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SENATE BILL NO. 835

Offered January 8, 2025

Prefiled January 1, 2025

A BILL to amend and reenact §§ 2.2-3705.7, 2.2-3711, 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, 23.1-711, 23.1-713, 58.1-322.03, 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 Chapter 7 of Title 23.1 an article numbered 2, consisting of sections numbered 23.1-714, 23.1-715, and 23.1-716, relating to the Commonwealth Savers Plan; Virginia College Opportunity Endowment and Fund established; report.

Patron—Surovell

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.7, 2.2-3711, 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, 23.1-711, 23.1-713, 58.1-322.03, 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 Chapter 7 of Title 23.1 an article numbered 2, consisting of sections numbered 23.1-714, 23.1-715, and 23.1-716, as follows:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory

59 opinions to members on standards of conduct, or both.

60 7. Customer account information of a public utility affiliated with a political subdivision of the
61 Commonwealth, including the customer's name and service address, but excluding the amount of utility
62 service provided and the amount of money charged or paid for such utility service.

63 8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development
64 Authority concerning individuals who have applied for or received loans or other housing assistance or who
65 have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the
66 Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting
67 list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing
68 authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for
69 housing assistance programs funded by local governments or by any such authority; or (iv) filed with any
70 local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency
71 concerning persons who have applied for occupancy or who have occupied affordable dwelling units
72 established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be
73 denied.

74 9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if
75 disclosure of such information would have a detrimental effect upon the negotiating position of a governing
76 body or on the establishment of the terms, conditions, and provisions of the siting agreement.

77 10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant
78 and animal species, natural communities, caves, and significant historic and archaeological sites if, in the
79 opinion of the public body that has the responsibility for such information, disclosure of the information
80 would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to
81 requests from the owner of the land upon which the resource is located.

82 11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary
83 nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery
84 game design, development, production, operation, ticket price, prize structure, manner of selecting the
85 winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or
86 selections of winning tickets, odds of winning, advertising, or marketing, where such information not been
87 publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-
88 related information shall be subject to public disclosure under this chapter upon the first day of sales for the
89 specific lottery game to which it pertains.

90 12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local
91 retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust
92 established by one or more local public bodies to invest funds for post-retirement benefits other than
93 pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of
94 visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The
95 College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers
96 Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other
97 ownership interest in an entity, where such security or ownership interest is not traded on a governmentally
98 regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses
99 prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The
100 College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board
101 of trustees, or the Commonwealth Savers Plan, or provided to the retirement system, a local finance board or
102 board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality of the future value of
103 such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the
104 value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or
105 board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of
106 William and Mary in Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be
107 construed to prevent the disclosure of information relating to the identity of any investment held, the amount
108 invested, or the present value of such investment.

109 13. Financial, medical, rehabilitative, and other personal information concerning applicants for or
110 recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under
111 Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

112 14. Information held by the Virginia Commonwealth University Health System Authority pertaining to
113 any of the following: an individual's qualifications for or continued membership on its medical or teaching
114 staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to
115 a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for
116 construction or the purchase of goods or services; information of a proprietary nature produced or collected
117 by or for the Authority or members of its medical or teaching staffs; financial statements not publicly
118 available that may be filed with the Authority from third parties; the identity, accounts, or account status of
119 any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in

connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), ~~or~~ the Commonwealth Savers Plan, acting pursuant to §§ 23.1-704 and 23.1-716, *or the College Opportunity Investment Advisory Committee acting pursuant to §§ 23.1-701 and 23.1-702.1*, relating to:

a. Internal deliberations of or decisions by the retirement system ~~or~~ the Commonwealth Savers Plan, *or the College Opportunity Investment Advisory Committee* on the pursuit of particular investment strategies, or

the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system ~~or~~, the Commonwealth Savers Plan, *or the College Opportunity Investment Advisory Committee*; and

b. Trade secrets provided by a private entity to the retirement system ~~or~~, the Commonwealth Savers Plan, *or the College Opportunity Investment Advisory Committee* if disclosure of such records would have an adverse impact on the financial interest of the retirement system ~~or~~, the Commonwealth Savers Plan, *or the College Opportunity Investment Advisory Committee*.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system ~~or~~, the Commonwealth Savers Plan, *or the College Opportunity Investment Advisory Committee*:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system ~~or~~, the Commonwealth Savers Plan, *or the College Opportunity Investment Advisory Committee* shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by former § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases are discussed by any human trafficking response team established pursuant to § 15.2-1627.6. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would

reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided that the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public

institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided that the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Commonwealth Savers Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Commonwealth Savers Plan or provided to the retirement system, a local finance board or board of trustees, or the Commonwealth Savers Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University

of Virginia, or the Commonwealth Savers Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or Old Dominion University, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the University of Virginia Medical Center or the Eastern Virginia Health Sciences Center at Old Dominion University, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Commonwealth Savers Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in

subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Commonwealth Savers Plan acting pursuant to § 23.1-706, ~~or~~ by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702, *or by the College Opportunity Investment Advisory Committee appointed pursuant to § 23.1-702.1* of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26

(§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605, or (iv) individual human trafficking cases by any human trafficking response team established pursuant to § 15.2-1627.6.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114 and the Department of Workforce Development and Advancement pursuant to subsection B of § 2.2-2040.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

55. Meetings or portions of meetings of the Board of Criminal Justice Services or the Department of Criminal Justice Services concerning the decertification of an identifiable law-enforcement or jail officer.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

CHAPTER 7.

COMMONWEALTH SAVERS PLAN AND ABLE SAVINGS TRUST ACCOUNTS; VIRGINIA COLLEGE OPPORTUNITY ENDOWMENT AND FUND.

Article 1.

Commonwealth Savers Plan and ABLE Savings Trust Accounts.

§ 23.1-700. Definitions.

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

"ABLE savings trust account" means an account established pursuant to this ~~chapter~~ *article* to assist individuals and families to save private funds to support individuals with disabilities to maintain health, independence, and quality of life, with such account used to apply distributions for qualified disability expenses for an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Board" means the governing board of the Plan.

"College savings trust account" means an account established pursuant to this ~~chapter~~ *article* to assist individuals and families to enhance the accessibility and affordability of higher education, with such account

548 used to apply distributions from the account toward qualified higher education expenses, as that term is
 549 defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

550 "Contributor" means a person who contributes money to a savings trust account established pursuant to
 551 this ~~chapter~~ article on behalf of a qualified beneficiary and who is listed as the owner of the savings trust
 552 account.

553 "*DB529 Fund*" means the subfund of the Fund established in subsection C of § 23.1-701 that holds the
 554 assets of the prepaid tuition contracts established pursuant to § 23.1-707 (the Defined Benefit 529 Program)
 555 in trust to meet contractual obligations.

556 "Non-Virginia public and accredited nonprofit independent or private institutions of higher education"
 557 means public and accredited nonprofit independent or private institutions of higher education that are located
 558 outside the Commonwealth.

559 "*Opportunity Fund*" means the Virginia College Opportunity Fund created as a subfund pursuant to
 560 subsection C of § 23.1-701.

561 "Plan" means the Commonwealth Savers Plan.

562 "Prepaid tuition contract" means the contract or account entered into by the board and a purchaser
 563 pursuant to this ~~chapter~~ article for the advance payment of tuition at a fixed, guaranteed level for a qualified
 564 beneficiary to attend any public institution of higher education to which the qualified beneficiary is admitted.

565 "Public institution of higher education" has the same meaning as provided in § 23.1-100.

566 "Purchaser" means a person who makes or is obligated to make advance payments in accordance with a
 567 prepaid tuition contract and who is listed as the owner of the prepaid tuition contract.

568 "Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as determined by the
 569 board, who is the beneficiary of a prepaid tuition contract and who may apply advance tuition payments to
 570 tuition as set forth in this ~~chapter~~ article; (ii) a beneficiary of a prepaid tuition contract purchased by a
 571 resident of the Commonwealth, as determined by the board, who may apply advance tuition payments to
 572 tuition as set forth in this ~~chapter~~ article; or (iii) a beneficiary of a savings trust account established pursuant
 573 to this ~~chapter~~ article.

574 "Savings trust account" means an ABLE savings trust account or a college savings trust account.

575 "Savings trust agreement" means the agreement entered into by the board and a contributor that
 576 establishes a savings trust account.

577 "Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any public
 578 institution of higher education and all mandatory fees required as a condition of enrollment of all students. At
 579 the discretion of the board, a beneficiary may apply benefits under a prepaid tuition contract and distributions
 580 from a college savings trust account (i) toward graduate-level tuition and (ii) toward qualified higher
 581 education expenses, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal
 582 Revenue Code of 1986, as amended.

583 **§ 23.1-701. Plan established; moneys; governing board.**

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

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

595 C. 1. All other moneys of the Plan, including payments received pursuant to prepaid tuition contracts,
 596 bequests, endowments, grants from the United States government or its agencies or instrumentalities, and any
 597 other available public or private sources of funds shall be first deposited in the state treasury in a special
 598 nonreverting fund (the Fund). Such moneys shall then be deposited as soon as practicable in a separate
 599 account or separate accounts in banks or trust companies organized under the laws of the Commonwealth,
 600 national banking associations, federal home loan banks, or, to the extent permitted by law, savings
 601 institutions organized under the laws of the Commonwealth or the United States. Benefits relating to prepaid
 602 tuition contracts and Plan operating expenses shall be paid from the Fund. ~~Any~~ Except as provided in
 603 subdivision 2, any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund
 604 but shall remain in the Fund. Interest and income earned from the investment of such funds shall remain in
 605 the Fund and be credited to it. *The Fund shall consist of the DB529 Fund and the Virginia College*
 606 *Opportunity Fund, each established as a subfund of the Fund.*

607 2. *After the fiscal year beginning July 1, 2025, the board shall deposit \$500 million from the DB529 Fund*
 608 *into the Opportunity Fund. Each fiscal year thereafter, 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 College Opportunity Investment Advisory Committee established pursuant to § 23.1-702.1 shall submit to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations a report on the current funded status, as defined in § 23.1-707.1, of the DB529 Fund and the recommendation of the College Opportunity Investment Advisory Committee as to the prudence of directing additional deposits of actuarial surpluses into the Opportunity Fund. In making such recommendation, the College Opportunity Investment Advisory Committee shall determine whether (i) the funded status of the DB529 Fund does not meet or exceed 125 percent; (ii) any recommended transfers would violate the standard of care specified in § 23.1-706; (iii) any recommended transfers would result in there being insufficient funds to ensure the actuarial soundness of the Plan; or (iv) any recommended transfers would jeopardize the Plan's ability to meet any obligation incurred under the provisions of this article. In making such recommendation and submitting such report, the College Opportunity Investment Advisory Committee shall consult with the board, provided, however, that any consultation with the board shall be advisory in nature and the College Opportunity Investment Advisory Committee shall have sole discretion over any recommendation as to the transfer of any additional deposits of actuarial surpluses 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 procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.

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

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

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

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

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

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

§ 23.1-702.1. College Opportunity Investment Advisory Committee; membership; terms; qualifications; duties.

A. In addition to the advisory committees described in § 23.1-702, the board shall establish the College Opportunity Investment Advisory Committee (the Committee) to assist the General Assembly in determining amounts to deposit into the Opportunity Fund from the Plan.

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

C. The nonlegislative citizen member of the Committee shall serve a term of four years and shall not be eligible to serve more than two terms. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. The nonlegislative citizen member shall be a citizen of the Commonwealth but shall not be a member of the board of the Commonwealth Savers Plan, the Investment Advisory Committee appointed by the board of the Plan pursuant to subsection A of § 23.1-702, or the Audit and Actuarial Committee appointed by the board of the Plan pursuant to subsection B of § 23.1-702 or employed as staff for the Commonwealth Savers Plan.

D. The Committee shall make determinations in accordance with subdivision C 2 of § 23.1-701 as to whether and in what amount deposits to the Opportunity Fund shall be made.

E. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of

670 *the members shall constitute a quorum.*

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

673 **§ 23.1-704. Powers and duties of the board.**

674 The board shall:

675 1. Administer the Plan established by this ~~chapter~~ *article*;

676 2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in §
 677 23.1-700, at a fixed, guaranteed level for application at a public institution of higher education; (ii)
 678 contributions to college savings trust accounts established pursuant to this ~~chapter~~ *article* on behalf of a
 679 qualified beneficiary in order to apply distributions from the account toward qualified higher education
 680 expenses, as that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other
 681 applicable federal law; and (iii) contributions to ABLE savings trust accounts established pursuant to this
 682 ~~chapter~~ *article* on behalf of a qualified beneficiary in order to apply distributions from the account toward
 683 qualified disability expenses for an eligible individual, as both such terms are defined in § 529A of the
 684 Internal Revenue Code of 1986, as amended, or other applicable federal law;

685 3. Invest moneys in the Plan *and in the Opportunity Fund* in any instruments, obligations, securities, or
 686 property deemed appropriate by the board;

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

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

693 6. Procure insurance as determined appropriate by the board (i) against any loss in connection with the
 694 Plan's property, assets, or activities and (ii) indemnifying board members from personal loss or accountability
 695 from liability arising from any action or inaction as a board member;

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

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

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

708 10. Adopt regulations and procedures and perform any act or function consistent with the purposes of this
 709 ~~chapter~~ *article*; and

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

718 12. *Assist the Virginia College Opportunity Endowment in the administration of the Endowment*
 719 *Scholarship Program, as defined in § 23.1-714, and manage the assets of the Opportunity Fund.*

720 **§ 23.1-706. Standard of care; investment and administration of the Plan.**

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

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

731 B. ~~The~~ *Except as provided in subdivision C 2 of § 23.1-701*, assets of the Plan shall be preserved,

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

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

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

D. No board member or person, investment manager, or committee to whom the board delegates any of its investment authority who acts in accordance with the standard of care set forth in subsection A shall be held personally liable for losses suffered by the Plan on investments made pursuant to this ~~chapter~~ *article*.

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

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

§ 23.1-707. Prepaid tuition contracts and college and ABLE savings trust agreements.

A. Each prepaid tuition contract made pursuant to this ~~chapter~~ *article* shall include the following terms and provisions:

1. The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;

2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;

3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;

4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;

5. Terms and conditions for a substitution for the qualified beneficiary originally named;

6. Terms and conditions for termination of the contract, including any refunds, withdrawals, or transfers of tuition prepayments, and the name of the person entitled to terminate the contract;

7. The time period during which the qualified beneficiary is required to claim benefits from the Plan;

8. The number of credit hours or quarters, semesters, terms, or units contracted for by the purchaser, as applicable;

9. All other rights and obligations of the purchaser and the trust; and

10. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the contract with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, which specifies the requirements for qualified state tuition programs.

B. Each college savings trust agreement made pursuant to this ~~chapter~~ *article* shall include the following terms and provisions:

1. The maximum and minimum contribution allowed on behalf of each qualified beneficiary for the payment of qualified higher education expenses, as that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

2. Provisions for withdrawals, refunds, transfers, and any penalties;

3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;

4. Terms and conditions for a substitution for the qualified beneficiary originally named;

5. Terms and conditions for termination of the account, including any refunds, withdrawals, or transfers, and applicable penalties, and the name of the person entitled to terminate the account;

6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;

7. All other rights and obligations of the contributor and the Plan; and

8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

C. Each ABLE savings trust agreement made pursuant to this ~~chapter~~ *article* shall include the following terms and provisions:

1. The maximum and minimum annual contribution and maximum account balance allowed on behalf of each qualified beneficiary for the payment of qualified disability expenses, as defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any penalties;

3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;

4. Terms and conditions for a substitution for the qualified beneficiary originally named;

5. Terms and conditions for termination of the account, including any transfers to the state upon the death of the qualified beneficiary, refunds, withdrawals, transfers, applicable penalties, and the name of the person entitled to terminate the account;

6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;

7. All other rights and obligations of the contributor and the Plan; and

8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

D. In addition to the provisions required by subsection A, each prepaid tuition contract entered into prior to July 1, 2019, shall include provisions for the application of tuition prepayments (i) at accredited nonprofit independent or private institutions of higher education, including actual interest and income earned on such prepayments, and (ii) at non-Virginia public and accredited nonprofit independent or private institutions of higher education, including principal and reasonable return on such principal as determined by the board. Payments authorized for accredited nonprofit independent or private institutions of higher education shall not exceed the projected highest payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. Payments authorized for non-Virginia public and accredited nonprofit independent or private institutions of higher education shall not exceed the projected average payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. In no event, however, shall the benefit paid on any prepaid tuition contract entered into prior to July 1, 2019, be less than the sum of tuition prepayments made and a reasonable return on such prepayments to be determined by the board, less any fees determined by the board.

E. In addition to the provisions required by subsection A, each prepaid tuition contract entered into on or after July 1, 2019, shall include provisions for the application of tuition prepayments, at a rate equal to the percentage of enrollment-weighted average tuition at public institutions of higher education to be determined by the board, at (i) public institutions of higher education, (ii) accredited nonprofit independent or private institutions of higher education, and (iii) non-Virginia public and accredited nonprofit independent or private institutions of higher education. In no event, however, shall the benefit paid on any prepaid tuition contract entered into on or after July 1, 2019, be less than tuition prepayments made, less any fees as determined by the board.

F. All prepaid tuition contracts and savings trust agreements shall specifically provide that if after a specified period of time the contract or savings trust agreement has not been terminated and the qualified beneficiary's rights have not been exercised, the board, after making a reasonable effort to contact the purchaser or contributor and the qualified beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant to § 55.1-2524.

G. 1. Notwithstanding any provision of law to the contrary, money in the Plan is exempt from creditor process, is not liable to attachment, garnishment, or other process, and shall not be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of any purchaser, contributor, or beneficiary. Unless required by federal law, the Commonwealth, its agencies, and its instrumentalities shall not seek payment pursuant to 26 U.S.C. § 529A from any ABLE savings trust account or its proceeds for benefits provided to the beneficiary of the account and shall not undertake estate recovery from any ABLE savings trust account pursuant to 26 U.S.C. § 529A.

2. Unless prohibited by federal law, the beneficiary of an ABLE savings trust account may appoint a survivor. In the event of the beneficiary's death, if the survivor is (i) an eligible individual, as defined in 26 U.S.C. § 529A(e), then such survivor shall become the beneficiary of the ABLE savings trust account or (ii) not an eligible individual, as defined in 26 U.S.C. § 529A(e), then any proceeds remaining after final distributions have been made on behalf of the deceased beneficiary shall be distributed to the survivor and the account shall be closed.

H. Notwithstanding any other provision of state law that requires consideration of one or more financial

circumstances of an individual for the purpose of determining (i) the individual's eligibility to receive any assistance or benefit pursuant to such provision of state law or (ii) the amount of any such assistance or benefit that such individual is eligible to receive pursuant to such provision of state law, any (a) moneys in an ABLE savings trust account for which such individual is the beneficiary, including any interest on such moneys, (b) contributions to an ABLE savings trust account for which such individual is the beneficiary, and (c) distribution for qualified disability expenses for such individual from an ABLE savings trust account for which such individual is the beneficiary shall be disregarded for such purpose with respect to any period during which such individual remains the beneficiary of, makes contributions to, or receives distributions for qualified disability expenses from such ABLE savings trust account.

I. No prepaid tuition contract or savings trust account shall be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge.

J. The board's decision on any dispute, claim, or action arising out of or relating to a prepaid tuition contract or savings trust agreement made or entered into pursuant to this ~~chapter~~ article or benefits under such prepaid tuition contract or savings trust agreement shall be considered a case decision as defined in § 2.2-4001 and all proceedings related to such dispute, claim, or action shall be conducted pursuant to Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. Judicial review shall be provided exclusively pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

§ 23.1-711. Admission to institutions not guaranteed; coverage limitations.

Nothing in this ~~chapter~~ article or in any prepaid tuition contract or savings trust agreement entered into pursuant to this ~~chapter~~ article shall be construed as a promise or guarantee:

1. By the board or the Commonwealth of any admission to, continued enrollment at, or graduation from any public institution of higher education;

2. That the beneficiary's cost of tuition at an institution of higher education will be covered in full by the proceeds of the beneficiary's prepaid tuition contract, provided, however, that a prepaid tuition contract will cover that portion of tuition that is required under the terms of any such contract based on the tuition prepayments made; or

3. That any qualified higher education expense will be covered in full by contributions to or earnings on any savings trust account.

§ 23.1-713. Liberal construction of article.

Insofar as the provisions of this ~~chapter~~ article are inconsistent with the provisions of any other general, special, or local law, the provisions of this ~~chapter~~ article shall control. This ~~chapter~~ article constitutes full and complete authority, without regard to the provisions of any other law, for performing the acts authorized in this ~~chapter~~ article and shall be liberally construed to effect the purposes of this ~~chapter~~ article.

Article 2.

Virginia College Opportunity Endowment and Fund.

§ 23.1-714. Definitions.

As used in this article, unless the context requires a different meaning:

"Board" means the governing board of the Endowment.

"College Opportunity Fund Graduate" means an individual who received a scholarship through the Virginia College Opportunity Endowment scholarship program pursuant to § 23.1-716 and subsequently graduated from the institution subsidized by the scholarship.

"College Opportunity Fund Scholar" means a student enrolled in an eligible institution who is a recipient of a scholarship through the Virginia College Opportunity Endowment scholarship program pursuant to § 23.1-716.

"DB529 Fund" means the subfund of the Fund established pursuant to subsection C of § 23.1-701 that holds the assets of the prepaid tuition contracts established pursuant to § 23.1-707 (the Defined Benefit 529 Program) in trust to meet contractual obligations.

"Distribution Amount" means the distribution policy developed by the governing board of the Virginia College Opportunity Endowment pursuant to subsection D of § 23.1-716 under which the amounts of distributions from the Opportunity Fund shall be calculated.

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

"Endowment" means the Virginia College Opportunity Endowment.

"Opportunity Fund" means the Virginia College Opportunity Fund created as a subfund of the Fund established pursuant to subsection C of § 23.1-701.

"Plan" means the Commonwealth Savers Plan.

"Program" means the Endowment Scholarship Program established by the Endowment under the

916 provisions of this article.

917 **§ 23.1-715. Virginia College Opportunity Endowment established; governing board.**

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

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

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

927 D. The board shall elect from its membership a chairman and a vice-chairman annually.

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

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

931 **§ 23.1-716. Powers and duties; Endowment Scholarship Program; report.**

932 A. The Endowment shall establish the Endowment Scholarship Program to provide scholarships to
933 students at eligible institutions. The Endowment shall, in consultation with the governing board of the Plan,
934 develop policies and guidelines necessary to implement and administer the Program, including policies and
935 guidelines regarding student eligibility, application procedures, criteria for selecting student applicants for
936 scholarships, scholarship amounts, requirements for College Opportunity Fund Scholars to maintain their
937 scholarships, the terms of income-based repayment plans for students required to reimburse the Endowment,
938 and any other requirements deemed necessary for the administration of the Program. Scholarships awarded
939 by the Endowment may be for full or partial tuition and may also cover, in whole or in part, the costs of fees
940 and room and board, on terms and conditions determined by the Endowment.

941 B. The Program shall provide scholarships only to a student who:

942 1. Enrolls, or plans to enroll, at an eligible institution. A College Opportunity Fund Scholar who receives
943 a scholarship pursuant to this section shall lose eligibility for such scholarship if he enrolls at an institution
944 of higher education that is not an eligible institution.

945 2. Meets the eligibility requirements for a Federal Pell Grant, as determined by the U.S. Secretary of
946 Education pursuant to the provisions of 20 U.S.C. § 1070a and draws down such Federal Pell Grant prior to
947 applying for the scholarship.

948 3. Commits, as a condition of receiving a scholarship, to remaining employed or enrolled in postgraduate
949 education in Virginia for at least eight years after graduating from the eligible institution at which he is
950 enrolled or plans to enroll. For purposes of this subdivision, a College Opportunity Fund Graduate shall be
951 considered employed in Virginia only if such person is employed in a full-time position and his compensation
952 from such position is subject to taxation pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1. The
953 Endowment may, upon petition by the College Opportunity Fund Graduate, temporarily waive the
954 requirements of this subdivision if the College Opportunity Fund Graduate demonstrates that (i) he is seeking
955 employment in an industry or profession consistent with his field of study but has been unable to secure such
956 employment, (ii) he is seeking enrollment in graduate school but his application is pending or he has been
957 unable to gain admission to graduate school, (iii) he is not employed or not employed in a full-time position
958 because he is disabled and unable to work, or (iv) he is not employed or not employed in a full-time position
959 in order to care for his children or a disabled family member.

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

961 C. The Virginia Employment Commission and the Virginia Department of Taxation shall provide the
962 College Opportunity Endowment Fund access to the information of each College Opportunity Fund Graduate
963 to verify that the College Opportunity Fund Graduate is in compliance with the provisions of subdivision B 3,
964 including verification that such College Opportunity Fund Graduate pays Virginia income taxes. If a College
965 Opportunity Fund Graduate breaches his commitment made under subdivision B 3, the Endowment shall
966 require him to reimburse the Fund for all scholarship funds received pursuant to this section. Any such
967 reimbursement shall be paid by the College Opportunity Fund Graduate in the form of an income-based
968 repayment plan over a maximum of eight years, on such terms as may be prescribed by the Endowment
969 pursuant to subsection A. If a College Opportunity Fund Graduate is found in noncompliance with this
970 income-based repayment plan, any outstanding balance shall be recorded as a tax lien and shall be referred
971 to the Attorney General for enforcement or collection. It shall not be incumbent upon any eligible institution
972 to identify students in breach of commitments made under subdivision B 3 or to administer income-based
973 repayment plans or any other form of debt collection on behalf of the Endowment.

974 D. The Program shall be funded only by income from investments of deposits to the Opportunity Fund. A
975 ny operating expenses of the Program shall only be paid out of the general operating expenses of the Plan
976 and shall not be paid out of any annual income of the Endowment. The Plan shall manage the assets of the

Opportunity Fund with the objective of maximizing investment return for the Program and in accordance with the provisions of Article 1 (§ 23.1-700 et seq.), mutatis mutandis; however, the board shall have sole authority over the administration of the Program and the disbursement of income in the form of scholarships. The governing board of the Endowment shall develop the Distribution Amount of the Opportunity Fund, which in no event shall be less than five percent annually from the rolling 36 month average Opportunity Fund principal market value. The Distribution Amount shall be allocated as follows:

1. Eighty percent of the Distribution Amount shall be allocated to the award of College Opportunity Endowment Fund scholarships. Priority for the award of scholarships for full tuition and the whole costs of fees and room and board shall be given to College Opportunity Fund Scholars attending eligible institutions.

2. Twenty percent of the Distribution Amount shall be allocated to the governing board of the Plan to support other programs established for the purpose of enhancing educational access and affordability for students with recognized financial need, including scholarship, grant, and other programs established pursuant to subdivision 8 of § 23.1-704 and to fund supplementary scholarships and grants awarded through the Two-Year College Transfer Grant Program established pursuant to Article 4 (§ 23.1-622 et seq.) of Chapter 6, the New Economy Workforce Credential Grant Program established pursuant to Article 4.1 (§ 23.1-627.1 et seq.) of Chapter 6, the Tuition Assistance Grant Act established pursuant to Article 5 (§ 23.1-628 et seq.) of Chapter 6, and the Virginia Guaranteed Assistance Program and Fund established pursuant to Article 6 (§ 23.1-636 et seq.) of Chapter 6.

3. Any unspent portion of the Distribution Amount to the Endowment annually shall remain available for Program purposes. The Distribution Amount of the Opportunity Fund shall be paid out, not less than annually, but no amount of the principal corpus shall be spent. For the purposes of this subsection, "principal corpus" of the Opportunity Fund means at the time of determination the sum of any allocations from the DB529 Fund pursuant to subdivision C 2 of § 23.1-701, any gifts, grants, contributions, and earnings that have been credited to the Opportunity Fund, and any income not appropriated and withdrawn from the Opportunity Fund prior to June 30 of each year, less withdrawals from the principal corpus.

E. The Endowment shall consult with each eligible institution to determine its needs arising from its smaller endowment compared with other institutions of higher education that are not eligible institutions. The Endowment shall coordinate the Program to meet such needs.

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

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

§ 58.1-322.03. Virginia taxable income; deductions.

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

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

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

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

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

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

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

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

1038 permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child
1039 as a personal exemption under § 151 of the Internal Revenue Code.

1040 5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

1041 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the
1042 age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted
1043 gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers
1044 filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal
1045 adjusted gross income of both spouses exceeds \$75,000.

1046 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted
1047 gross income minus any benefits received under Title II of the Social Security Act and other benefits subject
1048 to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

1049 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow
1050 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for
1051 the payment of such fee on his federal income tax return.

1052 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
1053 during the taxable year for a prepaid tuition contract or college savings trust account entered into with the
1054 Commonwealth Savers Plan, pursuant to ~~Chapter 7~~ *Article 1* (§ 23.1-700 et seq.) of *Chapter 7* of Title 23.1.
1055 Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable
1056 year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
1057 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
1058 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college
1059 savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable
1060 years until the purchase price or college savings trust contribution has been fully deducted; however, except
1061 as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per
1062 contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained
1063 in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in
1064 which distributions or refunds are made for any reason other than (i) to pay qualified higher education
1065 expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt
1066 of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown
1067 as such on the records of the Commonwealth Savers Plan as of December 31 of the taxable year. In the case
1068 of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall
1069 succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust
1070 account, including, but not limited to, carryover and recapture of deductions.

1071 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has
1072 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per
1073 prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a
1074 deduction for the full amount paid for the contract or contributed to a college savings trust account, less any
1075 amounts previously deducted.

1076 8. The total amount an individual actually contributed in funds to the Virginia Public School Construction
1077 Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the
1078 individual has not claimed a deduction for such amount on his federal income tax return.

1079 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or
1080 secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend
1081 continuing teacher education courses that are required as a condition of employment; however, the deduction
1082 provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition
1083 costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal
1084 income tax return.

1085 10. The amount an individual pays annually in premiums for long-term health care insurance, provided
1086 that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years
1087 beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after
1088 January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual
1089 during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such
1090 taxable year for long-term health care insurance premiums paid by him.

1091 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as
1092 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such
1093 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

1094 a. If the payment is received in installment payments, then the recognized gain may be subtracted in the
1095 taxable year immediately following the year in which the installment payment is received.

1096 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be
1097 subtracted in the taxable year immediately following the year in which the single payment is received. The
1098 taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

1099 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et

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

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

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

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

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

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

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

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

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

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

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

19. *For taxable years beginning on or after January 1, 2025, any amount donated to the Virginia College Opportunity Fund established under § 23.1-701.*

§ 58.1-344.3. Voluntary contributions of refunds requirements.

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

1161 listed on the individual income tax return.

1162 2. In the event that an entity listed in subsections B and C does not satisfy the requirement in subdivision
1163 1, such entity shall no longer be listed on the individual income tax return.

1164 3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B and C
1165 added subsequent to the 2004 Session of the General Assembly shall not appear on the individual income tax
1166 return until their addition to the individual income tax return results in a maximum of 25 contributions listed
1167 on the return. Such contributions shall be added in the order that they are listed in subsections B and C.

1168 b. Each entity added to the income tax return shall appear on the return for at least three consecutive
1169 taxable years before the requirement in subdivision 1 is applied to such entity.

1170 4. The Department of Taxation shall report annually by the first day of each General Assembly Regular
1171 Session to the Chairmen of the House Committee on Finance and Senate Committee on Finance and
1172 Appropriations the amounts collected for each entity listed under subsections B and C for the three most
1173 recent taxable years for which there is complete data. Such report shall also identify the entities, if any, that
1174 will be removed from the individual income tax return because they have failed the requirements in
1175 subdivision 1, the entities that will remain on the individual income tax return, and the entities, if any, that
1176 will be added to the individual income tax return.

1177 B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions shall
1178 appear on the individual income tax return and are eligible to receive tax refund contributions of not less than
1179 \$1:

1180 1. Nongame wildlife voluntary contribution.

1181 a. All moneys contributed shall be used for the conservation and management of endangered species and
1182 other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened wildlife,
1183 aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks, crustaceans, and other
1184 invertebrates under the jurisdiction of the Board of Wildlife Resources.

1185 b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which shall
1186 be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All moneys so
1187 deposited in the Nongame Cash Fund shall be used by the Board of Wildlife Resources for the purposes set
1188 forth herein.

1189 2. Open space recreation and conservation voluntary contribution.

1190 a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land
1191 for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and
1192 facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

1193 b. All moneys shall be deposited into a special fund known as the Open Space Recreation and
1194 Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation
1195 and Recreation for the purposes stated in subdivision 2 a and one-half to local public bodies pursuant to the
1196 Virginia Outdoor Fund Grants Program.

1197 3. Voluntary contribution to political party.

1198 All moneys contributed shall be paid to the State Central Committee of any party that meets the definition
1199 of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution
1200 allowable under this subdivision shall be \$25. In the case of a joint return of married individuals, each spouse
1201 may designate that the maximum contribution allowable be paid.

1202 4. United States Olympic Committee voluntary contribution.

1203 All moneys contributed shall be paid to the United States Olympic Committee.

1204 5. Housing program voluntary contribution.

1205 a. All moneys contributed shall be used by the Department of Housing and Community Development to
1206 provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide
1207 assistance to housing for the low-income elderly for the physically or mentally disabled.

1208 b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing
1209 Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community
1210 Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax
1211 Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust
1212 Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing
1213 Development Authority.

1214 6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

1215 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the
1216 enhancement of transportation services for the elderly and disabled.

1217 b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly
1218 and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and
1219 Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The
1220 Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received
1221 pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this

subdivision annually to the Secretary of Health and Human Resources.

7. Voluntary contribution to the Community Policing Fund.

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

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

8. Voluntary contribution to promote the arts.

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

9. Voluntary contribution to the Historic Resources Fund.

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

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

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

11. Voluntary contribution to the Center for Governmental Studies.

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

12. Voluntary contribution to the Law and Economics Center.

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

13. Voluntary contribution to Children of America Finding Hope.

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

14. Voluntary contribution to 4-H Educational Centers.

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

15. Voluntary contribution to promote organ and tissue donation.

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

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

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

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

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

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

18. Voluntary contribution to the Tuition Assistance Grant Fund.

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

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

19. Voluntary contribution to the Spay and Neuter Fund.

All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or each locality may make the funds available to any private, nonprofit sterilization program for dogs and cats in such

1283 locality. The Tax Commissioner shall determine annually the total amounts designated on all returns from
1284 each locality in the Commonwealth, based upon the locality that each filer who makes a voluntary
1285 contribution to the Fund lists as his permanent address. The State Treasurer shall pay the appropriate amount
1286 to each respective locality.

1287 20. Voluntary contribution to the Virginia Commission for the Arts.

1288 All moneys contributed shall be paid to the Virginia Commission for the Arts.

1289 21. Voluntary contribution for the Department of Emergency Management.

1290 All moneys contributed shall be paid to the Department of Emergency Management.

1291 22. Voluntary contribution for the cancer centers in the Commonwealth.

1292 All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have been
1293 designated as cancer centers by the National Cancer Institute.

1294 23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

1295 a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program Fund to
1296 support the work of and generate nonstate funds to maintain the Brown v. Board of Education Scholarship
1297 Program.

1298 b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as
1299 established in § 30-231.4.

1300 c. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in
1301 accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

1302 24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

1303 All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living
1304 History and Public Policy Center.

1305 25. Voluntary contribution to the Virginia Caregivers Grant Fund.

1306 All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to §
1307 63.2-2202.

1308 26. Voluntary contribution to public library foundations.

1309 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax
1310 Commissioner shall determine annually the total amounts designated on all returns for each public library
1311 foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate
1312 amount to the respective public library foundation.

1313 27. Voluntary contribution to Celebrating Special Children, Inc.

1314 All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a
1315 special fund known as the Celebrating Special Children, Inc. Fund.

1316 28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

1317 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for
1318 providing Medicare Part D counseling to the elderly and disabled.

1319 b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All
1320 moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide
1321 counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and
1322 Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and
1323 shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and
1324 Human Resources.

1325 29. Voluntary contribution to community foundations.

1326 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax
1327 Commissioner shall determine annually the total amounts designated on all returns for each community
1328 foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate
1329 amount to the respective community foundation. A "community foundation" shall be defined as any
1330 institution that meets the membership requirements for a community foundation established by the Council
1331 on Foundations.

1332 30. Voluntary contribution to the Virginia Foundation for Community College Education.

1333 a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for
1334 use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community
1335 colleges in Virginia.

1336 b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community
1337 College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia
1338 Foundation for Community College Education in accordance with and for the purposes provided under the
1339 Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

1340 31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

1341 All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to
1342 be used for the purposes described in § 15.2-6601.

1343 32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

1344 All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund

established pursuant to § 32.1-368.

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

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

34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

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

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

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

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

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

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

2. Voluntary Chesapeake Bay restoration contribution.

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

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

c. No later than November 1 of each year, the Secretary of Natural and Historic Resources shall submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate Committee on Finance and Appropriations; and the Virginia delegation to the Chesapeake Bay Commission, describing the grants awarded from moneys deposited in the fund. The report shall include a list of grant recipients, a description of the purpose of each grant, the amount received by each grant recipient, and an assessment of activities or initiatives supported by each grant. The report shall be posted on a website maintained by the Secretary of Natural and Historic Resources, along with a cumulative listing of previous grant awards beginning with awards granted on or after July 1, 2014.

3. Voluntary Jamestown-Yorktown Foundation Contribution.

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

4. State forests voluntary contribution.

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

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

5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

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

6. Voluntary contribution to local school divisions.

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

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

1406 appropriate amount to the respective public school foundation.

1407 c. In order for a public school foundation to be eligible to receive contributions under this section, school
1408 boards must notify the Department during the taxable year in which they want to participate prior to the
1409 deadlines and according to procedures established by the Tax Commissioner.

1410 7. Voluntary contribution to Home Energy Assistance Fund.

1411 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to §
1412 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy needs.

1413 8. Voluntary contribution to the Virginia Military Family Relief Fund.

1414 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in providing
1415 assistance to military service personnel on active duty and their families for living expenses including, but not
1416 limited to, food, housing, utilities, and medical services.

1417 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief Fund,
1418 established and administered pursuant to § 44-102.2.

1419 9. Voluntary contribution to the Federation of Virginia Food Banks.

1420 All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State
1421 Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable make an
1422 equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area Food Bank,
1423 Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia and the Eastern
1424 Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

1425 The Secretary of Finance may request records or receipts of all distributions by the Federation of Virginia
1426 Food Banks of such moneys contributed for purposes of ensuring compliance with the requirements of this
1427 subdivision.

1428 *10. Voluntary contribution to the Virginia College Opportunity Fund established in § 23.1-701, which*
1429 *shall be deposited in such fund.*

1430 D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected for
1431 each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner shall
1432 determine annually the total amount designated for each entity in subsections B and C on all individual
1433 income tax returns and shall report the same to the State Treasurer, who shall credit that amount to each
1434 entity's respective special fund.

1435 **§ 58.1-402. Virginia taxable income.**

1436 A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable
1437 income and any other income taxable to the corporation under federal law for such year of a corporation
1438 adjusted as provided in subsections B, C, D, E, G, and H.

1439 For a regulated investment company and a real estate investment trust, such term means the "investment
1440 company taxable income" and "real estate investment trust taxable income," respectively, to which shall be
1441 added in each case any amount of capital gains and any other income taxable to the corporation under federal
1442 law which shall be further adjusted as provided in subsections B, C, D, E, G, and H.

1443 B. There shall be added to the extent excluded from federal taxable income:

1444 1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on
1445 obligations of any state other than Virginia, or of a political subdivision of any such other state unless created
1446 by compact or agreement to which the Commonwealth is a party;

1447 2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable
1448 income, on obligations or securities of any authority, commission or instrumentality of the United States,
1449 which the laws of the United States exempt from federal income tax but not from state income taxes;

1450 3. [Repealed.]

1451 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are
1452 based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any
1453 other taxing jurisdiction, to the extent deducted in determining federal taxable income;

1454 5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

1455 6. [Repealed.]

1456 7. The amount required to be included in income for the purpose of computing the partial tax on an
1457 accumulation distribution pursuant to § 667 of the Internal Revenue Code;

1458 8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and
1459 costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or
1460 more direct or indirect transactions with one or more related members to the extent such expenses and costs
1461 were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall
1462 not be required for any portion of the intangible expenses and costs if one of the following applies:

1463 (1) The corresponding item of income received by the related member is subject to a tax based on or
1464 measured by net income or capital imposed by Virginia, another state, or a foreign government that has
1465 entered into a comprehensive tax treaty with the United States government;

1466 (2) The related member derives at least one-third of its gross revenues from the licensing of intangible

property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or

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

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

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

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

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

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

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

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

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

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

(4) One of the following applies:

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

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

(iii) The related member engages in transactions with parties other than related members that generate

1529 revenue in excess of \$2 million annually; or

1530 (iv) The transaction giving rise to the interest payments between the corporation and a related member
1531 was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds
1532 that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a
1533 person who is not a related member; (b) the debt is part of a regular and systematic funds management or
1534 portfolio investment activity conducted by the related member, whereby the funds of two or more related
1535 members are aggregated for the purpose of achieving economies of scale, the internal financing of the active
1536 business operations of members, or the benefit of centralized management of funds; (c) financing the
1537 expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of
1538 acquisition-related indebtedness to related members.

1539 b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to
1540 subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable
1541 year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such
1542 taxable year including tax upon any amount of interest expenses and costs required to be added to federal
1543 taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions
1544 between the corporation and a related member or members that resulted in the corporation's taxable income
1545 being increased, as required under subdivision a, for such interest expenses and costs.

1546 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing
1547 evidence, that the transaction or transactions between the corporation and a related member or members
1548 resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than
1549 the avoidance or reduction of the tax due under this chapter and that the related payments between the parties
1550 were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an
1551 amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to
1552 any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a
1553 valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the
1554 related payments between the parties were made at arm's length rates and terms. Such amended return shall
1555 be filed by the corporation within one year of the written permission granted by the Tax Commissioner and
1556 any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest
1557 established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the
1558 filing of such amended return, any related member of the corporation that subtracted from taxable income
1559 amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that
1560 portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision.
1561 In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied
1562 by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax
1563 returns for subsequent taxable years to deduct the related interest expenses and costs without making the
1564 adjustment under subdivision a.

1565 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any
1566 petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the
1567 petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon
1568 payment of such fee.

1569 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be
1570 maintained in any court of this Commonwealth.

1571 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under §
1572 58.1-446.

1573 d. For purposes of subdivision B 9:

1574 "Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement
1575 for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to
1576 those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below
1577 the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal
1578 Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the
1579 payment terms of the agreement governing the transaction or any amendments thereto.

1580 "Valid business purpose" means one or more business purposes that alone or in combination constitute the
1581 motivation for some business activity or transaction, which activity or transaction improves, apart from tax
1582 effects, the economic position of the taxpayer, as further defined by regulation.

1583 10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under
1584 §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For
1585 purposes of this subdivision, a REIT is a Captive REIT if:

1586 (1) It is not regularly traded on an established securities market;

1587 (2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any
1588 time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity
1589 that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii)

not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

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

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

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

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

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

(4) Any Qualified Foreign Entity.

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

d. For purposes of subdivision B 10:

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

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

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

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

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

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

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

e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be taken into consideration when determining if such REIT is a Captive REIT.

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

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

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

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

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

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

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

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

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

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

- 1652 9. [Repealed.]
- 1653 10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50
- 1654 percent or more of the voting stock.
- 1655 11. [Repealed.]
- 1656 12, 13. [Expired.]
- 1657 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses"
- 1658 or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on
- 1659 account of the provisions of § 280C(c) of the Internal Revenue Code.
- 1660 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds
- 1661 to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§
- 1662 22.1-175.1 et seq.) of Title 22.1.
- 1663 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived
- 1664 from the sale or exchange of real property or the sale or exchange of an easement to real property which
- 1665 results in the real property or the easement thereto being devoted to open-space use, as that term is defined in
- 1666 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance
- 1667 with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed
- 1668 for three years following the year in which the subtraction is taken.
- 1669 17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to
- 1670 § 58.1-440.1.
- 1671 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
- 1672 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement
- 1673 Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing
- 1674 quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business
- 1675 having the right to grow tobacco pursuant to such a quota allotment.
- 1676 19, 20. [Repealed.]
- 1677 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs
- 1678 or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B
- 1679 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount
- 1680 if such related member is subject to Virginia income tax on the same amount.
- 1681 22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch
- 1682 services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide
- 1683 individuals the training or experience of a launch, without performing an actual launch. To qualify for a
- 1684 deduction under this subdivision, launch services must be performed in Virginia or originate from an airport
- 1685 or spaceport in Virginia.
- 1686 23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply
- 1687 services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial
- 1688 Orbital Transportation Services division of the National Aeronautics and Space Administration or other space
- 1689 flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.
- 1690 24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain
- 1691 for federal income tax purposes, or any income taxed as investment services partnership interest income
- 1692 (otherwise known as investment partnership carried interest income) for federal income tax purposes. To
- 1693 qualify for a subtraction under this subdivision, such income must be attributable to an investment in a
- 1694 "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the
- 1695 Secretary of Administration, provided the business has its principal office or facility in the Commonwealth
- 1696 and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a
- 1697 subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June
- 1698 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under §
- 1699 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.
- 1700 25. a. Income, including investment services partnership interest income (otherwise known as investment
- 1701 partnership carried interest income), attributable to an investment in a Virginia venture capital account. To
- 1702 qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but
- 1703 before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a
- 1704 company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this
- 1705 subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.
- 1706 b. As used in this subdivision 25:
- 1707 "Qualified portfolio company" means a company that (i) has its principal place of business in the
- 1708 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
- 1709 service other than the management or investment of capital; and (iii) provides equity in the company to the
- 1710 Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not
- 1711 include a company that is an individual or sole proprietorship.
- 1712 "Virginia venture capital account" means an investment fund that has been certified by the Department as

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

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

b. As used in this subdivision 26:

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

."

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

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

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

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

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

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

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

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

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

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

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

- 1775 2. 30 percent for taxable years beginning on and after January 1, 2022, but before January 1, 2024; and
1776 3. 50 percent for taxable years beginning on and after January 1, 2024.
1777 For purposes of subsection G, "business interest" means the same as that term is defined under § 163(j) of
1778 the Internal Revenue Code.
1779 H. For taxable years beginning before January 1, 2021, there shall be deducted to the extent not otherwise
1780 subtracted from federal taxable income up to \$100,000 of the amount that is not deductible when computing
1781 federal taxable income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck
1782 Protection Program loans.
1783 *I. For taxable years beginning on and after January 1, 2025, there shall be deducted to the extent not*
1784 *otherwise subtracted from federal taxable income any amount donated to the Virginia College Opportunity*
1785 *Fund established in § 23.1-701.*