembly

### CHAPTER 1204/1242

An Act to amend and reenact §§ [40.1-28.9](#) and [40.1-28.10](#) of the Code of Virginia, relating to the minimum wage. [H 395]

Be it enacted by the General Assembly of Virginia:

**1. That §§ [40.1-28.9](#) and [40.1-28.10](#) of the Code of Virginia are amended and reenacted as follows:**

**§ [40.1-28.9](#).** Definitions.

A. As used in this article:

"Adjusted state hourly minimum wage" means the amount established by the Commissioner pursuant to subsection H of § [40.1-28.10](#).

"Employee" includes any individual employed by an employer, ~~except the following.~~ "Employee" includes a home care provider. "Employee" does not include the following:

- ~~1.~~ Any person employed as a farm laborer or farm employee;
- ~~2.~~ Any person employed in domestic service or in or about a private home or in an eleemosynary institution primarily supported by public funds;
- ~~3.~~ 2. Any person engaged in the activities of an educational, charitable, religious, or nonprofit organization where the relationship of employer-employee does not, in fact, exist, or where the services rendered to such ~~organizations~~ organization are on a voluntary basis;
- ~~4.~~ 3. Caddies on golf courses;
- ~~5.~~ 4. Traveling salesmen or outside salesmen working on a commission basis; taxicab drivers and operators;
- ~~6.~~ 5. Any person under the age of 18 in the employ of his ~~father, mother~~ parent or legal guardian;
- ~~7.~~ 6. Any person confined in any penal or corrective institution of the ~~State Commonwealth~~ or any of its political subdivisions or admitted to a state hospital or training center operated by the Department of Behavioral Health and Developmental Services;
- ~~8.~~ 7. Any person employed by a summer camp for boys, girls, or both boys and girls;
- ~~9.~~ 8. Any person under the age of 16, regardless of by whom employed;
- ~~10.~~ Any person who normally works and is paid based on the amount of work done;
- ~~11.~~ 9. Any person whose employment is covered by ~~who is paid pursuant to 29 U.S.C. § 214(c) of the Fair Labor Standards Act of 1938, as amended;~~
- ~~12.~~ Any person whose earning capacity is impaired by physical deficiency, mental illness, or intellectual disability;
- ~~13.~~ 10. Students participating in a bona fide educational program;
- ~~14.~~ Any person employed by an employer who does not have four or more persons employed at any one time; provided that husbands, wives, sons, daughters and parents of the employer shall not be counted in determining the number of persons employed;



~~15-11.~~ Any person who is less than 18 years of age and who is currently enrolled on a full-time basis in any secondary school, institution of higher education, or trade school, provided *that* the person is not employed more than 20 hours per week;

~~16-12.~~ Any person of any age who is currently enrolled on a full-time basis in any secondary school, institution of higher education, or trade school and is in a work-study program or its equivalent at the institution at which he ~~or she~~ is enrolled as a student;

~~17.~~ Any person who is less than 18 years of age and who is under the jurisdiction and direction of a juvenile and domestic relations district court; or

~~18-13.~~ Any person who works as a babysitter for fewer than 10 hours per week;

14. Any person participating as an au pair in the U.S. Department of State's Exchange Visitor Program governed by 22 C.F.R. § 62.31;

15. Any individual employed as a temporary foreign worker as governed by 20 C.F.R. Part 655; and

16. Any person who is exempt from the federal minimum wage pursuant to 29 U.S.C. § 213(a)(3).

"Employer" includes any individual, partnership, association, corporation, or business trust, or any person or ~~groups~~ group of persons acting directly or indirectly in the interest of an employer in relation to an employee. "Employer" includes the Commonwealth, any of its agencies, institutions, or political subdivisions, and any public body.

"Federal minimum wage" means the minimum wage or, if applicable, the federal training wage prescribed by the U.S. Fair Labor Standards Act, 29 U.S.C. § 201 et seq.

"Home care provider" means an individual who provides (i) home health services, including services provided by or under the direct supervision of any health care professional under a medical plan of care in a patient's residence on a visit or hourly basis to patients who have or are at risk of injury, illness, or a disabling condition and require short-term or long-term interventions, or (ii) personal care services, including assistance in personal care to include activities of a daily living provided in an individual's residence on a visit or hourly basis to individuals who have or are at risk of an illness, injury, or disabling condition.

"Tipped employee" means an employee engaged in an occupation in which he customarily and regularly receives more than \$30 per month in tips.

"Wages" means legal tender of the United States or checks or drafts on banks negotiable into cash on demand or upon acceptance at full value; ~~provided, wages may include.~~ "Wages" includes the reasonable cost to the employer of furnishing meals and ~~for~~ lodging to an employee, if such board or lodging is customarily furnished by the employer, and used by the employee.

B. In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, except in the case of an employee who establishes by clear and convincing evidence that the actual amount of tips received by him was less than the amount determined by the employer. In such case, the amount paid such employee by his employer shall be deemed to have been increased by such lesser amount. *An employer shall not classify an individual as a tipped employee if the individual is prohibited by applicable federal or state law or regulation from soliciting tips.*

§ ~~40.1-28.10~~. Minimum wages.

~~Every~~A. 1. Prior to May 1, 2021, every employer shall pay to each of ~~his~~ its employees wages at a rate not less than the federal minimum wage ~~and a training wage as prescribed by the U.S. Fair Labor Standards Act (29 U.S.C. § 201 et seq.)~~.

2. Beginning May 1, 2021, every employer shall pay to each of his employees at a rate not less than the federal minimum wage or 75 percent of the Virginia minimum wage provided for in this section, whichever is greater. For the purposes of this subdivision "employee" means any person or individual who is enrolled in an established employer on-the-job or other training program for a period not to exceed 90 days which meets standards set by regulations adopted by the Commissioner.

B. From May 1, 2021, until January 1, 2022, every employer shall pay to each of its employees wages at a rate not less than the greater of (i) \$9.50 per hour or (ii) the federal minimum wage.

C. From January 1, 2022, until January 1, 2023, every employer shall pay to each of its employees wages at a rate not less than the greater of (i) \$11.00 per hour or (ii) the federal minimum wage.

D. From January 1, 2023, until January 1, 2025, every employer shall pay to each of its employees wages at a rate not less than the greater of (i) \$12.00 per hour or (ii) the federal minimum wage.

E. From January 1, 2025, until January 1, 2026, every employer shall pay to each of its employees wages at a rate not less than the greater of (i) \$13.50 per hour or (ii) the federal minimum wage.

F. From January 1, 2026, until January 1, 2027, every employer shall pay to each of its employees wages at a rate not less than the greater of (i) \$15.00 per hour or (ii) the federal minimum wage.

G. From and after January 1, 2027, every employer shall pay to each of his employees wages at a rate not less than the greater of (i) the adjusted state hourly minimum wage or (ii) the federal minimum wage.

H. By October 1, 2026, and annually thereafter, the Commissioner shall establish the adjusted state hourly minimum wage that shall be in effect during the 12-month period commencing on the following January 1. The Commissioner shall set the adjusted state hourly minimum wage at the sum of (i) the amount of the state hourly minimum wage rate that is in effect on the date such adjustment is made and (ii) a percentage of the amount described in clause (i) that is equal to the percentage by which the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or a successor index as calculated by the U.S. Department of Labor, has increased during the most recent calendar year for which such information is available. The amount of each annual adjustment shall not be less than zero.

2. 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. In evaluating a regional minimum wage, the agencies shall form a work group to assess various factors, including, but not limited to, the cost of living in the Commonwealth; the potential impact on employers and any fringe benefits offered to employees such as employer-sponsored health insurance; the potential impact on workers, with a focus on income inequality; the potential impact on agricultural workers; the experience of other states with a regional wage; and the equity and fairness of the exemption from the minimum wage for any person employed as a farm laborer or farm employee provided by § [40.1-28.10](#) of the Code of Virginia. The agencies also shall provide an assessment of options for utilizing a minimum wage in the Commonwealth, the feasibility of a regional minimum wage, and the economic benefits or impacts of utilizing a minimum wage. The agencies shall also assess the effects of the minimum wage increases scheduled in § [40.1-28.10](#) of the Code of Virginia, as amended by this act. The agencies shall submit to the General Assembly and the Governor an executive summary and a report of their findings and recommendations. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents no later than December 1, 2023, and shall be posted on the General Assembly's website.

3. That the provisions of subsections E and F of § [40.1-28.10](#) of the Code of Virginia, as amended by this act, shall not become effective unless reenacted by a regular or special session of the General Assembly prior to July 1, 2024. If the General Assembly does not reenact subsections E and F by July 1, 2024, then (i) the Commissioner of Labor and Industry shall establish the adjusted state hourly minimum wage as provided in subsection H by October 1, 2024, and annually thereafter; and (ii) from and after January 1, 2025, every employer shall pay to each of his employees wages as specified in subsections G.

## **APPENDIX B1: Work Group Participants**

### **Virginia Employment Commission**

Carrie Roth, Commissioner\*

Timothy Aylor, Senior Economist

Cynthia Webb, Agriculture and Foreign Labor Certification Program Manager

### **Virginia Economic Development Partnership Authority**

Nicole Riley, Senior Vice President of Policy and Strategic Partnerships

Stephen Hartka, Vice President, Research

Landon Webber, Managing Director, Research & Analytics

Lauren Akers, Senior Economic Research Analyst

Lindsay Akers, Director of Government Relations\*

### **Virginia Department of Housing and Community Development**

Todd Weinstein, Deputy Director

Trisha L. Lindsey, Policy and Legislative Director\*

Sara Dunnigan, Deputy Director, GO Virginia and Economic Development

Kyle Flanders, Policy and Legislative Manager

Grace Wheaton, Senior Policy Analyst

\* Denotes change in position during workgroup study.

## **APPENDIX B2: Meeting Schedule**

Members of the working group met on the following dates. In addition, members met in subgroups on an ad hoc basis to discuss report details, data, and findings and recommendations. Of these meetings, one was a facilitated, in person discussion that was hosted at DHCD offices in downtown Richmond.

### **Meeting Dates:**

December 19<sup>th</sup>, 2022

March 3<sup>rd</sup>, 2023

March 31<sup>st</sup>, 2023

May 26<sup>th</sup>, 2023

June 12<sup>th</sup>, 2023

August 11<sup>th</sup>, 2023

September 22<sup>nd</sup>, 2023

October 13<sup>th</sup>, 2023.

## **APPENDIX B3: Facilitated Discussion Agenda**

**Minimum Wage Workgroup  
Friday, August 11th, 11:00 – 2:00 p.m.**

### **Workgroup Meeting Agenda**

#### **i. Opening:**

#### **ii. Update of Workgroup's Progress:**

- a. Review of Study Timeline
- b. Presentation of Research Findings

#### **iii. Facilitated Discussion**

##### c. Discussion Questions

- 1) What are the advantages or disadvantages of a regional minimum wage?
- 2) Is there a compelling case for or against a regional minimum wage?
- 3) If Virginia was to implement a regional minimum wage, what considerations would the state need to take into account? Please consider, among other items, the size of potential regions, potential methods for differentiating minimum wages, and different timelines for implementation and/or increases.
  - Regions: PDCs/GOVA regions/NOVA v. ROVA
  - \$ differentials: flat difference, COLI index
  - timing of implementation
- 4) What are the economic impacts of Virginia's current minimum wage law, including the current and planned increases as set out in [Chapter 1204](#)?
- 5) Are there other considerations related to the study or the workgroup's efforts?

#### **iv. Next Steps**

## APPENDIX C 1: Stakeholder Outreach Prompts

\* Stakeholders were notified via email of the working groups interest in their feedback regarding the minimum wage, the impact of a regional minimum wage, and the impact of Virginia’s scheduled increases in the minimum wage. The contacted stakeholders received a month to complete these prompts, with instructions provided in the initial contact.\*

- 1) How prevalent are minimum wage-earning positions in Virginia’s local governments? Please describe the general characteristics of these positions and their occupants (e.g., job titles, occupations, industries, worker demographics, etc.).
- 2) How would a regional minimum wage as proposed in [Chapter 1204, 2020 Acts of Assembly](#), (Second Enactment Clause) affect local governments? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing or utilizing a regional minimum wage?
- 3) How will the minimum wage increases as set forth in [§ 40.1-28.10 Code of Virginia](#) impact local governments? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing the proposed increases of the minimum wage?

## APPENDIX C 2: Stakeholder Outreach Responses:

The workgroup reached out to several organizations based their assessment of their role and understanding of Virginia’s minimum wage economy, or the role they represent to businesses, workers, or other stakeholders more broadly.

The following organizations provided feedback to the working group. Selected responses are included in this Appendix.

### Organization

VA Chambers of Commerce

Virginia Restaurant, Lodging & Travel Association (VRLTA)

Virginia Retail Federation

Virginia Agribusiness Council

Virginia Hospital and Healthcare Association (VHHA)

AFL-CIO Virginia Chapter

Department of Labor and Industry

Virginia Association of Counties

Virginia Municipal League

## Virginia Chamber Response to Chapter 1204 Minimum Wage Study

*1) How prevalent are minimum wage-earning positions in your members' businesses? Please describe the general characteristics of these positions and their occupants (e.g., job titles, occupations, industries, worker demographics, etc.).*

With more than 29,000 members, the Virginia Chamber is the leading non-partisan business advocacy organization in the Commonwealth. As such, member businesses can be found across all regions of Virginia and in all industries. More broadly, the Virginia Chamber also seeks to be the voice for all business in Virginia as overall economic well-being depends on successful businesses. As it would be impossible to survey every employer in Virginia for their thoughts on the minimum wage, we believe it important to provide a perspective that, to the greatest extent possible, reflects the general impact on the business community.

The characteristics of minimum wage workers are well documented. These workers tend to be younger; 44% of those paid the federal minimum wage or less in 2021 were under age 25. Minimum wage-earning positions may be found in all industries, but these positions are especially common in leisure, hospitality, and retail. Importantly, many of these businesses are small businesses which are generally more sensitive to cost increases than larger businesses with greater resources. In Virginia, over 90% of businesses have 50 employees or fewer, and nearly 80% of all businesses in Virginia have fewer than 10 employees. Many of these small businesses, especially those in service industries, are likely to have minimum wage-earning employees.

*2) How would a regional minimum wage as proposed in [Chapter 1204, 2020 Acts of Assembly](#), (Second Enactment Clause) affect your members? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing or utilizing a regional minimum wage?*

A regional minimum wage as proposed would negatively impact Virginia businesses. The first consideration to be discussed regarding a regional minimum wage is the impact to businesses operating in multiple regions of the state, however defined, or statewide. While this would certainly impact large businesses with offices or locations across the Commonwealth, a regional minimum wage would also burden smaller businesses that do business in multiple regions. No matter how regions are defined, there will be businesses that are caught in two or more regions. These businesses necessarily face a compliance burden, which may be difficult to overcome. For the sake of simplicity, stability, and fairness, the Virginia Chamber prefers a single statewide minimum wage to an indeterminate number of regional minimum wages.

*3) How will the minimum wage increases as set forth in [§ 40.1-28.10 Code of Virginia](#) impact your members? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing the proposed increases of the minimum wage?*

The minimum wage increases set forth in § 40.1-28.10 Code of Virginia would negatively impact Virginia businesses. At \$12 per hour, Virginia's current minimum is among the highest in the country—only 16 other states plus the District of Columbia have a minimum

wage equivalent to or higher than Virginia's, and these states are concentrated in the Northeast, the Upper Midwest, and on the West Coast. In other words, these states are generally not competing with Virginia for businesses or jobs. Key competitor states for Virginia, such as North Carolina, South Carolina, and Georgia, do not have a state minimum wage higher than the federal minimum wage. Among neighboring states, only Maryland, at \$13.25 per hour, has a higher minimum wage than Virginia.

This reality is not without economic consequences for the Commonwealth. Between February 2020 and June 2023, Virginia saw the lowest growth in nonfarm employment among competitor states at 2.8%. Competitor states outperformed Virginia during this period, with nonfarm employment rising by 7.1% in North Carolina, 6.3% in South Carolina, 5.7% in Florida, and 5.5% in Georgia. These states, excepting Florida, likewise experienced more employment growth in the leisure and hospitality industry than Virginia during this period. Virginia experienced 7.2% growth in this industry between February 2020 and June 2023, compared to 10.4% employment growth in North Carolina, 11.7% in South Carolina, and 8.5% in Georgia. Among all states and the District of Columbia, Virginia ranked 32<sup>nd</sup> for cumulative change in total nonfarm employment between February 2020 and June 2023.

These trends are similar when comparing the performance of all states with a minimum wage equal to or higher than Virginia's to states with lower minimum wages. Between February 2020 and June 2023, states with a minimum wage of \$12 per hour or higher experienced 2.0% cumulative growth in total nonfarm employment and 2.9% cumulative growth in total private employment, while states with minimum wages less than \$12 per hour saw cumulative growth in these categories of 4.9% and 6.4%, respectively.

Likewise, states with minimum wages at or above \$12 per hour saw lower cumulative growth of average weekly wages compared to other states. Between February 2020 and June 2023, states with a \$12 per hour or higher minimum wage experienced 11.8% cumulative growth in average weekly wages, while states below \$12 per hour experienced 14.7% cumulative growth in average weekly wages. This data is critical, as it provides compelling evidence that higher minimum wages do not translate into higher average wages for workers. This should be an important consideration for the Commonwealth as well, as growth in wages corresponds directly to growth in income tax revenue.

Because labor costs are the single greatest cost of doing business, increases to the minimum wage are generally followed by the loss of jobs. Congressional Budget Office analysis of attempts to raise the federal minimum wage consistently finds that increasing the federal minimum wage would lead to the loss of more than a million jobs—exact changes are difficult to forecast, and longer phase-in periods lessen this impact. Crucially, however, the jobs most likely to be lost are those paying at or near the minimum wage. As noted in the response to question one, these employees are generally younger and less experienced compared to others, and job loss at an early career stage deprives an employee of experience and may impede career development. Such an outcome does not advantage businesses, consumers, workers, or society at large.



## Chapter 1204 – Stakeholder Outreach Questions

- 1) *How prevalent are minimum wage-earning positions in Virginia? Please describe the general characteristics of these positions and their occupants (e.g., job titles, occupations, industries, worker demographics, etc.).*

Hospitals rely on a significant number of minimum-wage earning positions to support operations. Hospital job categories earning at or slightly above current minimum wage rates (between \$12 and \$15/hour) include Patient Access Representatives (registration), Receptionists, PBX Operators, Admin Assistants, HIM-chart processors, Couriers, Inventory Techs, Monitor Techs, Screeners, Lab Registration, Patient Safety Attendants, Environmental Services/Housekeeping, Nutritional Services/Dietary Aides, Nursing/Telemetry Unit Techs, Material Management/Distribution Clerks, Certified Nurse Assistants, Pharmacy Techs, Nurse Interns (I, II, and III), Transporters, Resource Techs, Medical Assistants, ED Techs, Guest Services, Scribes, Healthcare Administrative Associates, Graduate LPNs, Behavioral Health Techs, Patient Experience Liaisons, and Medical Records/Unit Secretaries, based on a July 2023 survey of VHHA members.

- 2) *How would a regional minimum wage, as proposed in Chapter 1204, 2020 Acts of Assembly, (Second Enactment Clause), affect Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing or utilizing a regional minimum wage?*

Given the high reliance on entry-level and/or minimum wage-earning positions, regional minimum wages have the potential to impact Virginia's hospitals disproportionately to other industries. Virginia hospitals are already facing lingering financial hardships due to increased labor and supply costs since the COVID-19 pandemic. Ongoing workforce shortages were further exacerbated by the pandemic. Adjustments to the minimum wage will further impact costs for hospitals, with some being more affected than others.

Discussions around options, feasibility, and economic benefits of a regional minimum wage should include:

- The specific factors relevant to the hospital industry and how they relate to the varying costs of living.
- The level of education and training available significantly influences the skills possessed by the workforce, which, in turn, affects wage considerations.
- Region-specific wages for employees working at least two hours within a specific area could pose challenges in accurately managing regional compensation.
- Using staffing hours and the existing average minimum wage in the region as a baseline for potential adjustments when implementing such mandates.
- The geographical diversity within Virginia introduces complexities when determining a regional minimum wage. The state encompasses differing labor and living expenses, making it challenging to set a uniform regional wage. Rural areas, for instance, face unique challenges where increased costs for goods and services could strain the local community's ability to cope. This could potentially impact the financial sustainability of businesses and healthcare services in these regions.
- Formulating regional wage benchmarks necessitates a comprehensive analysis encompassing various factors: prevailing market rates, distinct economic conditions within each region (including inflation consequences and talent pool availability), living expenses (housing, childcare, food, utilities, and other essentials), ongoing workforce development programs, and

the poverty level in the surrounding region. Incorporating the existing average minimum wage in the region as a starting point for possible adjustments is essential.

Should a regional minimum wage be adopted, gradual implementation is advisable. This approach provides employers, particularly those operating across multiple states and regions, with the necessary time to effectively manage changes to payroll costs.

3) *How will the minimum wage increases as set forth in § 40.1-28.10 Code of Virginia impact Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing the proposed increases in the minimum wage?*

The potential impact of the minimum wage increases, as outlined in § 40.1-28.10 of the Code of Virginia on the state of Virginia, warrants careful consideration. Increases in the minimum wage will result in some wage compression impacting roles earning slightly above minimum wage that requires additional skills, certifications, or licenses. Many of these positions in the hospitals are already in high demand and facing shortages and will require adjustments to remain competitive within the market. This will have the negative impact of further increasing labor costs beyond the minimum wage-earning positions and result in higher overall costs of care experienced by families and businesses.

An alternative approach would be to tie wage adjustments to revenue growth. This would help ensure that businesses can sustain the cost of wage increases, preventing any detrimental impact. For hospitals relying on a significant number of low-income workers, an ineffective regional wage would potentially lead to job losses. Offsetting increased costs due to a regional minimum wage through Medicare and Medicaid funding is another avenue to explore.

It's important to recognize that while the goal is to ensure fair wages, the economic implications of implementing these proposed increases require a balanced approach that considers both the welfare of workers and the broader economic landscape of the state.

August 11, 2023

Virginia Department of Housing and Community Development  
c/o Grace Wheaton  
600 E Main St  
Ste 300  
Richmond, VA 23219

Dear Ms. Wheaton,

Thank you for the opportunity to provide answers to these questions as the Department seeks to complete its required work of studying the impacts of the possible implementation of a regional minimum wage. VRLTA hopes that our feedback will prove helpful in your efforts.

**1. How prevalent are minimum wage-earning positions in Virginia? Please describe the general characteristics of these positions and their occupants (e.g., job titles, occupations, industries, worker demographics, etc.).**

In the question of how prevalent minimum wage-earning positions are in Virginia, we must differentiate between the tipped minimum wage and the general minimum wage.

In the sense of the tipped minimum wage, these positions are extremely prevalent in the restaurant industry, comprising the bulk of front-of-house serving staff. Though these positions are paid according to the “tipped wage credit,” against the general minimum wage, most workers in these positions are vastly out-earning that standard. Nationally, wait staff at full-service restaurants earn a median of \$27.00 an hour, with an upper quartile of \$41.50 and a lower quartile of \$19.00, according to the National Restaurant Association.

In the sense of the generalized federal minimum wage, doubtless there are openings and jobs in the hotel and restaurant industries which are advertised at that level. Our members report, however, that to attract candidates the market is forcing those rates higher across the board. Even at rates as high as \$18/hr, some northern Virginia hotelier members report high attrition rates in hotel housekeeping positions at the training stage. According to the American Hotel and Lodging Association, in 2022, Virginia’s hotels paid out \$1,706,796,363 in direct wages to employees, and supported jobs and industries that were responsible for paying out \$9,074,055,545 as measured by Oxford Economics.

VRLTA opposes any change to the minimum wage beyond the changes made in 2020 as part of SB7, and further oppose any change in the minimum wage that does not also correspond dollar for dollar with an increase in the tipped wage credit. We also oppose the establishment of any regional minimum wage system.

**2. How would a regional minimum wage as proposed in Chapter 1204, 2020 Acts of Assembly, (Second Enactment Clause) affect Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing or utilizing a regional minimum wage?**

A regional minimum wage would be destructive to both the restaurant and the hotel lodging industries in Virginia. Restaurants in particular already operate with minimal profit margins in the face of escalating food and labor prices, as well as newly-empowered localities examining and implementing meals taxes without the added accountability of a popular referendum. This trend of rising costs is prevalent statewide, but most pronounced in the areas of Virginia which would necessitate the greatest minimum wage increases under a regional minimum wage as laid out in SB7/HB395. This will result either in the closure of many restaurant businesses, which cannot keep up with the rising costs, or negative impacts in other areas of cost like employee benefits.

These industries have already been pressured by the conditions of the labor market into offering wages that exceed minimum wage in order to fully staff their facilities. Further, the creation of a patchwork of different regional standards would create an administrative burden on large or even medium sized businesses in these industries which operate in more than one defined region to comply with.

**3. How will the minimum wage increases as set forth in § 40.1-28.10 Code of Virginia impact Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing the proposed increases of the minimum wage?**

The minimum wage increases that are set forth in 40.1-28.10 of the Code of Virginia will inevitably affect all of the restaurant, travel, and hotel lodging industries. How severe that impact will be remains to be seen. Workforce and hiring issues, as mentioned earlier in these comments, have already forced operators in these industries to offer wages that exceed the minimums laid out in the Code. This is at a time of particular strain on these industries from a labor standpoint, with labor participation in the US still recovering from the economic impact of the COVID-19 pandemic.

Thank you again for the opportunity to provide these comments, which we hope will prove useful in your work. If you have any questions regarding these comments, please do not hesitate to reach out to me at [Tommy@vrlta.org](mailto:Tommy@vrlta.org) or by phone at 804-761-3235.

Sincerely,

Tommy Herbert  
Director of Government Affairs

Eric Terry  
President and CEO



**COMMONWEALTH of VIRGINIA**  
**DEPARTMENT OF LABOR AND INDUSTRY**

**Gary G. Pan**  
COMMISSIONER

Main Street Centre  
600 East Main Street, Suite 207  
Richmond, Virginia 23219  
PHONE (804) 371-2327  
FAX (804) 371-6524

August 14, 2023

Grace Wheaton  
Senior Policy Analyst  
DHCD  
600 East Main Street, Suite 300  
Richmond, Virginia 23219

Dear Ms. Wheaton,

Below are the responses to the workgroup's questions. The only area that was within our ambit was the minimum wage enforcement question. If you have any questions about our response, I would be happy to discuss it with you. My number is 804-786-4777. I am going to be retiring soon and only available intermittently in September, so a call in August would be best. If you have questions after that you may reach out to Princy Doss, Director of the Office of Policy, Planning and Public Information. Her number is 804-786-4300.

Sincerely,

Robert Feild  
Hearing and Legal Services Officer  
Office of Policy, Planning and Public Information  
Department of Labor and Industry  
804-786-4777

**Chapter 1204 – Stakeholder Outreach Questions**

1) How prevalent are minimum wage-earning positions in Virginia? Please describe the general characteristics of these positions and their occupants (e.g., job titles, occupations, industries, worker demographics, etc.).

Answer: This question can best be answered from a state government perspective by the VEC and their Labor Market Information (LMI) system. Any information we would have in this area would be derived from information provided to us by LMI.

2) How would a regional minimum wage as proposed in Chapter 1204, 2020 Acts of Assembly, (Second Enactment Clause) affect Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing or utilizing a regional minimum wage?

Answer: The only input that the Department of Labor and Industry (DOLI) has on this question is from an enforcement perspective. Any broader answers would require policy input beyond DOLI's authority.

DOLI's Labor and Employment Law Division generally enforces its laws based on where the work is performed. For some occupations, such as truck drivers or other workers who travel, other factors are considered: the location of the employer and where the employment agreement was entered. In enforcement of a regional minimum wage, consideration of the location of the work will be even more critical. If an employee is hired by an employer to work at minimum wage in a lower wage region and directed to work shifts in a nearby higher wage region, would the employer be required to pay the higher minimum wages for the hours worked in that region? Similarly, if a delivery driver based in the lower wage region hired at the minimum wage for that region makes most of his deliveries into the higher wage region, would the driver be compensated at the higher rate for the hours worked in the higher wage region? The obverse is also a question. Would a delivery driver hired at minimum wage in the higher wage region be paid the lower rate for deliveries outside his region. A similar situation exists for the more numerous construction trade employees. Electrician and HVAC helpers are likely to be paid at or near the minimum wage. One day, the crew with the helpers may be working at a construction site in one wage region and the next day at a site in a higher wage region. On the third day they may split time between the two regions. How will we determine the proper pay for the helpers in those crews?

For enforcement purposes, the Labor and Employment Law Division will need to know where and how the proper minimum wage will attach for the employee's work performed. Will one rate apply based on the employer's location regardless of where the work is performed. Will split rates be allowed for work across regions? Will the rate be applied for where the employee was hired originally regardless of location in the state where the work is done? Clear direction in the statute will be needed for an effective enforcement of the minimum wage law.

3) How will the minimum wage increases as set forth in § 40.1-28.10 Code of Virginia impact Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing the proposed increases of the minimum wage?

Answer: These are policy considerations beyond the scope of DOLI's authority.

## Chapter 1204 – Stakeholder Outreach Questions

1) How prevalent are minimum wage-earning positions in Virginia? Please describe the general characteristics of these positions and their occupants (e.g., job titles, occupations, industries, worker demographics, etc.).

The Virginia Agribusiness Council is likely not the best resource for this information; however, we would like to just note that while certain agriculture and farmworker positions are exempt from Virginia's minimum wage law, these roles are still covered by the federal Fair Labor Standards Act.

2) How would a regional minimum wage as proposed in Chapter 1204, 2020 Acts of Assembly, (Second Enactment Clause) affect Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing or utilizing a regional minimum wage?

For the agriculture industry, one of the most impactful ways a regional minimum wage could affect employers is through the federal guestworker programs and the Adverse Effect Wage Rate (AEWR) that employers must pay for H2 program foreign guestworkers. One concern the industry would have is that the highest regional minimum wage rate would be applied to the entire state by the U.S. Department of Labor to calculate the AEWR, which would not be reflective of the employment conditions in most of the rural regions of Virginia.

3) How will the minimum wage increases as set forth in § 40.1-28.10 Code of Virginia impact Virginia? What considerations need to be discussed regarding the options, feasibility, and economic benefits or impacts of implementing the proposed increases of the minimum wage?

Although certain agriculture and farmworker positions are exempt from Virginia's minimum wage law, the entire food and fiber supply chain will likely be affected by minimum wage increases.

## Appendix D: Data Source Comparison Table

Category	Data Source			
	<a href="#">BLS Occupational Employment and Wage Statistics (OEWS)</a>	<a href="#">LEHD Origin-Destination Employment Statistics (LODES)</a>	<a href="#">EPI's "State of Working America" Data Library - Wage Data</a>	<a href="#">Oxfam Minimum Wage Model</a>
<b>Purpose</b>	Provides employment and wage estimates annually for approximately 830 occupations	Provides information on the "geographic patterns of jobs by their employment locations and residential locations as well as the connections between the two locations."	Part of the EPI's "State of Working America" data library. The minimum wage data is how the EPI measures wages, hours, and compensation using a variety of government data sources.	Model is built specifically to estimate how a universal minimum wage increase impacting both tipped and nontipped workers would change wages in the 50 US states, the District of Columbia, and Puerto Rico. Provides estimates for the number of workers who earn and would be impacted by minimum wage increases.
<b>Data Type</b>	Establishment Survey data	Synthesis of Administrative Data, Household Survey, and Establishment Survey Data.	Household Survey Data	Household Survey Data
<b>Frequency</b>	Updated annually	Updated annually	Updated monthly	Updated annually
<b>Recency</b>	2022 (May)	2020 (Second quarter reference)	2023	2022 (2021 data recency, predicted into 2022)
<b>Geographic Data</b>	Nation, State, MSA	Nation, State, MSA, County, Census Block	Nation, State	Nation, State
<b>Demographic Data</b>	None	Sex, age, race, ethnicity, education attainment	Sex, age, race, ethnicity, education attainment, household characteristics, veteran status, citizenship	Sex, race, ethnicity, family status, age
<b>Employment Data</b>	Employment by detailed occupation	Industry of worker; characteristics of employing firm (size, sector, age)	Worker employment status, sector, occupation, industry	None
<b>Income Data</b>	Annual mean wages; 10th, 25th, 50th (median), 75th, and 90th percentile wages	Annual earnings: <\$1,250 per month, \$1,250 - \$3,333 per month, and >\$3,330 per month.	Hourly wages/income, annual income, with/without tips, overtime, commission, etc.	Hourly wages - those making less than 15\$ per hour.



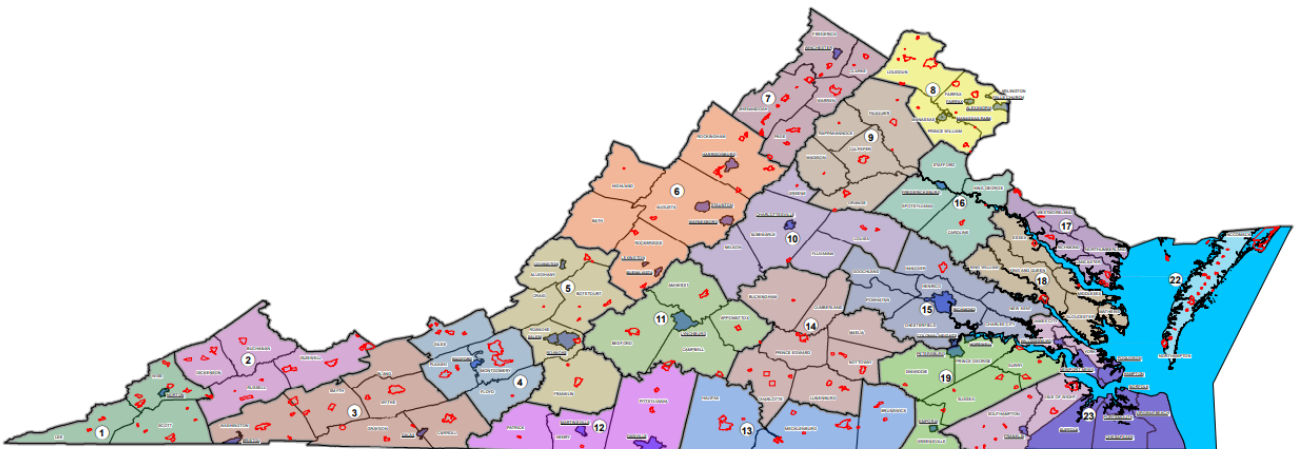
<p><b>Methodology</b></p>	<p>Semiannual survey of establishments nationwide. Estimates are made by combining six panels (stratified by geography, industry, size, and ownership) of survey data collected over a 3-year period from establishments listed in state UI files.</p>	<p>Synthesis of UI wage records, OPM personnel data, Quarterly Census for Employment and Wages (QCEW) data, and US Census data to create a web-based application demonstrating where individuals live and work, and the basic characteristics of these factors.</p>	<p>Synthesis of multiple CPS sources, primarily the Current Population Survey Outgoing Rotation Group (CPS ORG). Certain EPI data variables include data imputations for top coding, hours variation, outlier removal to improve data quality.</p>	<p>Data sourced from 5-year Census American Community Survey (ACS-PUMS), and Current Population Survey (CPS-ORG) as formatted and made available by CEPR. Uses a combination of data modeled by the EPI from ACS data and also modeling for CPS data to predict hourly wages of workers, and then provide adjustments for wage mismeasurement, time changes, and macroeconomic factors.</p>
<p><b>Data Coverage</b></p>	<p>Includes UI covered full- and part-time wage and salary workers in nonfarm industries. Excludes self-employed workers, owners and partners in unincorporated firms, household workers, and unpaid family workers.</p>	<p>Includes UI covered private employment, and public employment (federal, state and local levels), for workers who were employed with positive earnings during the reference quarter as well as in the quarter prior to the reference quarter.</p>	<p>Includes all wage and salary workers with valid wage and hour data, whether paid weekly or by the hour within CPS ORG sampling procedures. Excludes self-employed workers, those younger than 16, and those who did not have valid data.</p>	<p>Includes all wage and salary workers with valid wage and hour data, whether paid weekly or by the hour within ACS and CPS sampling procedures. Excludes workers from CPS ORG who worked 13 weeks or fewer.</p>
<p><b>Definition of "Income"</b></p>	<p><b>Wage</b> = Straight-time, gross pay, exclusive of premium pay. Base rate; cost-of-living allowances; guaranteed pay; hazardous-duty pay; incentive pay, including commissions and production bonuses; and tips are included. Excluded are overtime pay, severance pay, shift differentials, nonproduction bonuses, employer cost for supplementary benefits, and tuition reimbursements.</p>	<p><b>Earnings</b> = Total income people receive for work performed as an employee; self employment as a business, professional enterprise, or partnership; and self employed farm income during the income year. Includes before tax wages, salary, armed forces pay, commissions, tips, piece-rate payments, and cash bonuses earned. It does not include government transfers, interest/dividends, and other forms of financial assistance.</p>	<p><b>Wage</b> = All wage and salary workers with valid wage and hour data, whether paid weekly or by the hour. Excludes overtime, tips, or commissions (OTTC) unless wageotc variable is selected. Includes data quality improvements.</p>	<p><b>Wages</b> = Calculated from self-reported income, number of weeks worked, and expected hours per week.</p>

## APPENDIX E: Regional Maps

### Virginia GO Virginia Regions



### Virginia Planning District Commission Regions



**Appendix F: Table of New York State’s Regional Minimum Wage Rates**

<b>Minimum Wage Increase Schedule for New York State – By Region, Employer Size and Industry</b>										
<b>Location</b>	<b>Year In Effect*</b>									
	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024^</b>	<b>2025^</b>	<b>2026^</b>
New York City – Large Employers	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$16.0	\$16.50	\$17.00
New York City – Small Employers	\$10.50	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00	\$15.00	\$16.00	\$16.50	\$17.00
New York City – Fast Food Workers***	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$16.00	\$16.50	\$17.00
New York – Suburbs	\$10.00	\$11.00	\$12.00	\$13.00	\$14.00	\$15.00	\$15.00	\$16.00	\$16.50	\$17.00
New York Suburbs Fast Food Workers	\$10.75	\$11.75	\$12.75	\$13.75	\$14.50	\$15.00	\$15.00	\$16.00	\$16.50	\$17.00
Rest of New York	\$9.70	\$10.40	\$11.10	\$11.80	\$12.50	\$13.20	14.20**	\$15.00	\$15.50	\$16.00

\* All wage increases take place on December 31<sup>st</sup> of the previous year; for example, the wage increases that take effect in 2018 occur on December 31<sup>st</sup>, 2017.

\*\* Increases for the rest of New York are based on state’s nominal labor productivity (inflation plus real productivity), based on the recommendation of the state’s budget office ([NYS Division of Budget, pg 1](#)).

\*\*\*“Fast Food Workers” are defined as “any person working at a Fast Food Establishment” and who’s duties include at least one of the following “customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance.”(NYS DOL [Fast Food Worker FAQ](#))

^Increases for 2024 and beyond are based on NYS’s FY24 Enacted Budget, signed into law on May 12<sup>th</sup>, 2023. Please refer to Article VII, Education Labor and Family Assistance, Part S [for legislative text](#). Beginning in 2027, wages will be indexed to inflation.

**Appendix G: Table of Oregon’s Regional Minimum Wage Rates**

<b>Minimum Wage Increase Schedule for Oregon, by Region</b>										
<b>Location</b>	<b>Year In Effect*</b>									
	<b>Jan 1, 2016</b>	<b>Jul 1, 2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024^</b>
Standard	\$11.00	\$13.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$16.0	\$16.50	\$17.00
Portland Metro**	\$10.50	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00	\$15.00	\$16.00	\$16.50	\$17.00
Nonurban Counties***	\$12.00	\$13.50	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$16.00	\$16.50	\$17.00

\* All [wage increases](#) take place on July 1<sup>st</sup> of that year; for example, the wage increases that take effect in 2017 occur on July 1<sup>st</sup>, 2017.

\*\*The wage for the Portland Metro area will always be \$1.25 over the standard minimum wage.

\*\*\* The wage for the Nonurban Counties will always be \$1 less than the standard minimum wage.

^Increases for 2024 and beyond are based on the increase, if any, from March of the prior year to March of the current year in the Consumer Price Index - U.S. City Average for All Urban Consumers for All Items prepared by the Bureau of Labor Statistics. Any such increase will be rounded to the nearest five cents and implemented on July 1<sup>st</sup> of that year.

## APPENDIX H: CBO ANALYSIS

The work group is aware that some recent research findings may be useful in understanding likely impacts from minimum wage increases. As such, the work group utilized data from the Virginia Employment Commission and the Congressional Budget Office (CBO) to perform a speculative comparison of what a predicted impact of a minimum wage would be and the actual observed outcomes in the state. The following contains that analysis and the work groups comparisons.

In July of 2019, the CBO released a study regarding the effects of employment and family income after increasing the federal minimum wage.<sup>77</sup> The CBO examined how increasing the federal minimum wage would affect employment and family income. To do so, researchers focused on three minimum wage points in comparison to the federal mandated minimum wage of \$7.25 per hour: \$10 per hour, \$12 per hour, and \$15 per hour. The reported concluded that "The \$15 option would affect family income in a variety of ways. In CBO's estimation, it would boost workers' earnings through higher wages, though some of those higher earnings would be offset by higher rates of joblessness. According to CBO's median estimate, under the \$15 option, 1.3 million workers nationwide who would otherwise be employed would be jobless in an average week in 2025.

The CBO next examined a hypothetical increase to \$12 per hour. The report noted "The \$12 option would have smaller effects. In an average week in 2025, it would increase wages for 5 million workers who would otherwise earn less than \$12 per hour. Another 6 million workers otherwise earning slightly more than \$12 per hour might see their wages rise as well. But the option would cause 0.3 million other workers to be jobless. There is a two-thirds chance that the change in employment would be between about zero and a decrease of 0.8 million workers. The number of people with annual income below the poverty threshold in 2025 would fall by 0.4 million."

Finally, the CBO examined a hypothetical increase to \$10 per hour. The report asserted "The \$10 option would have still smaller effects. It would raise wages for 1.5 million workers who would otherwise earn less than \$10 per hour. Another 2 million workers who would otherwise earn slightly more than \$10 per hour might see their wages rise as well. The option would have little effect on employment in an average week in 2025. There is a two thirds chance that the change in employment would be between about zero and a decrease of 0.1 million workers. This option would have negligible effects on the number of people in poverty."

The Virginia Employment Commission (VEC) produces, analyzes, and publishes much of the labor market information that is relied upon to better understand Virginia's economy and labor markets. Such information may be a valuable resource when analyzing the impacts of recent minimum wage increases in the Commonwealth. How do recent VEC labor market information trends compare with the CBO report projections?

As the CBO study projected regarding a hypothetical \$12 minimum wage increase, those implemented in Virginia since 2020 coincided with significant hourly wage increases. This was especially true regarding the leisure and hospitality sector. During the three years after reopening began, private sector hourly wages rose seven and a half percent from May 2020 to May 2023. However, Leisure and Hospitality—

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<sup>77</sup> Congressional Budget Office, [The Effects on Employment and Family Income of Increasing the Federal Minimum Wage](#), July 2019.

the sector with the highest concentration of minimum wage workers—rose twenty percent over that period.<sup>78</sup> This divergence of trends is recent and differs from pre-Pandemic long-term trends.

While there appears to be a correlation, isolating the level of influence that the minimum wage increases had on the sharp rise in Leisure and Hospitality wages is difficult because of the distortions in labor markets and inflation-driven pressure on wages present nationwide during the Pandemic and post-Pandemic periods of the last three years.<sup>79</sup>

Contrary to the CBO's projected unemployment increases resulting from a hypothetical minimum wage hike, there is little evidence to indicate that recent increases in the minimum wage have spurred unemployment in Virginia. An important measure of unemployment is claims for unemployment insurance. While continued and initial claims trends starkly showed the Pandemic's impact on employment, they don't indicate negative impacts on employment resulting from recent increases in the minimum wage. Three years ago, during the May 16, 2020 filing week—and at the height of pandemic shutdowns—continued claims peaked at just over 400,000. But from the third quarter of 2020 onward, Virginia continued claims totals steadily trended downward as filers found jobs, left the labor force, or exhausted benefits. During the September 9, 2023 filing week, continued claims totaled 13,027.<sup>80</sup> Also at a very low level, the number of initial claims numbered 2,118 during that filing week and remained at levels typically seen before the Pandemic and before the implemented minimum wage increases. Another important measure of Virginia unemployment is the unemployment rate<sup>[2]</sup> and it, like unemployment insurance claims, indicates little negative impact on employment from the instituted increases in the minimum wage.<sup>81</sup> Virginia's seasonally adjusted unemployment rate in August 2023 was 2.5 percent, which was 0.3 of a percentage point below the rate from August 2022.<sup>82</sup> Ordinarily, such a trend might indicate an economic slowdown, but the increase came off near historic lows in that measure and remained below what many consider full employment. It also remained below the national rate, which increased to 3.8 percent.

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<sup>78</sup> Bureau of Labor Statistics, U.S. Department of Labor, Current Employment Statistics, [State and Metro Area Employment, Hours, & Earnings](#), 2023.

<sup>79</sup> Bureau of Labor Statistics, U.S. Department of Labor, [Commissioner's Corner; More Ways to Look at Wages and Inflation](#), 2023.

<sup>80</sup> Virginia Employment Commission, ["Virginia's Unemployment Insurance Weekly Claims for Week Ending September 9 2023"](#), 2023.

<sup>81</sup> The unemployment rate represents the number of unemployed people as a percentage of the labor force and measures the share of workers who do not currently have a job but are actively looking for work.

<sup>82</sup> Virginia Employment Commission, [Virginia's August Unemployment Rate and Labor Force Participation Rate Hold Steady, Employment Increases by 7,348 to 4,488,510](#), September 2023.

## APPENDIX I: OEWS Model Methodology

As noted in the body of the report, the work group relied on data from the BLS’s Virginia Occupational Employment and Wage Statistics data series and used it as the basis for preliminary modeling of the impacts of increasing the state’s minimum wage. The OEWS provides employment and wage estimates annually for approximately 830 occupations, making it the most detailed wage and occupation data source used by the workgroup. This enabled the work group to gain insight into detailed occupation data and draw connections between certain occupations and their typical wage level.

However, there were two caveats to this source. First, the OEWS does not provide any demographic data on the workers in these occupations – so while the data enables for the workgroup to state the wages of an occupation, it cannot use the data to say if the individuals in that occupation are disproportionately one gender v. another, younger v. older, less educated, etc.

Secondly, the OEWS only provides wage data by quintiles (10%, 25%, median, 75%, and 90% percentile) rather than continuous measure. For example, the OEWS will report the 10<sup>th</sup> percentile wage for an occupation, which is the dollar value of wages at which 10% of workers are paid less and 90% of workers are paid more for a given occupation.

As such, the OEWS occupational wage data is ill-suited to describe wage trends over time or demographic characteristics of workers. However, it can be used to describe what occupations pay, and by extension, provide estimates of the number of individuals in specific occupation impacted by a given increase in the minimum wage.

With this awareness, the work group established a method to approximate the number of individuals per occupation who would be impacted by increases to a minimum wage rate to \$12 per hour and \$15 per hour. First, the work group extracted the wage data available for the ~830 occupations reported in Virginia for 2021. As displayed in Figure XX demonstrating a hypothetical data extract, the OEWS data included the wage rate for the 10<sup>th</sup>, 25<sup>th</sup>, median, 75<sup>th</sup>, and 90<sup>th</sup> percentile, and the total employment for each occupation. For example, in Occupation 1 listed in Figure XX, 10% of workers in Occupation 1 earn less than \$8 per hour, while 25% earn less than \$10 per hour, and so on. The median wage – the wage at which half of the workers earn more, while the other half earn less, is \$12 per hour.

Occupations	10%	25%	Median	75%	90%	Employment	Impacted Employment
Occupation 1	\$8	\$10	\$12	\$14	\$17	100	>10%, <25%
Occupation 2	\$9	\$9.25	\$13	\$15	\$18	200	>25%, <50%
Occupation 3	\$13	\$14	\$16	\$22	\$25	80	No Impact

Then the work group took the corresponding minimum wage level for Virginia - \$9.50 per hour, \$11 per hour, \$12.0 per hour, and \$15 per hour – and compared it to the wages reported to see what percentile that minimum wage rate would include. For example, if using the \$9.50 per hour threshold, that minimum wage rate was estimated as the midpoint between the 10% and the 25% percentiles for Occupation 1. As such, the work group can conclude that at least 10% of workers in Occupation 1 earn less than \$9.50 per hour, but no more than 25% do for that reporting year.

Finally, the work group estimated the percentage of workers between the selected percentiles and used it to calculate the number of workers who were paid less than that given minimum wage threshold. The following thresholds were used:

Wage threshold lower than 10<sup>th</sup> percentile wage level: 0%

Wage threshold between 10<sup>th</sup> and 25<sup>th</sup> percentile wage level: 16%

Wage threshold between 25<sup>th</sup> and median wage level: 37%

Wage threshold between median and 75<sup>th</sup> percentile wage level: 62%

Wage threshold between 75<sup>th</sup> and 90<sup>th</sup> percentile wage: 87%

Wage threshold greater than 90<sup>th</sup> percentile wage: 95%

Those percentages were multiplied by the total employment per each occupation; so for Occupation 1, the work group estimated that 16% of 100 total workers for that occupation, or 16 workers, would be impacted by an increase to a \$9.50 per hour minimum wage. This process was repeated for all 830 SOC codes.

The model has limitations. First, the model cannot differentiate the size of the wage increase a worker might receive, as significant increases to wages (such as in the case of a cashier going from \$7.25 to \$9.50 per hour) are counted the same as small increases (such as the case of a customer service representative going from \$10.95 to \$11.00 per hour). The model only describes those generally falling under an hourly wage level, and not by how much they fall under it. Furthermore, it does not factor in differing treatment of occupations, like exemptions, under minimum wage law.

However, the work group believes these estimates and the estimation method are reasonable. The work group deliberately chose conservative percentage thresholds (e.g., under 10% rounded to zero), thus likely understating the number of workers who would receive wage increases from the increase to the minimum wage threshold in higher paying occupations not usually associated with paying the minimum wage. Furthermore, the estimates were uniformly done across geographies and occupations. Thus, while the precise levels of workers impacted may vary, the relative impacts are likely constant. In short, the resulting estimates are informative, seem reasonable, and assisted the work group in triangulating impacts of a minimum wage increase in an otherwise sparse data environment.





