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SENATE BILL NO. 501

Offered January 10, 2024

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A BILL to amend and reenact §§ 23.1-701, 23.1-704, 23.1-706, 58.1-322.03, as it is currently effective and as it may become effective, 58.1-344.3, and 58.1-402 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-702.1 and by adding in Title 23.1 a chapter numbered 7.1, consisting of sections numbered 23.1-714 through 23.1-717, relating to Virginia College Savings Plan; Virginia College Opportunity Endowment and Fund.

Patron—Surovell

Referred to Committee on Higher Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-701, 23.1-704, 23.1-706, 58.1-322.03, as it is currently effective and as it may become effective, 58.1-344.3, and 58.1-402 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-702.1 and by adding in Title 23.1 a chapter numbered 7.1, consisting of sections numbered 23.1-714 through 23.1-717, as follows:

§ 23.1-701. Plan established; moneys; governing board.

A. To enhance the accessibility and affordability of higher education for all citizens of the Commonwealth, and assist families and individuals to save for qualified disability expenses, the Virginia College Savings Plan is established as a body politic and corporate and an independent agency of the Commonwealth.

B. Moneys of the Plan that are contributions to savings trust accounts made pursuant to this chapter, except as otherwise authorized or provided in this chapter, shall be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. The savings program moneys in such accounts shall be paid out on checks, drafts payable on demand, electronic wire transfers, or other means authorized by officers or employees of the Plan.

C. 1. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts, bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any other available public or private sources of funds shall be first deposited in the state treasury in a special nonreverting fund (the Fund). Such moneys shall then be deposited as soon as practicable in a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Benefits relating to prepaid tuition contracts and Plan operating expenses shall be paid from the Fund. ~~Any~~ Except as provided in subdivision 2, moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in the Fund and be credited to it.

2. Within 45 days after the actuarial valuation performed in accordance with §§ 23.1-706 and 23.1-710 for each fiscal year is finalized, but by no later than November 30 of the subsequent fiscal year, the board shall deposit \$250 million from the Fund into the Virginia College Opportunity Fund established by § 23.1-717. Deposits shall be made each year until a total of \$1.25 billion has been deposited into the Fund. However, the board shall not make a full \$250 million deposit into the Fund in any year in which the College Opportunity Investment Advisory Committee established by § 23.1-702.1 determines that (i) the funded status, as defined in § 23.1-707.1, of the Plan does not meet or exceed 105 percent; (ii) such deposit would violate the standard of care specified in § 23.1-706; (iii) such deposit would result in there being insufficient funds to ensure the actuarial soundness of the Plan; or (iv) such deposit would jeopardize the Plan's ability to meet any obligation incurred under the provisions of this chapter. In the event that a full \$250 million deposit cannot be made in any year, the College Opportunity Investment Advisory Committee shall determine an amount for deposit that would not violate the restrictions of clauses (i) through (iv), and the board shall deposit such amount into the Fund.

D. The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition contract benefits and, in connection with such system, open and maintain a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Such independent disbursement system and any related

59 procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall
 60 be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the
 61 Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.

62 E. The Plan shall be administered by an 11-member board that consists of (i) the director of the Council or
 63 his designee, the Chancellor of the Virginia Community College System or his designee, the State Treasurer
 64 or his designee, and the State Comptroller or his designee, all of whom shall serve ex officio with voting
 65 privileges, and (ii) seven nonlegislative citizen members, four of whom shall be appointed by the Governor,
 66 one of whom shall be appointed by the Senate Committee on Rules, two of whom shall be appointed by the
 67 Speaker of the House of Delegates, and all of whom shall have significant experience in finance, accounting,
 68 law, investment management, higher education, or disability advocacy. In addition, at least one of the
 69 nonlegislative citizen members shall have expertise in the management and administration of private defined
 70 contribution retirement plans.

71 F. Members appointed to the board shall serve terms of four years. Vacancies occurring other than by
 72 expiration of a term shall be filled for the unexpired term. No member appointed to the board shall serve
 73 more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is
 74 eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

75 G. Ex officio members of the board shall serve terms coincident with their terms of office.

76 H. Members of the board shall receive no compensation but shall be reimbursed for actual expenses
 77 incurred in the performance of their duties.

78 I. The board shall elect from its membership a chairman and a vice-chairman annually.

79 J. A majority of the members of the board shall constitute a quorum.

80 **§ 23.1-702.1. Advisory committees to the board; membership; terms; qualifications; duties.**

81 A. In addition to the advisory committees described in § 23.1-702, the board shall establish a *College*
 82 *Opportunity Investment Advisory Committee* to assist the board in fulfilling its fiduciary duty as trustee of the
 83 *funds of the Plan*.

84 B. *The Committee shall consist of five members as follows: the investment director of the Virginia College*
 85 *Savings Plan, the State Treasurer, the staff directors of the House Committee on Appropriations and the*
 86 *Senate Committee on Finance and Appropriations, and one nonlegislative citizen member who has*
 87 *investment or actuarial expertise, to be appointed by the Governor.*

88 C. *The nonlegislative citizen member of the Committee shall serve a term of four years and shall not be*
 89 *eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A*
 90 *person appointed to fill a vacancy may be appointed to serve two additional terms. The nonlegislative citizen*
 91 *member shall be a citizen of the Commonwealth.*

92 D. *The Committee shall make determinations in accordance with subdivision C 2 of § 23.1-701 as to*
 93 *whether and in what amount deposits to the Virginia College Opportunity Fund shall be made. The*
 94 *recommendation of the Committee shall be binding on the board.*

95 E. *The Committee shall elect a chairman and vice-chairman from among its membership. A majority of*
 96 *the members shall constitute a quorum.*

97 F. *Members of the Committee shall receive no compensation but shall be reimbursed for actual expenses*
 98 *incurred in the performance of their duties.*

99 **§ 23.1-704. Powers and duties of the board.**

100 The board shall:

101 1. Administer the Plan established by this chapter;

102 2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in § 23.1-
 103 700, at a fixed, guaranteed level for application at a public institution of higher education; (ii) contributions to
 104 college savings trust accounts established pursuant to this chapter on behalf of a qualified beneficiary in order
 105 to apply distributions from the account toward qualified higher education expenses, as that term is defined in
 106 § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law; and (iii)
 107 contributions to ABLE savings trust accounts established pursuant to this chapter on behalf of a qualified
 108 beneficiary in order to apply distributions from the account toward qualified disability expenses for an
 109 eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as
 110 amended, or other applicable federal law;

111 3. Invest moneys in the Plan *and in the Virginia College Opportunity Fund* in any instruments,
 112 obligations, securities, or property deemed appropriate by the board;

113 4. Develop requirements, procedures, and guidelines regarding prepaid tuition contracts and savings trust
 114 accounts, including residency and other eligibility requirements; the number of participants in the Plan; the
 115 termination, withdrawal, or transfer of payments under a prepaid tuition contract or savings trust account;
 116 time limitations for the use of tuition benefits or savings trust account distributions; and payment schedules;

117 5. Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting
 118 services and contracts with other states to provide savings trust accounts for residents of contracting states;

119 6. Procure insurance as determined appropriate by the board (i) against any loss in connection with the

120 Plan's property, assets, or activities and (ii) indemnifying board members from personal loss or accountability
 121 from liability arising from any action or inaction as a board member;

122 7. Make arrangements with public institutions of higher education to fulfill obligations under prepaid
 123 tuition contracts and apply college savings trust account distributions, including (i) payment from the Plan of
 124 the appropriate amount of tuition on behalf of a qualified beneficiary of a prepaid tuition contract to the
 125 institution to which the beneficiary is admitted and at which the beneficiary is enrolled and (ii) application of
 126 such benefits toward graduate-level tuition and toward qualified higher education expenses, as that term is
 127 defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as
 128 amended, as determined by the board in its sole discretion;

129 8. Develop and implement scholarship or matching grant programs, or both, as the board may deem
 130 appropriate, to further its goal of making higher education more affordable and accessible to all citizens of
 131 the Commonwealth;

132 9. Apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to
 133 carry out its objectives;

134 10. Adopt regulations and procedures and perform any act or function consistent with the purposes of this
 135 chapter; ~~and~~

136 11. Reimburse, at its option, all or part of the cost of employing legal counsel and such other costs as are
 137 demonstrated to have been reasonably necessary for the defense of any board member, officer, or employee
 138 of the Plan upon the acquittal, dismissal of charges, nolle prosequi, or any other final disposition concluding
 139 the innocence of such member, officer, or employee who is brought before any regulatory body, summoned
 140 before any grand jury, investigated by any law-enforcement agency, arrested, indicted, or otherwise
 141 prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties that
 142 alleges a violation of state or federal securities laws. The board shall provide for the payment of such legal
 143 fees and expenses out of funds appropriated or otherwise available to the board; *and*

144 12. *Assist the Virginia College Opportunity Endowment in the administration of the program, as defined*
 145 *in § 23.1-714, and manage the assets of the Virginia College Opportunity Fund, as specified in the provisions*
 146 *of Chapter 7.1 (§ 23.1-714 et seq.).*

147 **§ 23.1-706. Standard of care; investment and administration of the Plan.**

148 A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the
 149 benefit of the Plan, the board, and any person, investment manager, or committee to whom the board
 150 delegates any of its investment authority, shall act as trustee and shall exercise the judgment of care under the
 151 circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the
 152 management of their own affairs, not in regard to speculation but to the permanent disposition of funds,
 153 considering the probable income and the probable safety of their capital.

154 If the annual accounting and audit required by § 23.1-710 reveal that there are insufficient funds to ensure
 155 the actuarial soundness of the Plan, the board may adjust the terms of subsequent prepaid tuition contracts,
 156 arrange refunds for current purchasers to ensure actuarial soundness, or take such other action the board
 157 deems appropriate.

158 B. ~~The~~ *Except as provided in subdivision C 2 of § 23.1-701*, assets of the Plan shall be preserved,
 159 invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or
 160 otherwise transferred or used by the Commonwealth for any other purpose. Within the standard of care set
 161 forth in subsection A, the board and any person, investment manager, or committee to whom the board
 162 delegates any of its investment authority, may acquire and retain any kind of property and any kind of
 163 investment, including (i) debentures and other corporate obligations of foreign or domestic corporations; (ii)
 164 common or preferred stocks traded on foreign or domestic stock exchanges; (iii) not less than all of the stock
 165 or 100 percent ownership of a corporation or other entity organized by the board under the laws of the
 166 Commonwealth for the purposes of acquiring and retaining real property that the board may acquire and
 167 retain under this chapter; and (iv) securities of any open-end or closed-end management type investment
 168 company or investment trust registered under the federal Investment Company Act of 1940, as amended,
 169 including investment companies or investment trusts that, in turn, invest in the securities of such investment
 170 companies or investment trusts that persons of prudence, discretion, and intelligence acquire or retain for
 171 their own account. The board may retain property properly acquired without time limitation and without
 172 regard to its suitability for original purchase.

173 All provisions of this subsection shall also apply to the portion of the Plan assets attributable to savings
 174 trust account contributions and the earnings on such contributions.

175 C. The selection of services relating to the operation and administration of the Plan, including contracts or
 176 agreements for the management, purchase, or sale of authorized investments or actuarial, recordkeeping, or
 177 consulting services, are governed by the standard of care set forth in subsection A and are not subject to the
 178 provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

179 D. No board member or person, investment manager, or committee to whom the board delegates any of its
 180 investment authority who acts in accordance with the standard of care set forth in subsection A shall be held

181 personally liable for losses suffered by the Plan on investments made pursuant to this chapter.

182 E. To the extent necessary to lawfully administer the Plan and in order to comply with federal, state, and
 183 local tax reporting requirements, the Plan may obtain all necessary social security account or tax
 184 identification numbers and such other data as the Plan deems necessary for such purposes, whether from a
 185 contributor, a purchaser, or another state agency.

186 F. This section shall not be construed to prohibit the Plan's investment, by purchase or otherwise, in
 187 bonds, notes, or other obligations of the Commonwealth or its agencies and instrumentalities.

188 *CHAPTER 7.1.*

189 *VIRGINIA COLLEGE OPPORTUNITY ENDOWMENT.*

190 **§ 23.1-714. Definitions.**

191 *As used in this chapter, unless the context requires a different meaning:*

192 *"Board" means the governing board of the Endowment.*

193 *"Eligible university" means Christopher Newport University, George Mason University, James Madison*
 194 *University, Longwood University, the University of Mary Washington, Norfolk State University, Old*
 195 *Dominion University, Radford University, the University of Virginia's College at Wise as a division of the*
 196 *University of Virginia, Virginia Commonwealth University, Virginia Military Institute, and Virginia State*
 197 *University.*

198 *"Endowment" means the Virginia College Opportunity Endowment.*

199 *"Fund" means the Virginia College Opportunity Fund.*

200 *"Income" means income from investment of deposits to the Fund pursuant to subdivision C 2 of § 23.1-*
 201 *701.*

202 *"Plan" means the Virginia College Savings Plan.*

203 *"Program" means the scholarship program established by the Endowment under the provisions of this*
 204 *chapter.*

205 **§ 23.1-715. Endowment established; governing board.**

206 *A. The Virginia College Opportunity Endowment is established as an agency of the Commonwealth.*

207 *B. The Endowment shall be administered by a 12-member board, and each eligible university shall have*
 208 *one representative on the board. Members shall be appointed by the Governor, subject to confirmation by the*
 209 *General Assembly, for terms of four years. If a vacancy occurs other than by expiration of a term, the*
 210 *Governor shall appoint a member who shall serve on a temporary basis until the next legislative session and*
 211 *who shall then be subject to confirmation by the General Assembly.*

212 *C. No member appointed to the board shall serve more than two consecutive four-year terms; however, a*
 213 *member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms*
 214 *immediately succeeding such unexpired term.*

215 *D. The board shall elect from its membership a chair and a vice-chair annually.*

216 *E. A majority of the members of the board shall constitute a quorum.*

217 *F. Members of the board shall receive no compensation but shall be reimbursed for actual expenses*
 218 *incurred in the performance of their duties.*

219 **§ 23.1-716. Powers and duties; scholarship program; report.**

220 *A. The Endowment shall establish a program to provide scholarships to students at eligible universities.*
 221 *The Endowment shall, in consultation with the governing board of the Plan, develop policies and guidelines*
 222 *necessary to implement and administer the scholarship program, including policies and guidelines regarding*
 223 *student eligibility, application procedures, criteria for selecting student applicants for scholarships,*
 224 *scholarship amounts, requirements for students to maintain their scholarships, the terms of income-based*
 225 *repayment plans for students required to reimburse the Endowment, and any other requirements deemed*
 226 *necessary for the administration of the program. Scholarships awarded by the Endowment may be for full or*
 227 *partial tuition and may also cover, in whole or in part, the costs of fees and room and board, on terms and*
 228 *conditions determined by the Endowment.*

229 *B. The program shall provide scholarships only to a student who:*

230 *1. Enrolls, or plans to enroll, at an eligible university. A student who receives a scholarship pursuant to*
 231 *this section shall lose eligibility for such scholarship if he enrolls at an institution of higher education that is*
 232 *not an eligible university.*

233 *2. Meets the eligibility requirements for a Federal Pell Grant, as determined by the U.S. Secretary of*
 234 *Education pursuant to the provisions of 20 U.S.C. § 1070a.*

235 *3. a. Commits, as a condition of receiving a scholarship, to remaining employed or enrolled in*
 236 *postgraduate education in Virginia for at least eight years after graduating from the institution subsidized by*
 237 *the scholarship. For purposes of this subdivision, a student shall be considered employed in Virginia only if*
 238 *such person is employed in a full-time position and his compensation from such position is subject to taxation*
 239 *pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1.*

240 *b. Upon petition by the student, the Endowment may temporarily waive the requirements of subdivision a*
 241 *if the student demonstrates that (i) he is seeking employment in an industry or profession consistent with his*

242 field of study but has been unable to secure such employment, (ii) he is seeking enrollment in graduate school
 243 but his application is pending or he has been unable to gain admission to graduate school, (iii) he is not
 244 employed or not employed in a full-time position because he is disabled and unable to work, or (iv) he is not
 245 employed or not employed in a full-time position in order to care for his children or a disabled family
 246 member.

247 4. Meets any other requirements established by the Endowment pursuant to subsection A.

248 C. If a student breaches his commitment made under subdivision B 3, the Endowment shall require him to
 249 reimburse the Fund for all scholarship funds received pursuant to this section. Any such reimbursement shall
 250 be paid by the student in the form of an income-based repayment plan over a maximum of eight years, on
 251 such terms as may be prescribed by the Endowment pursuant to subsection A.

252 D. The program shall be funded only by income from investment of deposits to the Fund pursuant to
 253 subdivision C 2 of § 23.1-701. The Plan shall manage the assets of the Fund with the objective of creating
 254 income for the scholarship program and in accordance with the provisions of Chapter 7 (§ 23.1-700 et seq.),
 255 mutatis mutandis; however, the board shall have sole authority over the administration of the program and
 256 the disbursement of income in the form of scholarships.

257 E. The Endowment shall consult with each eligible university to determine its needs arising from its
 258 smaller endowment compared with other institutions of higher education that are not eligible universities.
 259 The Endowment shall coordinate the scholarship program to meet such needs.

260 F. The Plan shall provide staff support to the Endowment in its administration of this chapter.

261 G. The Endowment shall report annually to the General Assembly on its administration of this chapter.

262 **§ 23.1-717. Virginia College Opportunity Fund established.**

263 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
 264 College Opportunity Fund. The Fund shall be established on the books of the Comptroller. Any deposits to
 265 the Fund pursuant to subdivision C 2 of § 23.1-701, all funds appropriated to the Fund, and any gifts,
 266 donations, grants, bequests, and other funds received on its behalf shall be paid into the state treasury and
 267 credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it.
 268 Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert
 269 to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of
 270 providing scholarships pursuant to the provisions of this chapter. Expenditures and disbursements from the
 271 Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request
 272 signed by the chair of the board.

273 **§ 58.1-322.03. (For contingent expiration date, see Acts 2023, Sp. Sess. I, ch. 1, cl. 22) Virginia**
 274 **taxable income; deductions.**

275 In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia
 276 adjusted gross income as defined in § 58.1-321:

277 1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer
 278 has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of
 279 income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal
 280 return and increased by an amount that, when added to the amount deducted under § 170 of the Internal
 281 Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18
 282 cents per mile; or

283 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax
 284 return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for
 285 single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married
 286 individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019, but before
 287 January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in
 288 the case of a married individual filing a separate return); and (iii) for taxable years beginning on and after
 289 January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and \$16,000 for married persons
 290 (one-half of such amounts in the case of a married individual filing a separate return). For purposes of this
 291 section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may
 292 compute the deduction only with respect to earned income.

293 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal
 294 income tax purposes.

295 b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to
 296 an additional personal exemption in the amount of \$800.

297 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable
 298 regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

299 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is
 300 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services
 301 necessary for gainful employment.

302 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under

303 permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child
304 as a personal exemption under § 151 of the Internal Revenue Code.

305 5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

306 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the
307 age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted
308 gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers
309 filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal
310 adjusted gross income of both spouses exceeds \$75,000.

311 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted
312 gross income minus any benefits received under Title II of the Social Security Act and other benefits subject
313 to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

314 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow
315 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for
316 the payment of such fee on his federal income tax return.

317 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
318 during the taxable year for a prepaid tuition contract or college savings trust account entered into with the
319 Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in
320 subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to
321 \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant
322 to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal
323 income tax return. If the purchase price or annual contribution to a college savings trust account exceeds
324 \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price
325 or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in
326 no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust
327 account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction
328 taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are
329 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the
330 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes
331 of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the
332 Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of
333 a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
334 attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to,
335 carryover and recapture of deductions.

336 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has
337 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per
338 prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a
339 deduction for the full amount paid for the contract or contributed to a college savings trust account, less any
340 amounts previously deducted.

341 8. The total amount an individual actually contributed in funds to the Virginia Public School Construction
342 Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the
343 individual has not claimed a deduction for such amount on his federal income tax return.

344 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or
345 secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend
346 continuing teacher education courses that are required as a condition of employment; however, the deduction
347 provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition
348 costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal
349 income tax return.

350 10. The amount an individual pays annually in premiums for long-term health care insurance, provided
351 that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years
352 beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after
353 January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual
354 during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such
355 taxable year for long-term health care insurance premiums paid by him.

356 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as
357 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such
358 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

359 a. If the payment is received in installment payments, then the recognized gain may be subtracted in the
360 taxable year immediately following the year in which the installment payment is received.

361 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be
362 subtracted in the taxable year immediately following the year in which the single payment is received. The
363 taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

364 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et

365 seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible
 366 personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators
 367 that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental
 368 Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an
 369 electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has
 370 a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance
 371 of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that
 372 yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor
 373 of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner
 374 that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater
 375 that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-
 376 utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of
 377 85; and (x) programmable thermostats.

378 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue
 379 for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such
 380 donation, provided that the donor has not taken a medical deduction in accordance with the provisions of §
 381 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in
 382 which the donation is made or the taxable year in which the 12-month period expires.

383 14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older
 384 with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of
 385 \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the
 386 individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a
 387 deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income"
 388 means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be
 389 allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed
 390 a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision
 391 of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

392 15. Business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code:

393 a. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent of
 394 such disallowed business interest;

395 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2024, 30 percent of
 396 such disallowed business interest;

397 c. For taxable years beginning on and after January 2, 2024, 50 percent of such disallowed business
 398 interest.

399 For purposes of subdivision 15, "business interest" means the same as that term is defined under § 163(j)
 400 of the Internal Revenue Code.

401 16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal
 402 property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely
 403 on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal
 404 Revenue Code.

405 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not
 406 deductible when computing federal adjusted gross income solely on account of the portion of subdivision B
 407 10 of § 58.1-301 related to Paycheck Protection Program loans.

408 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser of
 409 \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of this
 410 subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable year in
 411 which the credit under this section is claimed served as a teacher licensed pursuant to Chapter 15 (§ 22.1-
 412 289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel, or student aide
 413 serving accredited public or private primary and secondary school students in Virginia, and "qualifying
 414 expenses" means 100 percent of the amount paid or incurred by an eligible educator during the taxable year
 415 for participation in professional development courses and the purchase of books, supplies, computer
 416 equipment (including related software and services), other educational and teaching equipment, and
 417 supplementary materials used directly in that individual's service to students as an eligible educator, provided
 418 that such purchases were neither reimbursed nor claimed as a deduction on the eligible educator's federal
 419 income tax return for such taxable year.

420 19. *For taxable years beginning on and after January 1, 2024, any amount donated to the Virginia*
 421 *College Opportunity Fund established under § 23.1-717.*

422 **§ 58.1-322.03. (For contingent effective date, see Acts 2023, Sp. Sess. I, ch. 1, cl. 22) Virginia taxable**
 423 **income; deductions.**

424 In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia
 425 adjusted gross income as defined in § 58.1-321:

426 1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer

427 has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of
428 income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal
429 return and increased by an amount that, when added to the amount deducted under § 170 of the Internal
430 Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18
431 cents per mile; or

432 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax
433 return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026, \$3,000 for
434 single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married
435 individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019, but before
436 January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in
437 the case of a married individual filing a separate return); (iii) for taxable years beginning on and after January
438 1, 2022, but before January 1, 2024, \$8,000 for single individuals and \$16,000 for married persons (one-half
439 of such amounts in the case of a married individual filing a separate return); and (iv) for taxable years
440 beginning on and after January 1, 2024, but before January 1, 2026, \$8,500 for single individuals and \$17,000
441 for married persons (one-half of such amounts in the case of a married individual filing a separate return). For
442 purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the
443 taxable year may compute the deduction only with respect to earned income.

444 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal
445 income tax purposes.

446 b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to
447 an additional personal exemption in the amount of \$800.

448 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable
449 regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

450 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is
451 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services
452 necessary for gainful employment.

453 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under
454 permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child
455 as a personal exemption under § 151 of the Internal Revenue Code.

456 5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

457 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the
458 age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted
459 gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers
460 filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal
461 adjusted gross income of both spouses exceeds \$75,000.

462 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted
463 gross income minus any benefits received under Title II of the Social Security Act and other benefits subject
464 to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

465 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow
466 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for
467 the payment of such fee on his federal income tax return.

468 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
469 during the taxable year for a prepaid tuition contract or college savings trust account entered into with the
470 Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in
471 subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to
472 \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant
473 to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal
474 income tax return. If the purchase price or annual contribution to a college savings trust account exceeds
475 \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price
476 or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in
477 no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust
478 account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction
479 taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are
480 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the
481 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes
482 of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the
483 Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of
484 a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
485 attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited
486 to, carryover and recapture of deductions.

487 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has

488 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per
489 prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a
490 deduction for the full amount paid for the contract or contributed to a college savings trust account, less any
491 amounts previously deducted.

492 8. The total amount an individual actually contributed in funds to the Virginia Public School Construction
493 Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the
494 individual has not claimed a deduction for such amount on his federal income tax return.

495 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or
496 secondary school teacher pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend
497 continuing teacher education courses that are required as a condition of employment; however, the deduction
498 provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition
499 costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal
500 income tax return.

501 10. The amount an individual pays annually in premiums for long-term health care insurance, provided
502 that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years
503 beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after
504 January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual
505 during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such
506 taxable year for long-term health care insurance premiums paid by him.

507 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as
508 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such
509 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

510 a. If the payment is received in installment payments, then the recognized gain may be subtracted in the
511 taxable year immediately following the year in which the installment payment is received.

512 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be
513 subtracted in the taxable year immediately following the year in which the single payment is received. The
514 taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

515 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et
516 seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible
517 personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators
518 that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental
519 Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an
520 electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has
521 a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance
522 of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that
523 yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor
524 of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner
525 that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater
526 that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-
527 utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of
528 85; and (x) programmable thermostats.

529 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue
530 for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such
531 donation, provided that the donor has not taken a medical deduction in accordance with the provisions of §
532 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in
533 which the donation is made or the taxable year in which the 12-month period expires.

534 14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older
535 with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of
536 \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the
537 individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a
538 deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income"
539 means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be
540 allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed
541 a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision
542 of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

543 15. Business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code:

544 a. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent of
545 such disallowed business interest;

546 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2024, 30 percent of
547 such disallowed business interest;

548 c. For taxable years beginning on and after January 2, 2024, 50 percent of such disallowed business

549 interest.

550 For purposes of subdivision 15, "business interest" means the same as that term is defined under § 163(j)
551 of the Internal Revenue Code.

552 16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal
553 property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted solely
554 on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the Internal
555 Revenue Code.

556 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not
557 deductible when computing federal adjusted gross income solely on account of the portion of subdivision B
558 10 of § 58.1-301 related to Paycheck Protection Program loans.

559 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser of
560 \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of this
561 subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable year in
562 which the credit under this section is claimed served as a teacher licensed pursuant to Chapter 15 (§ 22.1-
563 289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel, or student aide
564 serving accredited public or private primary and secondary school students in Virginia, and "qualifying
565 expenses" means 100 percent of the amount paid or incurred by an eligible educator during the taxable year
566 for participation in professional development courses and the purchase of books, supplies, computer
567 equipment (including related software and services), other educational and teaching equipment, and
568 supplementary materials used directly in that individual's service to students as an eligible educator, provided
569 that such purchases were neither reimbursed nor claimed as a deduction on the eligible educator's federal
570 income tax return for such taxable year.

571 19. For taxable years beginning on and after January 1, 2024, any amount donated to the Virginia
572 College Opportunity Fund established under § 23.1-717.

573 **§ 58.1-344.3. Voluntary contributions of refunds requirements.**

574 A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary
575 contributions of tax refunds listed in subsections B and C must have received at least \$10,000 in contributions
576 in each of the three previous taxable years for which there is complete data and in which such entity was
577 listed on the individual income tax return.

578 2. In the event that an entity listed in subsections B and C does not satisfy the requirement in subdivision
579 1, such entity shall no longer be listed on the individual income tax return.

580 3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B and C
581 added subsequent to the 2004 Session of the General Assembly shall not appear on the individual income tax
582 return until their addition to the individual income tax return results in a maximum of 25 contributions listed
583 on the return. Such contributions shall be added in the order that they are listed in subsections B and C.

584 b. Each entity added to the income tax return shall appear on the return for at least three consecutive
585 taxable years before the requirement in subdivision 1 is applied to such entity.

586 4. The Department of Taxation shall report annually by the first day of each General Assembly Regular
587 Session to the Chairmen of the House Committee on Finance and Senate Committee on Finance and
588 Appropriations the amounts collected for each entity listed under subsections B and C for the three most
589 recent taxable years for which there is complete data. Such report shall also identify the entities, if any, that
590 will be removed from the individual income tax return because they have failed the requirements in
591 subdivision 1, the entities that will remain on the individual income tax return, and the entities, if any, that
592 will be added to the individual income tax return.

593 B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions shall
594 appear on the individual income tax return and are eligible to receive tax refund contributions of not less than
595 \$1:

596 1. Nongame wildlife voluntary contribution.

597 a. All moneys contributed shall be used for the conservation and management of endangered species and
598 other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened wildlife,
599 aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks, crustaceans, and other
600 invertebrates under the jurisdiction of the Board of Wildlife Resources.

601 b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which shall
602 be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All moneys so
603 deposited in the Nongame Cash Fund shall be used by the Board of Wildlife Resources for the purposes set
604 forth herein.

605 2. Open space recreation and conservation voluntary contribution.

606 a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land
607 for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and
608 facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

609 b. All moneys shall be deposited into a special fund known as the Open Space Recreation and

610 Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation
 611 and Recreation for the purposes stated in subdivision 2 a and one-half to local public bodies pursuant to the
 612 Virginia Outdoor Fund Grants Program.

613 3. Voluntary contribution to political party.

614 All moneys contributed shall be paid to the State Central Committee of any party that meets the definition
 615 of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution
 616 allowable under this subdivision shall be \$25. In the case of a joint return of married individuals, each spouse
 617 may designate that the maximum contribution allowable be paid.

618 4. United States Olympic Committee voluntary contribution.

619 All moneys contributed shall be paid to the United States Olympic Committee.

620 5. Housing program voluntary contribution.

621 a. All moneys contributed shall be used by the Department of Housing and Community Development to
 622 provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide
 623 assistance to housing for the low-income elderly for the physically or mentally disabled.

624 b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing
 625 Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community
 626 Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax Check-
 627 off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust Fund
 628 established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing Development
 629 Authority.

630 6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

631 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the
 632 enhancement of transportation services for the elderly and disabled.

633 b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly
 634 and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and
 635 Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The
 636 Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received
 637 pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this
 638 subdivision annually to the Secretary of Health and Human Resources.

639 7. Voluntary contribution to the Community Policing Fund.

640 a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the
 641 purchase of equipment or the support of services, as approved by the Criminal Justice Services Board,
 642 relating to community policing.

643 b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys
 644 deposited in such fund shall be used by the Department of Criminal Justices Services for the purposes set
 645 forth herein.

646 8. Voluntary contribution to promote the arts.

647 All moneys contributed shall be used by the Virginia Commission for the Arts in its statutory
 648 responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund
 649 known as the Virginia Commission for the Arts Fund.

650 9. Voluntary contribution to the Historic Resources Fund.

651 All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to § 10.1-
 652 2202.1.

653 10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

654 All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public Policy. All
 655 moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

656 11. Voluntary contribution to the Center for Governmental Studies.

657 All moneys contributed shall be paid to the Center for Governmental Studies, a public service and
 658 research center of the University of Virginia. All moneys shall be deposited into a special fund known as the
 659 Governmental Studies Fund.

660 12. Voluntary contribution to the Law and Economics Center.

661 All moneys contributed shall be paid to the Law and Economics Center, a public service and research
 662 center of George Mason University. All moneys shall be deposited into a special fund known as the Law and
 663 Economics Fund.

664 13. Voluntary contribution to Children of America Finding Hope.

665 All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs
 666 which are designed to reach children with emotional and physical needs.

667 14. Voluntary contribution to 4-H Educational Centers.

668 All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth for
 669 their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The State
 670 Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.

671 15. Voluntary contribution to promote organ and tissue donation.

672 a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory
 673 responsibility of promoting and coordinating educational and informational activities as related to the organ,
 674 tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

675 b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and Public
 676 Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant Council for the
 677 purposes set forth herein.

678 16. Voluntary contributions to the Virginia War Memorial division of the Department of Veterans
 679 Services and the National D-Day Memorial Foundation.

680 All moneys contributed shall be used by the Virginia War Memorial division of the Department of
 681 Veterans Services and the National D-Day Memorial Foundation in their work through each of their
 682 respective memorials. The State Treasurer shall divide the moneys into two equal portions and pay one
 683 portion to the Virginia War Memorial division of the Department of Veterans Services and the other portion
 684 to the National D-Day Memorial Foundation.

685 17. Voluntary contribution to the Virginia Federation of Humane Societies.

686 All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its
 687 mission of saving, caring for, and finding homes for homeless animals.

688 18. Voluntary contribution to the Tuition Assistance Grant Fund.

689 a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing
 690 monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate
 691 programs in private Virginia colleges.

692 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund. All
 693 moneys so deposited in the Fund shall be administered by the State Council of Higher Education for Virginia
 694 in accordance with and for the purposes provided under the Tuition Assistance Grant Act (§ 23.1-628 et seq.).

695 19. Voluntary contribution to the Spay and Neuter Fund.

696 All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the
 697 Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or each
 698 locality may make the funds available to any private, nonprofit sterilization program for dogs and cats in such
 699 locality. The Tax Commissioner shall determine annually the total amounts designated on all returns from
 700 each locality in the Commonwealth, based upon the locality that each filer who makes a voluntary
 701 contribution to the Fund lists as his permanent address. The State Treasurer shall pay the appropriate amount
 702 to each respective locality.

703 20. Voluntary contribution to the Virginia Commission for the Arts.

704 All moneys contributed shall be paid to the Virginia Commission for the Arts.

705 21. Voluntary contribution for the Department of Emergency Management.

706 All moneys contributed shall be paid to the Department of Emergency Management.

707 22. Voluntary contribution for the cancer centers in the Commonwealth.

708 All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have been
 709 designated as cancer centers by the National Cancer Institute.

710 23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

711 a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program Fund to
 712 support the work of and generate nonstate funds to maintain the Brown v. Board of Education Scholarship
 713 Program.

714 b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as
 715 established in § 30-231.4.

716 c. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in
 717 accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

718 24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

719 All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living
 720 History and Public Policy Center.

721 25. Voluntary contribution to the Virginia Caregivers Grant Fund.

722 All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to §
 723 63.2-2202.

724 26. Voluntary contribution to public library foundations.

725 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax
 726 Commissioner shall determine annually the total amounts designated on all returns for each public library
 727 foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate
 728 amount to the respective public library foundation.

729 27. Voluntary contribution to Celebrating Special Children, Inc.

730 All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a
 731 special fund known as the Celebrating Special Children, Inc. Fund.

732 28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

733 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for

734 providing Medicare Part D counseling to the elderly and disabled.

735 b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All
736 moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide
737 counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and
738 Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and
739 shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and
740 Human Resources.

741 29. Voluntary contribution to community foundations.

742 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax
743 Commissioner shall determine annually the total amounts designated on all returns for each community
744 foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate
745 amount to the respective community foundation. A "community foundation" shall be defined as any
746 institution that meets the membership requirements for a community foundation established by the Council
747 on Foundations.

748 30. Voluntary contribution to the Virginia Foundation for Community College Education.

749 a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for
750 use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community
751 colleges in Virginia.

752 b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community
753 College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia
754 Foundation for Community College Education in accordance with and for the purposes provided under the
755 Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

756 31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

757 All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to
758 be used for the purposes described in § 15.2-6601.

759 32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

760 All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund
761 established pursuant to § 32.1-368.

762 33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.

763 All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its
764 mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire
765 commitment to preserve its existence.

766 34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

767 All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its mission
768 in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol
769 Square.

770 35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.

771 All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs for
772 related programs and services.

773 C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the
774 individual income tax return and are eligible to receive tax refund contributions or by making payment to the
775 Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of
776 such tax refund is less than the amount of the voluntary contribution:

777 1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.

778 All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.

779 2. Voluntary Chesapeake Bay restoration contribution.

780 a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration
781 activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2
782 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of
783 Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions
784 thereof.

785 b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall
786 report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be
787 administered by the Office of the Secretary of Natural and Historic Resources. All moneys so deposited shall
788 be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to
789 Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan
790 submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29,
791 2010, and any subsequent revisions thereof.

792 c. No later than November 1 of each year, the Secretary of Natural and Historic Resources shall submit a
793 report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on
794 Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate

795 Committee on Finance and Appropriations; and the Virginia delegation to the Chesapeake Bay Commission,
 796 describing the grants awarded from moneys deposited in the fund. The report shall include a list of grant
 797 recipients, a description of the purpose of each grant, the amount received by each grant recipient, and an
 798 assessment of activities or initiatives supported by each grant. The report shall be posted on a website
 799 maintained by the Secretary of Natural and Historic Resources, along with a cumulative listing of previous
 800 grant awards beginning with awards granted on or after July 1, 2014.

801 3. Voluntary Jamestown-Yorktown Foundation Contribution.

802 All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown 2007
 803 quadricentennial celebration. All moneys shall be deposited into a special fund known as the Jamestown
 804 Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before January 1,
 805 2008.

806 4. State forests voluntary contribution.

807 a. All moneys contributed shall be used for the development and implementation of conservation and
 808 education initiatives in the state forests system.

809 b. All moneys shall be deposited into a special fund known as the State Forests System Fund, established
 810 pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State Forester for the
 811 purposes set forth herein.

812 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

813 All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established pursuant to
 814 § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured medical catastrophes.

815 6. Voluntary contribution to local school divisions.

816 a. All moneys contributed shall be used by a specified local public school foundation as created by and for
 817 the purposes stated in § 22.1-212.2:2.

818 b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers
 819 designated for a local public school foundation over refundable amounts shall be deposited into the state
 820 treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each
 821 public school foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
 822 appropriate amount to the respective public school foundation.

823 c. In order for a public school foundation to be eligible to receive contributions under this section, school
 824 boards must notify the Department during the taxable year in which they want to participate prior to the
 825 deadlines and according to procedures established by the Tax Commissioner.

826 7. Voluntary contribution to Home Energy Assistance Fund.

827 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to § 63.2-
 828 805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy needs.

829 8. Voluntary contribution to the Virginia Military Family Relief Fund.

830 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in providing
 831 assistance to military service personnel on active duty and their families for living expenses including, but not
 832 limited to, food, housing, utilities, and medical services.

833 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief Fund,
 834 established and administered pursuant to § 44-102.2.

835 9. Voluntary contribution to the Federation of Virginia Food Banks.

836 All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State
 837 Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable make an
 838 equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area Food Bank,
 839 Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia and the Eastern
 840 Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

841 The Secretary of Finance may request records or receipts of all distributions by the Federation of Virginia
 842 Food Banks of such moneys contributed for purposes of ensuring compliance with the requirements of this
 843 subdivision.

844 10. *Voluntary contribution to the Virginia College Opportunity Fund established under § 23.1-717, which*
 845 *shall be deposited in such fund.*

846 D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected for
 847 each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner shall
 848 determine annually the total amount designated for each entity in subsections B and C on all individual
 849 income tax returns and shall report the same to the State Treasurer, who shall credit that amount to each
 850 entity's respective special fund.

851 **§ 58.1-402. Virginia taxable income.**

852 A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable
 853 income and any other income taxable to the corporation under federal law for such year of a corporation
 854 adjusted as provided in subsections B, C, D, E, G, and H.

855 For a regulated investment company and a real estate investment trust, such term means the "investment

856 company taxable income" and "real estate investment trust taxable income," respectively, to which shall be
 857 added in each case any amount of capital gains and any other income taxable to the corporation under federal
 858 law which shall be further adjusted as provided in subsections B, C, D, E, G, and H.

859 B. There shall be added to the extent excluded from federal taxable income:

860 1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on
 861 obligations of any state other than Virginia, or of a political subdivision of any such other state unless created
 862 by compact or agreement to which the Commonwealth is a party;

863 2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable
 864 income, on obligations or securities of any authority, commission or instrumentality of the United States,
 865 which the laws of the United States exempt from federal income tax but not from state income taxes;

866 3. [Repealed.]

867 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are
 868 based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any
 869 other taxing jurisdiction, to the extent deducted in determining federal taxable income;

870 5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

871 6. [Repealed.]

872 7. The amount required to be included in income for the purpose of computing the partial tax on an
 873 accumulation distribution pursuant to § 667 of the Internal Revenue Code;

874 8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and
 875 costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or
 876 more direct or indirect transactions with one or more related members to the extent such expenses and costs
 877 were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall
 878 not be required for any portion of the intangible expenses and costs if one of the following applies:

879 (1) The corresponding item of income received by the related member is subject to a tax based on or
 880 measured by net income or capital imposed by Virginia, another state, or a foreign government that has
 881 entered into a comprehensive tax treaty with the United States government;

882 (2) The related member derives at least one-third of its gross revenues from the licensing of intangible
 883 property to parties who are not related members, and the transaction giving rise to the expenses and costs
 884 between the corporation and the related member was made at rates and terms comparable to the rates and
 885 terms of agreements that the related member has entered into with parties who are not related members for
 886 the licensing of intangible property; or

887 (3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible expenses
 888 and costs meet both of the following: (i) the related member during the same taxable year directly or
 889 indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the
 890 transaction giving rise to the intangible expenses and costs between the corporation and the related member
 891 did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

892 b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to
 893 subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable
 894 year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such
 895 taxable year including tax upon any amount of intangible expenses and costs required to be added to federal
 896 taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions
 897 between the corporation and a related member or members that resulted in the corporation's taxable income
 898 being increased, as required under subdivision a, for such intangible expenses and costs.

899 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing
 900 evidence, that the transaction or transactions between the corporation and a related member or members
 901 resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than
 902 the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the
 903 corporation to file an amended return. For purposes of such amended return, the requirements of subdivision
 904 a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the
 905 transaction had a valid business purpose other than the avoidance or reduction of the tax due under this
 906 chapter. Such amended return shall be filed by the corporation within one year of the written permission
 907 granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at
 908 a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under
 909 § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that
 910 subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax
 911 imposed under this article on that portion of such amounts for which the corporation has filed an amended
 912 return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner
 913 herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit
 914 the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible
 915 expenses and costs without making the adjustment under subdivision a.

916 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any

917 petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the
918 petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon
919 payment of such fee.

920 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be
921 maintained in any court of this Commonwealth.

922 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under §
923 58.1-446;

924 9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses and
925 costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or
926 more direct or indirect transactions with one or more related members to the extent such expenses and costs
927 were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall
928 not be required for any portion of the interest expenses and costs, if:

929 (1) The related member has substantial business operations relating to interest-generating activities, in
930 which the related member pays expenses for at least five full-time employees who maintain, manage, defend
931 or are otherwise responsible for operations or administration relating to the interest-generating activities; and

932 (2) The interest expenses and costs are not directly or indirectly for, related to or in connection with the
933 direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible property;
934 and

935 (3) The transaction giving rise to the expenses and costs between the corporation and the related member
936 has a valid business purpose other than the avoidance or reduction of taxation and payments between the
937 parties are made at arm's length rates and terms; and

938 (4) One of the following applies:

939 (i) The corresponding item of income received by the related member is subject to a tax based on or
940 measured by net income or capital imposed by Virginia, another state, or a foreign government that has
941 entered into a comprehensive tax treaty with the United States government;

942 (ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related
943 members provided the payments continue to be made at arm's length rates and terms;

944 (iii) The related member engages in transactions with parties other than related members that generate
945 revenue in excess of \$2 million annually; or

946 (iv) The transaction giving rise to the interest payments between the corporation and a related member
947 was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds
948 that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a
949 person who is not a related member; (b) the debt is part of a regular and systematic funds management or
950 portfolio investment activity conducted by the related member, whereby the funds of two or more related
951 members are aggregated for the purpose of achieving economies of scale, the internal financing of the active
952 business operations of members, or the benefit of centralized management of funds; (c) financing the
953 expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of
954 acquisition-related indebtedness to related members.

955 b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to
956 subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable
957 year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such
958 taxable year including tax upon any amount of interest expenses and costs required to be added to federal
959 taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions
960 between the corporation and a related member or members that resulted in the corporation's taxable income
961 being increased, as required under subdivision a, for such interest expenses and costs.

962 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing
963 evidence, that the transaction or transactions between the corporation and a related member or members
964 resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than
965 the avoidance or reduction of the tax due under this chapter and that the related payments between the parties
966 were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an
967 amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to
968 any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a
969 valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the
970 related payments between the parties were made at arm's length rates and terms. Such amended return shall
971 be filed by the corporation within one year of the written permission granted by the Tax Commissioner and
972 any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest
973 established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the
974 filing of such amended return, any related member of the corporation that subtracted from taxable income
975 amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that
976 portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision.
977 In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied

978 by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax
 979 returns for subsequent taxable years to deduct the related interest expenses and costs without making the
 980 adjustment under subdivision a.

981 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any
 982 petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the
 983 petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon
 984 payment of such fee.

985 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be
 986 maintained in any court of this Commonwealth.

987 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under §
 988 58.1-446.

989 d. For purposes of subdivision B 9:

990 "Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement
 991 for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to
 992 those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below
 993 the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal
 994 Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the
 995 payment terms of the agreement governing the transaction or any amendments thereto.

996 "Valid business purpose" means one or more business purposes that alone or in combination constitute the
 997 motivation for some business activity or transaction, which activity or transaction improves, apart from tax
 998 effects, the economic position of the taxpayer, as further defined by regulation.

999 10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under
 1000 §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For
 1001 purposes of this subdivision, a REIT is a Captive REIT if:

1002 (1) It is not regularly traded on an established securities market;

1003 (2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any
 1004 time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity
 1005 that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii)
 1006 not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

1007 (3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the
 1008 Internal Revenue Code.

1009 b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be
 1010 considered a corporation or an association taxable as a corporation:

1011 (1) Any REIT that is not treated as a Captive REIT;

1012 (2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary
 1013 of a Captive REIT;

1014 (3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed
 1015 Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of
 1016 the beneficial interests or shares of such trust; and

1017 (4) Any Qualified Foreign Entity.

1018 c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of the
 1019 Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining
 1020 the ownership of stock, assets, or net profits of any person.

1021 d. For purposes of subdivision B 10:

1022 "Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment
 1023 Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is listed on a
 1024 recognized stock exchange in Australia and is regularly traded on an established securities market.

1025 "Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the
 1026 laws of the United States and that satisfies all of the following criteria:

1027 (1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real
 1028 estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or
 1029 certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government securities;

1030 (2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt from
 1031 entity level tax;

1032 (3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed in the
 1033 jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

1034 (4) The shares or certificates of beneficial interest of such entity are regularly traded on an established
 1035 securities market or, if not so traded, not more than 10 percent of the voting power or value in such entity is
 1036 held directly, indirectly, or constructively by a single entity or individual; and

1037 (5) The entity is organized in a country that has a tax treaty with the United States.

1038 e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any voting

1039 power or value of the beneficial interests or shares in a REIT that is held in a segregated asset account of a
1040 life insurance corporation as described in § 817 of the Internal Revenue Code shall not be taken into
1041 consideration when determining if such REIT is a Captive REIT.

1042 11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the
1043 same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such
1044 donation under § 170 of the Internal Revenue Code, as amended or renumbered.

1045 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable
1046 income:

1047 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on
1048 obligations or securities of any authority, commission or instrumentality of the United States to the extent
1049 exempt from state income taxes under the laws of the United States including, but not limited to, stocks,
1050 bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on
1051 equipment purchase contracts, or interest on other normal business transactions.

1052 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of
1053 any political subdivision or instrumentality of this Commonwealth.

1054 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the
1055 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or
1056 the last year in which such corporation has income, under the provisions of the income tax laws of the
1057 Commonwealth.

1058 4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth
1059 or any other taxing jurisdiction.

1060 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code
1061 (foreign dividend gross-up).

1062 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted
1063 for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

1064 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F
1065 income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue Code
1066 (Global Intangible Low-Taxed Income).

1067 8. Any amount included therein which is foreign source income as defined in § 58.1-302.

1068 9. [Repealed.]

1069 10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50
1070 percent or more of the voting stock.

1071 11. [Repealed.]

1072 12, 13. [Expired.]

1073 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses"
1074 or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on
1075 account of the provisions of § 280C(c) of the Internal Revenue Code.

1076 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds
1077 to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§ 22.1-
1078 175.1 et seq.) of Title 22.1.

1079 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived
1080 from the sale or exchange of real property or the sale or exchange of an easement to real property which
1081 results in the real property or the easement thereto being devoted to open-space use, as that term is defined in
1082 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance
1083 with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed
1084 for three years following the year in which the subtraction is taken.

1085 17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to
1086 § 58.1-440.1.

1087 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
1088 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement
1089 Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing
1090 quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business
1091 having the right to grow tobacco pursuant to such a quota allotment.

1092 19, 20. [Repealed.]

1093 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs
1094 or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B
1095 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount
1096 if such related member is subject to Virginia income tax on the same amount.

1097 22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch
1098 services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide
1099 individuals the training or experience of a launch, without performing an actual launch. To qualify for a

1100 deduction under this subdivision, launch services must be performed in Virginia or originate from an airport
1101 or spaceport in Virginia.

1102 23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply
1103 services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial
1104 Orbital Transportation Services division of the National Aeronautics and Space Administration or other space
1105 flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

1106 24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain
1107 for federal income tax purposes, or any income taxed as investment services partnership interest income
1108 (otherwise known as investment partnership carried interest income) for federal income tax purposes. To
1109 qualify for a subtraction under this subdivision, such income must be attributable to an investment in a
1110 "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the
1111 Secretary of Administration, provided the business has its principal office or facility in the Commonwealth
1112 and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a
1113 subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June
1114 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-
1115 339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

1116 25. a. Income, including investment services partnership interest income (otherwise known as investment
1117 partnership carried interest income), attributable to an investment in a Virginia venture capital account. To
1118 qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but
1119 before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a
1120 company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this
1121 subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.

1122 b. As used in this subdivision 25:

1123 "Qualified portfolio company" means a company that (i) has its principal place of business in the
1124 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
1125 service other than the management or investment of capital; and (iii) provides equity in the company to the
1126 Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not
1127 include a company that is an individual or sole proprietorship.

1128 "Virginia venture capital account" means an investment fund that has been certified by the Department as
1129 a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator
1130 of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i)
1131 indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio
1132 companies and (ii) providing documentation that it employs at least one investor who has at least four years
1133 of professional experience in venture capital investment or substantially equivalent experience. "Substantially
1134 equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or
1135 university in economics, finance, or a similar field of study. The Department may require an investment fund
1136 to provide documentation of the investor's training, education, or experience as deemed necessary by the
1137 Department to determine substantial equivalency. If the Department determines that the investment fund
1138 employs at least one investor with the experience set forth herein, the Department shall certify the investment
1139 fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50
1140 percent of the capital committed to its fund in qualified portfolio companies.

1141 26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a
1142 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
1143 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an
1144 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
1145 claimed a subtraction under subdivision C 24 or 25 for the same investment.

1146 b. As used in this subdivision 26:

1147 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of § 2.2-115

1148 .

1149 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of §
1150 2.2-115.

1151 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856,
1152 that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as
1153 a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to
1154 December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at
1155 least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the
1156 Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a
1157 Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds
1158 in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
1159 distressed.

1160 27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real

1161 property by condemnation proceedings.

1162 28. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received by the
1163 taxpayer under the Rebuild Virginia program established by the Governor and administered by the
1164 Department of Small Business and Supplier Diversity.

1165 D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable
1166 income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the
1167 American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1168 1. If the payment is received in installment payments, then the recognized gain, including any gain
1169 recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in
1170 which the installment payment is received.

1171 2. If the payment is received in a single payment, then 10 percent of the recognized gain may be
1172 subtracted in the taxable year immediately following the year in which the single payment is received. The
1173 taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

1174 E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided
1175 in § 58.1-315.

1176 F. Notwithstanding any other provision of law, the income from any disposition of real property which is
1177 held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as
1178 defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at
1179 the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal
1180 Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made
1181 on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax
1182 imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition
1183 is in accordance with restrictions or conditions established by the Department, which shall be set forth in
1184 guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also
1185 address the recapture of such income under certain circumstances. The development of the guidelines shall be
1186 exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

1187 G. There shall be deducted to the extent included in and not otherwise subtracted from federal taxable
1188 income a percentage of the business interest disallowed as a deduction pursuant to § 163(j) of the Internal
1189 Revenue Code in the amount of:

1190 1. 20 percent for taxable years beginning on and after January 1, 2018, but before January 1, 2022;

1191 2. 30 percent for taxable years beginning on and after January 1, 2022, but before January 1, 2024; and

1192 3. 50 percent for taxable years beginning on and after January 1, 2024.

1193 For purposes of subsection G, "business interest" means the same as that term is defined under § 163(j) of
1194 the Internal Revenue Code.

1195 H. For taxable years beginning before January 1, 2021, there shall be deducted to the extent not otherwise
1196 subtracted from federal taxable income up to \$100,000 of the amount that is not deductible when computing
1197 federal taxable income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck
1198 Protection Program loans.

1199 *I. For taxable years beginning on and after January 1, 2024, there shall be deducted to the extent not*
1200 *otherwise subtracted from federal taxable income any amount donated to the Virginia College Opportunity*
1201 *Fund established under § 23.1-717.*