

26105337D

SENATE BILL NO. 375

Offered January 14, 2026

Prefiled January 13, 2026

A BILL to amend and reenact §§ 2.2-3705.7, 2.2-3711, as it is currently effective and as it shall become effective, 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, 23.1-711, 23.1-713, 51.1-505.01, 58.1-3, 58.1-322.02, 58.1-322.03, 58.1-344.3, 58.1-344.4, and 58.1-402 of the Code of Virginia and to amend the Code of Virginia 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 Commonwealth Savers Plan; Virginia College Opportunity Endowment and Fund established; report.

Patron—Surovell

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.7, 2.2-3711, as it is currently effective and as it shall become effective, 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, 23.1-711, 23.1-713, 51.1-505.01, 58.1-3, 58.1-322.02, 58.1-322.03, 58.1-344.3, 58.1-344.4, and 58.1-402 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended 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'

INTRODUCED

SB375

annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

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

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

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

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a 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 post-retirement 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 visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the Commonwealth Savers Plan, acting pursuant to § 23.1-704, relating to 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, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, 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) 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, the board of visitors of The College of William and Mary in 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.

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

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of 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 is \$1 million or greater, 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 or by the Department of Workforce Development and Advancement concerning identifiable individuals younger than 18 years of age. 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, relating to:

a. Internal deliberations or decisions by the retirement system or the Commonwealth Savers Plan 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; and

b. Trade secrets provided by a private entity to the retirement system or the Commonwealth Savers Plan if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the Commonwealth Savers Plan.

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:

(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 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. (Effective until July 1, 2026) 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 (i) prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 Article 1 (§ 23.1-700 et seq.) of Chapter 7 of Title 23.1 or (ii) College Opportunity Fund Scholarship agreements pursuant to Article 2 (§ 23.1-714 et seq.) of Chapter 7 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 *subdivision C 2 of § 23.1-701 or § 23.1-706*, or by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 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.

§ 2.2-3711. (Effective July 1, 2026) 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 (i) prepaid tuition contracts or savings trust account agreements pursuant to ~~Chapter 7~~ Article 1 (§ 23.1-700 et seq.) of Chapter 7 of Title 23.1 or (ii) College Opportunity Fund Scholarship agreements pursuant to Article 2 (§ 23.1-714 et seq.) of Chapter 7 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 and review by the State Board of Elections of complaints related to the personal use of campaign funds pursuant to § 24.2-948.7.

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 *subdivision C 2 of § 23.1-701 or § 23.1-706*, or by the Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 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 used to apply distributions from the account toward 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.

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

"DB529 Fund" means the subfund of the Fund established in 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.

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

"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.

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

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

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

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

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

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

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

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

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

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

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

2. *After the fiscal year beginning July 1, 2026, the Plan shall deposit \$500 million from the DB529 Fund 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 Plan shall submit to the Chairs 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 Plan as to the prudence of directing additional deposits of actuarial surpluses into the Opportunity Fund. In making such recommendation, the Plan 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 ability of the Plan to meet any obligation incurred under the provisions of this article.*

3. *The Joint Legislative Audit and Review Commission shall no less than biennially complete an independent evaluation and risk assessment of the Plan's risk assessment model, assumptions, and other measures employed by the Plan related to the DB529 Fund and the Opportunity Fund, including the financial stability and ability to meet current and future obligations in each fund, and whether recommendations are appropriate in amounts to fully support the Endowment Scholarship Program. Such evaluation shall include an assessment of each recommendation made by the Plan pursuant to subdivision 2.*

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 Executive 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.

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

The board shall:

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

2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in § 23.1-700, at a fixed, guaranteed level for application at a public institution of higher education; (ii) contributions to college savings trust accounts established pursuant to this ~~chapter article~~ on behalf of a qualified beneficiary in order to apply distributions from the account toward 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; and (iii) contributions to ABLE savings trust accounts established pursuant to this ~~chapter article~~ on behalf of a qualified beneficiary in order to apply distributions from the account toward 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1051 of 1986, as amended, or other applicable federal law.

1052 C. Each ABLE savings trust agreement made pursuant to this ~~chapter~~ *article* shall include the following
1053 terms and provisions:

1054 1. The maximum and minimum annual contribution and maximum account balance allowed on behalf of
1055 each qualified beneficiary for the payment of qualified disability expenses, as defined in § 529A of the
1056 Internal Revenue Code of 1986, as amended, or other applicable federal law;

1057 2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any penalties;

1058 3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust
1059 account is opened;

1060 4. Terms and conditions for a substitution for the qualified beneficiary originally named;

1061 5. Terms and conditions for termination of the account, including any transfers to the state upon the death
1062 of the qualified beneficiary, refunds, withdrawals, transfers, applicable penalties, and the name of the person
1063 entitled to terminate the account;

1064 6. The time period during which the qualified beneficiary is required to use benefits from the savings trust
1065 account;

1066 7. All other rights and obligations of the contributor and the Plan; and

1067 8. Any other terms and conditions that the board deems necessary or appropriate, including those
1068 necessary to conform the savings trust account with the requirements of § 529A of the Internal Revenue Code
1069 of 1986, as amended, or other applicable federal law.

1070 D. In addition to the provisions required by subsection A, each prepaid tuition contract entered into prior
1071 to July 1, 2019, shall include provisions for the application of tuition prepayments (i) at accredited nonprofit
1072 independent or private institutions of higher education, including actual interest and income earned on such
1073 prepayments, and (ii) at non-Virginia public and accredited nonprofit independent or private institutions of
1074 higher education, including principal and reasonable return on such principal as determined by the board.
1075 Payments authorized for accredited nonprofit independent or private institutions of higher education shall not
1076 exceed the projected highest payment made for tuition at a public institution of higher education in the same
1077 academic year, less a fee to be determined by the board. Payments authorized for non-Virginia public and
1078 accredited nonprofit independent or private institutions of higher education shall not exceed the projected
1079 average payment made for tuition at a public institution of higher education in the same academic year, less a
1080 fee to be determined by the board. In no event, however, shall the benefit paid on any prepaid tuition contract
1081 entered into prior to July 1, 2019, be less than the sum of tuition prepayments made and a reasonable return
1082 on such prepayments to be determined by the board, less any fees determined by the board.

1083 E. In addition to the provisions required by subsection A, each prepaid tuition contract entered into on or
1084 after July 1, 2019, shall include provisions for the application of tuition prepayments, at a rate equal to the
1085 percentage of enrollment-weighted average tuition at public institutions of higher education to be determined
1086 by the board, at (i) public institutions of higher education, (ii) accredited nonprofit independent or private
1087 institutions of higher education, and (iii) non-Virginia public and accredited nonprofit independent or private
1088 institutions of higher education. In no event, however, shall the benefit paid on any prepaid tuition contract
1089 entered into on or after July 1, 2019, be less than tuition prepayments made, less any fees as determined by
1090 the board.

1091 F. All prepaid tuition contracts and savings trust agreements shall specifically provide that if after a
1092 specified period of time the contract or savings trust agreement has not been terminated and the qualified
1093 beneficiary's rights have not been exercised, the board, after making a reasonable effort to contact the
1094 purchaser or contributor and the qualified beneficiary or their agents, shall report such unclaimed moneys to
1095 the State Treasurer pursuant to § 55.1-2524.

1096 G. 1. Notwithstanding any provision of law to the contrary, money in the Plan is exempt from creditor
1097 process, is not liable to attachment, garnishment, or other process, and shall not be seized, taken,
1098 appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of
1099 any purchaser, contributor, or beneficiary. Unless required by federal law, the Commonwealth, its agencies,
1100 and its instrumentalities shall not seek payment pursuant to 26 U.S.C. § 529A from any ABLE savings trust
1101 account or its proceeds for benefits provided to the beneficiary of the account and shall not undertake estate
1102 recovery from any ABLE savings trust account pursuant to 26 U.S.C. § 529A.

1103 2. Unless prohibited by federal law, the beneficiary of an ABLE savings trust account may appoint a
1104 survivor. In the event of the beneficiary's death, if the survivor is (i) an eligible individual, as defined in 26
1105 U.S.C. § 529A(e), then such survivor shall become the beneficiary of the ABLE savings trust account or (ii)
1106 not an eligible individual, as defined in 26 U.S.C. § 529A(e), then any proceeds remaining after final
1107 distributions have been made on behalf of the deceased beneficiary shall be distributed to the survivor and the
1108 account shall be closed.

1109 H. Notwithstanding any other provision of state law that requires consideration of one or more financial
1110 circumstances of an individual for the purpose of determining (i) the individual's eligibility to receive any
1111 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, Norfolk State University, Old Dominion University, Radford University, the University of Mary Washington, 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 provisions of this article.

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

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

1174 *B. The Endowment shall be administered by a 12-member board, and each eligible institution shall have*
1175 *one representative on the board. Members shall be appointed by the Governor, subject to confirmation by the*
1176 *General Assembly, for terms of four years. If a vacancy occurs other than by expiration of a term, the*
1177 *Governor shall appoint a member who shall serve on a temporary basis until the next legislative session and*
1178 *who shall then be subject to confirmation by the General Assembly.*

1179 *C. No member appointed to the board shall serve more than two consecutive four-year terms; however, a*
1180 *member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms*
1181 *immediately succeeding such unexpired term.*

1182 *D. The board shall elect from its membership a chairman and a vice-chairman annually.*

1183 *E. A majority of the members of the board shall constitute a quorum.*

1184 *F. Members of the board shall receive no compensation but shall be reimbursed for actual expenses*
1185 *incurred in the performance of their duties.*

1186 **§ 23.1-716. Powers and duties; Endowment Scholarship Program; report.**

1187 *A. The Endowment shall establish the Endowment Scholarship Program to provide scholarships to*
1188 *students at eligible institutions. The Endowment shall, in consultation with the governing board of the Plan,*
1189 *develop policies and guidelines necessary to implement and administer the Program, including policies and*
1190 *guidelines regarding student eligibility, application procedures, criteria for selecting student applicants for*
1191 *scholarships, scholarship amounts, requirements for College Opportunity Fund Scholars to maintain their*
1192 *scholarships, the terms of income-based repayment plans for students required to reimburse the Endowment,*
1193 *and any other requirements deemed necessary for the administration of the Program. Scholarships awarded*
1194 *by the Endowment may be for full or partial tuition and may also cover, in whole or in part, the costs of fees*
1195 *and room and board, on terms and conditions determined by the Endowment.*

1196 *B. The Program shall provide scholarships only to a student who:*

1197 *1. Enrolls, or plans to enroll, at an eligible institution. A College Opportunity Fund Scholar who receives*
1198 *a scholarship pursuant to this section shall lose eligibility for such scholarship if he enrolls at an institution*
1199 *of higher education that is not an eligible institution.*

1200 *2. Meets the eligibility requirements for a Federal Pell Grant, as determined by the U.S. Secretary of*
1201 *Education pursuant to the provisions of 20 U.S.C. § 1070a and draws down such Federal Pell Grant prior to*
1202 *applying for the scholarship.*

1203 *3. Commits, as a condition of receiving a scholarship, to remaining employed or enrolled in postgraduate*
1204 *education in Virginia for at least eight years after graduating from the eligible institution at which he is*
1205 *enrolled or plans to enroll. For purposes of this subdivision, a College Opportunity Fund Graduate shall be*
1206 *considered employed in Virginia only if such person is employed in a full-time position and his compensation*
1207 *from such position is subject to taxation pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1. The*
1208 *Endowment may, upon petition by the College Opportunity Fund Graduate, temporarily waive the*
1209 *requirements of this subdivision if the College Opportunity Fund Graduate demonstrates that (i) he is seeking*
1210 *employment in an industry or profession consistent with his field of study but has been unable to secure such*
1211 *employment, (ii) he is seeking enrollment in graduate school but his application is pending or he has been*
1212 *unable to gain admission to graduate school, (iii) he is not employed or not employed in a full-time position*
1213 *because he is disabled and unable to work, or (iv) he is not employed or not employed in a full-time position*
1214 *in order to care for his children or a disabled family member.*

1215 *4. Meets any other requirements established by the Endowment pursuant to subsection A.*

1216 *C. The Virginia Employment Commission and the Department of Taxation shall provide the College*
1217 *Opportunity Fund access to the information of each College Opportunity Fund Graduate to verify that the*
1218 *College Opportunity Fund Graduate is in compliance with the provisions of subdivision B 3, including*
1219 *verification that such College Opportunity Fund Graduate pays Virginia income taxes. If a College*
1220 *Opportunity Fund Graduate breaches his commitment made under subdivision B 3, the Endowment shall*
1221 *require him to reimburse the Opportunity Fund for all scholarship funds received pursuant to this section.*
1222 *Any such reimbursement shall be paid by the College Opportunity Fund Graduate in the form of an income-*
1223 *based repayment plan over a maximum of eight years, on such terms as may be prescribed by the Endowment*
1224 *pursuant to subsection A. If a College Opportunity Fund Graduate is found in noncompliance with this*
1225 *income-based repayment plan, any outstanding balance shall be recorded as a tax lien and shall be referred*
1226 *to the Attorney General for enforcement or collection. It shall not be incumbent upon any eligible institution*
1227 *to identify students in breach of commitments made under subdivision B 3 or to administer income-based*
1228 *repayment plans or any other form of debt collection on behalf of the Endowment.*

1229 *D. The Program shall be funded only by income from investments of deposits to the Opportunity Fund.*
1230 *Any operating expenses of the Program shall only be paid out of the general operating expenses of the Plan*
1231 *and shall not be paid out of any annual income of the Endowment. The Plan shall manage the assets of the*
1232 *Opportunity Fund with the objective of maximizing investment return for the Program and in accordance*
1233 *with the provisions of Article 1 (§ 23.1-700 et seq.), mutatis mutandis; however, the board shall have sole*
1234 *authority over the administration of the Program and the disbursement of income in the form of scholarships.*
1235 *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 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 subdivision, "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 such institution's 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.

§ 51.1-505.01. Additional accidental death and dismemberment benefits.

The group life, accidental death, and dismemberment insurance coverage purchased by the Board shall include, but not be limited to, the following benefits:

A. If, as a result of an accident, an insured employee dies at least 75 miles from his principal residence, an additional accidental death benefit shall be paid for the preparation and transportation of the employee to a mortuary. The additional benefit shall be the lesser of the actual cost for such preparation and transportation or \$5,000;

B. If an insured employee dies or suffers a dismemberment as a result of an accident that occurs while the employee is driving or riding in a private passenger vehicle, an additional accidental death or dismemberment benefit shall be paid, provided that (i) the private passenger vehicle is equipped with a safety restraint system; (ii) such safety restraint system was being used properly by the insured employee at the time of the accident, as certified in the official accident report or by the official investigating officer; and (iii) at the time of the accident, the driver of the private passenger vehicle held a current license to operate a private passenger vehicle and was not intoxicated, driving while impaired or under the influence of alcohol or drugs, as is defined or determined under applicable law.

The additional benefit shall be the lesser of 10 percent of the amount otherwise payable due to such accidental death or dismemberment or \$50,000.

C. Death or dismemberment from a felonious assault.

1. If an insured employee dies or suffers a dismemberment as a result of an accident caused by a felonious assault committed by other than an immediate family member, there shall be paid an additional accidental death or dismemberment benefit equal to the lesser of 25 percent of the amount otherwise payable due to such accidental death or dismemberment or \$50,000.

2. In addition, if (i) an insured employee dies as a result of an accident caused by a felonious assault committed by other than an immediate family member, and (ii) such insured employee has a qualifying child at the time of such accident, a college savings trust account under the Commonwealth Savers Plan, pursuant to Article 1 (§ 23.1-700 et seq.) of Chapter 7 of Title 23.1, shall be opened for each qualifying child. The Retirement System shall be the contributor of any such account and shall contribute into the account of each such qualifying child an amount approximately equal to the current average cost, as published by the State Council of Higher Education for Virginia, of four years of tuition and mandatory fees at baccalaureate public institutions of higher education in the Commonwealth. The qualified beneficiary, as defined in § 23.1-700, shall be the qualifying child on whose behalf such account was opened. Specific benefits of the college savings trust account shall be as defined by the Commonwealth Savers Plan.

Disbursements from a college savings trust account opened under this section shall be governed by procedures adopted by the Board of Trustees of the Virginia Retirement System in accordance with § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, and any other additional procedures as determined by the Board of the Commonwealth Savers Plan. College savings trust account

1298 funds shall be payable only for qualified higher education expenses to a post-secondary eligible educational
1299 institution. Any funds in a college savings trust account that are not used by a qualifying child before the
1300 expiration of the time period for the use of such funds, as determined by the Commonwealth Savers Plan,
1301 shall be paid to the Retirement System promptly after the expiration of such period.

1302 **§ 58.1-3. Secrecy of information; penalties.**

1303 A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax
1304 Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or
1305 revenue officer or employee, or any person to whom tax information is divulged pursuant to this section or
1306 § 58.1-512, 58.1-2712.2, or 58.1-3826, or any former officer or employee of any of the aforementioned
1307 offices shall not divulge any information acquired by him in the performance of his duties with respect to the
1308 transactions, property, including personal property, income or business of any person, firm or corporation.
1309 Such prohibition specifically includes any copy of a federal return or federal return information required by
1310 Virginia law to be attached to or included in the Virginia return. This prohibition shall apply to any reports,
1311 returns, financial documents or other information filed with the Attorney General pursuant to the provisions
1312 of Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2. Any person violating the provisions of this section
1313 is guilty of a Class 1 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1314 1. Matters required by law to be entered on any public assessment roll or book;

1315 2. Acts performed or words spoken, published, or shared with another agency or subdivision of the
1316 Commonwealth in the line of duty under state law;

1317 3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly
1318 constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study,
1319 provided that any such information obtained shall be privileged;

1320 4. The sales price, date of construction, physical dimensions or characteristics of real property, or any
1321 information required for building permits;

1322 5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court
1323 pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent or by
1324 the commissioner of accounts making a settlement of accounts filed in such estate;

1325 6. Information regarding nonprofit entities exempt from sales and use tax under § 58.1-609.11, when
1326 requested by the General Assembly or any duly constituted committee of the General Assembly;

1327 7. Reports or information filed with the Attorney General by a Stamping Agent pursuant to the provisions
1328 of Article 3 (§ 3.2-4204 et seq.), when such reports or information are provided by the Attorney General to a
1329 tobacco products manufacturer who is required to establish a qualified escrow fund pursuant to § 3.2-4201
1330 and are limited to the brand families of that manufacturer as listed in the Tobacco Directory established
1331 pursuant to § 3.2-4206 and are limited to the current or previous two calendar years or in any year in which
1332 the Attorney General receives Stamping Agent information that potentially alters the required escrow deposit
1333 of the manufacturer. The information shall only be provided in the following manner: the manufacturer may
1334 make a written request, on a quarterly or yearly basis or when the manufacturer is notified by the Attorney
1335 General of a potential change in the amount of a required escrow deposit, to the Attorney General for a list of
1336 the Stamping Agents who reported stamping or selling its products and the amount reported. The Attorney
1337 General shall provide the list within 15 days of receipt of the request. If the manufacturer wishes to obtain
1338 actual copies of the reports the Stamping Agents filed with the Attorney General, it must first request them
1339 from the Stamping Agents pursuant to subsection C of § 3.2-4209. If the manufacturer does not receive the
1340 reports pursuant to subsection C of § 3.2-4209, the manufacturer may make a written request to the Attorney
1341 General, including a copy of the prior written request to the Stamping Agent and any response received, for
1342 copies of any reports not received. The Attorney General shall provide copies of the reports within 45 days of
1343 receipt of the request.

1344 B. 1. Nothing contained in this section shall be construed to prohibit the publication of statistics so
1345 classified as to prevent the identification of particular reports or returns and the items thereof or the
1346 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with
1347 any relevant information which in the opinion of the Department may assist in the collection of such
1348 delinquent taxes. Notwithstanding any other provision of this section or other law, the Department, upon
1349 request by the General Assembly or any duly constituted committee of the General Assembly, shall disclose
1350 the total aggregate amount of an income tax deduction or credit taken by all taxpayers, regardless of (i) how
1351 few taxpayers took the deduction or credit or (ii) any other circumstances. This section shall not be construed
1352 to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business
1353 in that locality and divulging, upon written request, the name and address of any person, firm or corporation
1354 transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the
1355 commissioner of revenue is authorized to provide, upon written request stating the reason for such request,
1356 the Tax Commissioner with information obtained from local tax returns and other information pertaining to
1357 the income, sales and property of any person, firm or corporation licensed to do business in that locality.

1358 2. This section shall not prohibit the Department from disclosing whether a person, firm, or corporation is
1359 registered as a retail sales and use tax dealer pursuant to Chapter 6 (§ 58.1-600 et seq.) or whether a

certificate of registration number relating to such tax is valid. Additionally, notwithstanding any other provision of law, the Department is hereby authorized to make available the names and certificate of registration numbers of dealers who are currently registered for retail sales and use tax.

3. This section shall not prohibit the Department from disclosing information to nongovernmental entities with which the Department has entered into a contract to provide services that assist it in the administration of refund processing or other services related to its administration of taxes.

4. This section shall not prohibit the Department from disclosing information to taxpayers regarding whether the taxpayer's employer or another person or entity required to withhold on behalf of such taxpayer submitted withholding records to the Department for a specific taxable year as required pursuant to subdivision C 1 of § 58.1-478.

5. This section shall not prohibit the commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town from disclosing information to nongovernmental entities with which the locality has entered into a contract to provide services that assist it in the administration of refund processing or other non-audit services related to its administration of taxes. The commissioner of the revenue, treasurer, director of finance, or other similar local official who collects or administers taxes for a county, city, or town shall not disclose information to such entity unless he has obtained a written acknowledgement by such entity that the confidentiality and nondisclosure obligations of and penalties set forth in subsection A apply to such entity and that such entity agrees to abide by such obligations.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to (i) divulge tax information to any commissioner of the revenue, director of finance, or other similar collector of county, city, or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon entering into a written agreement, the amount of income, filing status, number and type of dependents, whether a federal earned income tax credit as authorized in § 32 of the Internal Revenue Code and an income tax credit for low-income taxpayers as authorized in § 58.1-339.8 have been claimed, and Forms W-2 and 1099 to facilitate the administration of public assistance or social services benefits as defined in § 63.2-100 or child support services pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or as may be necessary to facilitate the administration of outreach and enrollment related to the federal earned income tax credit authorized in § 32 of the Internal Revenue Code and the income tax credit for low-income taxpayers authorized in § 58.1-339.8; (iii) provide to the chief executive officer of the designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names and home addresses of those persons identified by the designated guarantor as having delinquent loans guaranteed by the designated guarantor; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties, and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Virginia Alcoholic Beverage Control Authority, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the Virginia Lottery such tax information as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential use such tax information as may be necessary to facilitate the location of owners and holders of unclaimed property, as defined in § 55.1-2500; (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi) provide to the Commissioner of the Department of Agriculture and Consumer Services such tax information as may be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing and Community Development for its confidential use such tax information as may be necessary to facilitate the administration of the remaining effective provisions of the Enterprise Zone Act (§ 59.1-270 et seq.), and the Enterprise Zone Grant Program (§ 59.1-538 et seq.); (xiii) provide current name and address information to private collectors entering into a written agreement with the Tax Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its political subdivisions; however, the Tax Commissioner is not authorized to provide such information to a private collector who has used or disseminated in an unauthorized or prohibited manner any such information previously provided to such collector; (xiv) provide current name and address information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring an action for injunction or other equitable relief for violation of

Chapter 10.1, Enforcement of Illegal Sale or Distribution of Cigarettes Act; (xv) provide to the Commissioner of Labor and Industry, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of unpaid wages under § 40.1-29; (xvi) provide to the Director of the Department of Human Resource Management, upon entering into a written agreement, such tax information as may be necessary to identify persons receiving workers' compensation indemnity benefits who have failed to report earnings as required by § 65.2-712; (xvii) provide to any commissioner of the revenue, director of finance, or any other officer of any county, city, or town performing any or all of the duties of a commissioner of the revenue and to any dealer registered for the collection of the Communications Sales and Use Tax, a list of the names, business addresses, and dates of registration of all dealers registered for such tax; (xviii) provide to the Executive Director of the Northern Virginia Transportation Commission for his confidential use such tax information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xix) provide to the Commissioner of Agriculture and Consumer Services the name and address of the taxpayer businesses licensed by the Commonwealth that identify themselves as subject to regulation by the Board of Agriculture and Consumer Services pursuant to § 3.2-5130; (xx) provide to the developer or the economic development authority of a tourism project authorized by § 58.1-3851.1, upon entering into a written agreement, tax information facilitating the repayment of gap financing; (xxi) provide to the Virginia Retirement System and the Department of Human Resource Management, after entering into a written agreement, such tax information as may be necessary to facilitate the enforcement of subdivision C 4 of § 9.1-401; (xxii) provide to the Department of Medical Assistance Services and the Department of Social Services, upon entering into a written agreement, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivisions B 1 and 2 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who would like to newly enroll in medical assistance; (xxiii) provide to the Commissioner of the Department of Motor Vehicles information sufficient to verify that an applicant for a driver privilege card or permit under § 46.2-328.3 or an applicant for an identification privilege card under § 46.2-345.3 reported income and deductions from Virginia sources, as defined in § 58.1-302, or was claimed as a dependent, on an individual income tax return filed with the Commonwealth within the preceding 12 months; ~~and~~ (xxiv) provide to the Virginia Health Benefit Exchange, upon entering into a written agreement, for taxable years starting on January 1, 2023, or as soon thereafter as practicable, as determined by the Department of Taxation and the Virginia Health Benefit Exchange, the name, address, social security number, email address, dependent information provided pursuant to subdivision B 2 of § 58.1-341.1, number and type of personal exemptions, tax-filing status, adjusted gross income, and any additional information voluntarily provided by the taxpayer for disclosure pursuant to subdivision B 3 of § 58.1-341.1, of an individual, or spouse in the case of a married taxpayer filing jointly, who has voluntarily consented to such disclosure for purposes of identifying persons who do not meet the income eligibility requirements for medical assistance and would like to newly enroll in a qualified health plan; *and (xxv) provide to the College Opportunity Fund, pursuant to subsection C of § 23.1-716, the information of each College Opportunity Fund Graduate, as that term is defined in § 23.1-214, as may be necessary to verify that each such College Opportunity Fund is in compliance with the provisions of subdivision B 3 of § 23.1-716.* The Tax Commissioner is further authorized to enter into written agreements with duly constituted tax officials of other states and of the United States for the inspection of tax returns, the making of audits, and the exchange of information relating to any tax administered by the Department of Taxation. Any person to whom tax information is divulged pursuant to this section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the commissioner of revenue or other assessing official is authorized to (i) provide, upon written request stating the reason for such request, the chief executive officer of any county or city with information furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax revenues payable to the county or city; (ii) provide to the Department of Professional and Occupational Regulation for its confidential use the name, address, and amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a profession or occupation administered by the Department of Professional and Occupational Regulation, only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the

written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent that may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it is unlawful for any person to disseminate, publish, or cause to be published any confidential tax document that he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D and includes any document containing information on the transactions, property, income, or business of any person, firm, or corporation that is required to be filed with any state official by § 58.1-512. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection is guilty of a Class 1 misdemeanor.

G. Information provided by an accommodations intermediary pursuant to subsection F of § 58.1-3826 to the commissioner of the revenue, treasurer, or any other local tax or revenue officer or employee of a county, city, or town, or any other person to whom such tax information is divulged, shall be confidential pursuant to subsection A and shall not be divulged to any other department or official of the locality or any other political subdivision of the Commonwealth. Such information shall be used by such officials only for the purpose of levying and collecting retail sales and use tax, transient occupancy tax, and any other taxes imposed on the sale of accommodations.

§ 58.1-322.02. Virginia taxable income; subtractions.

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

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 the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

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

6. The amount of wages or salaries eligible for the federal Work Opportunity 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 less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, (i) for taxable years beginning before January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the subtractions specified in this clause, and (ii) for taxable years beginning on or after January 1, 2023, not to exceed the amount of income derived from 39 calendar days of such service or \$5,500, whichever amount is less; however, only those persons in the ranks of O6 and below shall be entitled to the subtractions specified in this clause.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for

information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Commonwealth Savers Plan, created pursuant to ~~Chapter 7 Article 1~~ (§ 23.1-700 et seq.) of *Chapter 7 of Title 23.1*. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

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

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to \$10,000 of military benefits; and for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to \$20,000 of military benefits.

c. For taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to \$40,000 of military benefits.

d. For purposes of subdivisions b and c, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by subdivision b shall be allowed only for military benefits received by an individual age 55 or older. The subtraction allowed by subdivision c shall be allowed for military benefits received by an individual of any age. No subtraction shall be allowed pursuant to subdivisions b and c if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the

proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

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

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

1670 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable
1671 to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision,
1672 "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

1673 27. a. Income, including investment services partnership interest income (otherwise known as investment
1674 partnership carried interest income), attributable to an investment in a Virginia venture capital account. To
1675 qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but
1676 before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a
1677 company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be
1678 allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 or a tax
1679 credit under § 58.1-339.4 for the same investment.

1680 b. As used in this subdivision 27:

1681 "Qualified portfolio company" means a company that (i) has its principal place of business in the
1682 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
1683 service other than the management or investment of capital; and (iii) provides equity in the company to the
1684 Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not
1685 include a company that is an individual or sole proprietorship.

1686 "Virginia venture capital account" means an investment fund that has been certified by the Department as
1687 a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator
1688 of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i)
1689 indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio
1690 companies and (ii) providing documentation that it employs at least one investor who has at least four years
1691 of professional experience in venture capital investment or substantially equivalent experience. "Substantially
1692 equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or
1693 university in economics, finance, or a similar field of study. The Department may require an investment fund
1694 to provide documentation of the investor's training, education, or experience as deemed necessary by the
1695 Department to determine substantial equivalency. If the Department determines that the investment fund
1696 employs at least one investor with the experience set forth herein, the Department shall certify the investment
1697 fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50
1698 percent of the capital committed to its fund in qualified portfolio companies.

1699 28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a
1700 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
1701 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a family
1702 member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer
1703 who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4 for the same
1704 investment.

1705 b. As used in this subdivision 28:

1706 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
1707 § 2.2-115.

1708 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of
1709 § 2.2-115.

1710 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C. § 856,
1711 that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as
1712 a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to
1713 December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at
1714 least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the
1715 Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a
1716 Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds
1717 in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
1718 distressed.

1719 29. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of real
1720 property by condemnation proceedings.

1721 30. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received by the
1722 taxpayer under the Rebuild Virginia program established by the Governor and administered by the
1723 Department of Small Business and Supplier Diversity.

1724 31. For taxable years beginning on and after January 1, 2022, any compensation for wrongful
1725 incarceration awarded pursuant to the procedures established under Article 18.2 (§ 8.01-195.10 et seq.) of
1726 Chapter 3 of Title 8.01.

1727 **§ 58.1-322.03. Virginia taxable income; deductions.**

1728 In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia
1729 adjusted gross income as defined in § 58.1-321:

1730 1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer
1731 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, 2027, \$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); (iv) for taxable years beginning on and after January 1, 2024, but before January 1, 2025, \$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); and (v) for taxable years beginning on and after January 1, 2025, but before January 1, 2027, \$8,750 for single individuals and \$17,500 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 permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

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

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

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

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

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

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

1794 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per
1795 prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a
1796 deduction for the full amount paid for the contract or contributed to a college savings trust account, less any
1797 amounts previously deducted.

1798 8. The total amount an individual actually contributed in funds to the Virginia Public School Construction
1799 Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the
1800 individual has not claimed a deduction for such amount on his federal income tax return.

1801 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or
1802 secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend
1803 continuing teacher education courses that are required as a condition of employment; however, the deduction
1804 provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition
1805 costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal
1806 income tax return.

1807 10. The amount an individual pays annually in premiums for long-term health care insurance, provided
1808 that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years
1809 beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after
1810 January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual
1811 during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such
1812 taxable year for long-term health care insurance premiums paid by him.

1813 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as
1814 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such
1815 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

1816 a. If the payment is received in installment payments, then the recognized gain may be subtracted in the
1817 taxable year immediately following the year in which the installment payment is received.

1818 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be
1819 subtracted in the taxable year immediately following the year in which the single payment is received. The
1820 taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

1821 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et
1822 seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible
1823 personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators
1824 that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental
1825 Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an
1826 electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has
1827 a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance
1828 of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that
1829 yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor
1830 of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner
1831 that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater
1832 that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
1833 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating
1834 of 85; and (x) programmable thermostats.

1835 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue
1836 for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such
1837 donation, provided that the donor has not taken a medical deduction in accordance with the provisions of §
1838 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in
1839 which the donation is made or the taxable year in which the 12-month period expires.

1840 14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older
1841 with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of
1842 \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the
1843 individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a
1844 deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income"
1845 means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be
1846 allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed
1847 a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision
1848 of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

1849 15. Business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code:

1850 a. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent of
1851 such disallowed business interest;

1852 b. For taxable years beginning on and after January 1, 2022, but before January 1, 2024, 30 percent of
1853 such disallowed business interest;

1854 c. For taxable years beginning on and after January 2, 2024, 50 percent of such disallowed business
1855 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 and after January 1, 2026, the amount paid or cost incurred for installing a qualifying upgrade required to interconnect a triggering project. No deduction shall be allowed under this section for a taxpayer who has claimed a deduction under subsection I of § 58.1-402 for the same amount paid or cost incurred to install such qualifying upgrade.

For purposes of this subdivision, "qualifying upgrade" and "triggering project" have the same meanings as provided for those terms in § 56-596.5.

20. *For taxable years beginning on or after January 1, 2026, the 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 listed on the individual income tax return.

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

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

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

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

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

1. Nongame wildlife voluntary contribution.

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

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

2. Open space recreation and conservation voluntary contribution.

- 1918 a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land
1919 for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and
1920 facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.
- 1921 b. All moneys shall be deposited into a special fund known as the Open Space Recreation and
1922 Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation
1923 and Recreation for the purposes stated in subdivision 2 a and one-half to local public bodies pursuant to the
1924 Virginia Outdoor Fund Grants Program.
- 1925 3. Voluntary contribution to political party.
- 1926 All moneys contributed shall be paid to the State Central Committee of any party that meets the definition
1927 of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution
1928 allowable under this subdivision shall be \$25. In the case of a joint return of married individuals, each spouse
1929 may designate that the maximum contribution allowable be paid.
- 1930 4. United States Olympic Committee voluntary contribution.
- 1931 All moneys contributed shall be paid to the United States Olympic Committee.
- 1932 5. Housing program voluntary contribution.
- 1933 a. All moneys contributed shall be used by the Department of Housing and Community Development to
1934 provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide
1935 assistance to housing for the low-income elderly for the physically or mentally disabled.
- 1936 b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing
1937 Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community
1938 Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax
1939 Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust
1940 Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing
1941 Development Authority.
- 1942 6. Voluntary contributions to the Department for Aging and Rehabilitative Services.
- 1943 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the
1944 enhancement of transportation services for the elderly and disabled.
- 1945 b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly
1946 and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and
1947 Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The
1948 Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received
1949 pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this
1950 subdivision annually to the Secretary of Health and Human Resources.
- 1951 7. Voluntary contribution to the Community Policing Fund.
- 1952 a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the
1953 purchase of equipment or the support of services, as approved by the Criminal Justice Services Board,
1954 relating to community policing.
- 1955 b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys
1956 deposited in such fund shall be used by the Department of Criminal Justices Services for the purposes set
1957 forth herein.
- 1958 8. Voluntary contribution to promote the arts.
- 1959 All moneys contributed shall be used by the Virginia Commission for the Arts in its statutory
1960 responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund
1961 known as the Virginia Commission for the Arts Fund.
- 1962 9. Voluntary contribution to the Historic Resources Fund.
- 1963 All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to
1964 § 10.1-2202.1.
- 1965 10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.
- 1966 All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public Policy. All
1967 moneys shall be deposited into a special fund known as the Virginia Humanities Fund.
- 1968 11. Voluntary contribution to the Center for Governmental Studies.
- 1969 All moneys contributed shall be paid to the Center for Governmental Studies, a public service and
1970 research center of the University of Virginia. All moneys shall be deposited into a special fund known as the
1971 Governmental Studies Fund.
- 1972 12. Voluntary contribution to the Law and Economics Center.
- 1973 All moneys contributed shall be paid to the Law and Economics Center, a public service and research
1974 center of George Mason University. All moneys shall be deposited into a special fund known as the Law and
1975 Economics Fund.
- 1976 13. Voluntary contribution to Children of America Finding Hope.
- 1977 All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs
1978 which are designed to reach children with emotional and physical needs.
- 1979 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 locality. The Tax Commissioner shall determine annually the total amounts designated on all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the appropriate amount to each respective locality.

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

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

21. Voluntary contribution for the Department of Emergency Management.

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

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

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

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

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

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

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

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

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

25. Voluntary contribution to the Virginia Caregivers Grant Fund.

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

26. Voluntary contribution to public library foundations.

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

27. Voluntary contribution to Celebrating Special Children, Inc.

2042 All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a
2043 special fund known as the Celebrating Special Children, Inc. Fund.

2044 28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

2045 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for
2046 providing Medicare Part D counseling to the elderly and disabled.

2047 b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All
2048 moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide
2049 counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and
2050 Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and
2051 shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and
2052 Human Resources.

2053 29. Voluntary contribution to community foundations.

2054 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax
2055 Commissioner shall determine annually the total amounts designated on all returns for each community
2056 foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate
2057 amount to the respective community foundation. A "community foundation" shall be defined as any
2058 institution that meets the membership requirements for a community foundation established by the Council
2059 on Foundations.

2060 30. Voluntary contribution to the Virginia Foundation for Community College Education.

2061 a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for
2062 use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community
2063 colleges in Virginia.

2064 b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community
2065 College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia
2066 Foundation for Community College Education in accordance with and for the purposes provided under the
2067 Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

2068 31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

2069 All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to
2070 be used for the purposes described in § 15.2-6601.

2071 32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

2072 All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund
2073 established pursuant to § 32.1-368.

2074 33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.

2075 All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its
2076 mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire
2077 commitment to preserve its existence.

2078 34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

2079 All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its mission
2080 in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol
2081 Square.

2082 35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.

2083 All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs for
2084 related programs and services.

2085 C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the
2086 individual income tax return and are eligible to receive tax refund contributions or by making payment to the
2087 Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of
2088 such tax refund is less than the amount of the voluntary contribution:

2089 1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.

2090 All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.

2091 2. Voluntary Chesapeake Bay restoration contribution.

2092 a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration
2093 activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2
2094 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the Commonwealth of
2095 Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and any subsequent revisions
2096 thereof.

2097 b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall
2098 report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be
2099 administered by the Office of the Secretary of Natural and Historic Resources. All moneys so deposited shall
2100 be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to
2101 Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan
2102 submitted by the Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29,
2103 2010, and any subsequent revisions thereof.

2104 c. No later than November 1 of each year, the Secretary of Natural and Historic Resources shall submit a
 2105 report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on
 2106 Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate
 2107 Committee on Finance and Appropriations; and the Virginia delegation to the Chesapeake Bay Commission,
 2108 describing the grants awarded from moneys deposited in the fund. The report shall include a list of grant
 2109 recipients, a description of the purpose of each grant, the amount received by each grant recipient, and an
 2110 assessment of activities or initiatives supported by each grant. The report shall be posted on a website
 2111 maintained by the Secretary of Natural and Historic Resources, along with a cumulative listing of previous
 2112 grant awards beginning with awards granted on or after July 1, 2014.

2113 3. Voluntary Jamestown-Yorktown Foundation Contribution.

2114 All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown 2007
 2115 quadricentennial celebration. All moneys shall be deposited into a special fund known as the Jamestown
 2116 Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before January 1,
 2117 2008.

2118 4. State forests voluntary contribution.

2119 a. All moneys contributed shall be used for the development and implementation of conservation and
 2120 education initiatives in the state forests system.

2121 b. All moneys shall be deposited into a special fund known as the State Forests System Fund, established
 2122 pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State Forester for the
 2123 purposes set forth herein.

2124 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

2125 All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established pursuant to
 2126 § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured medical catastrophes.

2127 6. Voluntary contribution to local school divisions.

2128 a. All moneys contributed shall be used by a specified local public school foundation as created by and for
 2129 the purposes stated in § 22.1-212.2:2.

2130 b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers
 2131 designated for a local public school foundation over refundable amounts shall be deposited into the state
 2132 treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each
 2133 public school foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
 2134 appropriate amount to the respective public school foundation.

2135 c. In order for a public school foundation to be eligible to receive contributions under this section, school
 2136 boards must notify the Department during the taxable year in which they want to participate prior to the
 2137 deadlines and according to procedures established by the Tax Commissioner.

2138 7. Voluntary contribution to Home Energy Assistance Fund.

2139 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to
 2140 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy
 2141 needs.

2142 8. Voluntary contribution to the Virginia Military Family Relief Fund.

2143 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in providing
 2144 assistance to military service personnel on active duty and their families for living expenses including, but not
 2145 limited to, food, housing, utilities, and medical services.

2146 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief Fund,
 2147 established and administered pursuant to § 44-102.2.

2148 9. Voluntary contribution to the Federation of Virginia Food Banks.

2149 All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State
 2150 Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable make an
 2151 equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area Food Bank,
 2152 Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia and the Eastern
 2153 Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

2154 The Secretary of Finance may request records or receipts of all distributions by the Federation of Virginia
 2155 Food Banks of such moneys contributed for purposes of ensuring compliance with the requirements of this
 2156 subdivision.

2157 10. Voluntary contribution to the endowment fund of the Board for the Blind and Vision Impaired.

2158 All moneys contributed shall be paid to the endowment fund of the Board for use in its mission in
 2159 providing quality services to assist citizens of the Commonwealth who are blind, vision impaired, or
 2160 deafblind in achieving their desired level of employment, education, and personal independence.

2161 *11. Voluntary contribution to the Virginia College Opportunity Fund established in § 23.1-701, which*
 2162 *shall be deposited in such fund.*

2163 D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected for
 2164 each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner shall
 2165 determine annually the total amount designated for each entity in subsections B and C on all individual

2166 income tax returns and shall report the same to the State Treasurer, who shall credit that amount to each
2167 entity's respective special fund.

2168 **§ 58.1-344.4. Voluntary contributions of refunds into Commonwealth Savers Plan accounts.**

2169 A. If an individual is entitled to an income tax refund for the taxable year, that individual may designate
2170 on his Virginia individual income tax return a contribution to one or more Commonwealth Savers Plan
2171 accounts established under ~~Chapter 7 Article 1~~ (§ 23.1-700 et seq.) of *Chapter 7* of Title 23.1, in the amount
2172 of the entire individual income tax refund or a portion thereof.

2173 B. 1. The Department of Taxation shall send each contribution made pursuant to subsection A to the
2174 Commonwealth Savers Plan with the following information:

2175 a. The amount of the individual income tax refund or that portion of the refund that the individual has
2176 chosen to contribute;

2177 b. The taxpayer's name, Social Security number or taxpayer identification number, address, and telephone
2178 number; and

2179 c. The Commonwealth Savers Plan account number or numbers into which the contributions will be
2180 deposited.

2181 2. If a contribution to a Commonwealth Savers Plan account is designated in an individual income tax
2182 return filed jointly by married individuals, the Department of Taxation shall send the information described in
2183 subdivision 1 for both spouses to the Commonwealth Savers Plan.

2184 C. 1. If the taxpayer owns a single Commonwealth Savers Plan account, the Commonwealth Savers Plan
2185 shall deposit the contribution made pursuant to subsection A into that account.

2186 2. If the taxpayer owns more than one Commonwealth Savers Plan account, the Commonwealth Savers
2187 Plan shall allocate the contribution made pursuant to subsection A between or among the accounts in equal
2188 amounts, or as otherwise designated by the taxpayer.

2189 3. If the taxpayer does not own an existing Commonwealth Savers Plan account and does not wish to open
2190 an account, contributions made pursuant to subsection A shall be returned to the taxpayer by the
2191 Commonwealth Savers Plan.

2192 D. For the purpose of determining interest on an overpayment or refund under § 58.1-1833, no interest
2193 shall accrue after the Department of Taxation sends the contribution to the Commonwealth Savers Plan.

2194 E. Any taxpayer designating that a refund be contributed to a Commonwealth Savers Plan account shall,
2195 by making such designation, be deemed to authorize the Department of Taxation to provide all necessary
2196 information, including the information specified in subdivision B 1, to the Commonwealth Savers Plan.

2197 **§ 58.1-402. Virginia taxable income.**

2198 A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable
2199 income and any other income taxable to the corporation under federal law for such year of a corporation
2200 adjusted as provided in subsections B, C, D, E, G, H, and I.

2201 For a regulated investment company and a real estate investment trust, such term means the "investment
2202 company taxable income" and "real estate investment trust taxable income," respectively, to which shall be
2203 added in each case any amount of capital gains and any other income taxable to the corporation under federal
2204 law which shall be further adjusted as provided in subsections B, C, D, E, G, H, and I.

2205 B. There shall be added to the extent excluded from federal taxable income:

2206 1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on
2207 obligations of any state other than Virginia, or of a political subdivision of any such other state unless created
2208 by compact or agreement to which the Commonwealth is a party;

2209 2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable
2210 income, on obligations or securities of any authority, commission or instrumentality of the United States,
2211 which the laws of the United States exempt from federal income tax but not from state income taxes;

2212 3. [Repealed.]

2213 4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are
2214 based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any
2215 other taxing jurisdiction, to the extent deducted in determining federal taxable income;

2216 5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

2217 6. [Repealed.]

2218 7. The amount required to be included in income for the purpose of computing the partial tax on an
2219 accumulation distribution pursuant to § 667 of the Internal Revenue Code;

2220 8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and
2221 costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or
2222 more direct or indirect transactions with one or more related members to the extent such expenses and costs
2223 were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall
2224 not be required for any portion of the intangible expenses and costs if one of the following applies:

2225 (1) The corresponding item of income received by the related member is subject to a tax based on or
2226 measured by net income or capital imposed by Virginia, another state, or a foreign government that has
2227 entered into a comprehensive tax treaty with the United States government;

(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;

2290 (iii) The related member engages in transactions with parties other than related members that generate
2291 revenue in excess of \$2 million annually; or

2292 (iv) The transaction giving rise to the interest payments between the corporation and a related member
2293 was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds
2294 that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a
2295 person who is not a related member; (b) the debt is part of a regular and systematic funds management or
2296 portfolio investment activity conducted by the related member, whereby the funds of two or more related
2297 members are aggregated for the purpose of achieving economies of scale, the internal financing of the active
2298 business operations of members, or the benefit of centralized management of funds; (c) financing the
2299 expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of
2300 acquisition-related indebtedness to related members.

2301 b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to
2302 subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable
2303 year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such
2304 taxable year including tax upon any amount of interest expenses and costs required to be added to federal
2305 taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions
2306 between the corporation and a related member or members that resulted in the corporation's taxable income
2307 being increased, as required under subdivision a, for such interest expenses and costs.

2308 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing
2309 evidence, that the transaction or transactions between the corporation and a related member or members
2310 resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than
2311 the avoidance or reduction of the tax due under this chapter and that the related payments between the parties
2312 were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an
2313 amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to
2314 any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a
2315 valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the
2316 related payments between the parties were made at arm's length rates and terms. Such amended return shall
2317 be filed by the corporation within one year of the written permission granted by the Tax Commissioner and
2318 any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest
2319 established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the
2320 filing of such amended return, any related member of the corporation that subtracted from taxable income
2321 amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that
2322 portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision.
2323 In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied
2324 by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax
2325 returns for subsequent taxable years to deduct the related interest expenses and costs without making the
2326 adjustment under subdivision a.

2327 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any
2328 petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the
2329 petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon
2330 payment of such fee.

2331 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be
2332 maintained in any court of this Commonwealth.

2333 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under
2334 § 58.1-446.

2335 d. For purposes of subdivision B 9:

2336 "Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement
2337 for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to
2338 those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below
2339 the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal
2340 Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the
2341 payment terms of the agreement governing the transaction or any amendments thereto.

2342 "Valid business purpose" means one or more business purposes that alone or in combination constitute the
2343 motivation for some business activity or transaction, which activity or transaction improves, apart from tax
2344 effects, the economic position of the taxpayer, as further defined by regulation.

2345 10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under
2346 §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For
2347 purposes of this subdivision, a REIT is a Captive REIT if:

2348 (1) It is not regularly traded on an established securities market;

2349 (2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any
2350 time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity
2351 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.

- 2414 9. [Repealed.]
- 2415 10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50
- 2416 percent or more of the voting stock.
- 2417 11. [Repealed.]
- 2418 12, 13. [Expired.]
- 2419 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses"
- 2420 or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on
- 2421 account of the provisions of § 280C(c) of the Internal Revenue Code.
- 2422 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds
- 2423 to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
- 2424 (§ 22.1-175.1 et seq.) of Title 22.1.
- 2425 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived
- 2426 from the sale or exchange of real property or the sale or exchange of an easement to real property which
- 2427 results in the real property or the easement thereto being devoted to open-space use, as that term is defined in
- 2428 § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance
- 2429 with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed
- 2430 for three years following the year in which the subtraction is taken.
- 2431 17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to
- 2432 § 58.1-440.1.
- 2433 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
- 2434 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement
- 2435 Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing
- 2436 quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business
- 2437 having the right to grow tobacco pursuant to such a quota allotment.
- 2438 19, 20. [Repealed.]
- 2439 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs
- 2440 or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B
- 2441 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount
- 2442 if such related member is subject to Virginia income tax on the same amount.
- 2443 22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch
- 2444 services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide
- 2445 individuals the training or experience of a launch, without performing an actual launch. To qualify for a
- 2446 deduction under this subdivision, launch services must be performed in Virginia or originate from an airport
- 2447 or spaceport in Virginia.
- 2448 23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply
- 2449 services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial
- 2450 Orbital Transportation Services division of the National Aeronautics and Space Administration or other space
- 2451 flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.
- 2452 24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain
- 2453 for federal income tax purposes, or any income taxed as investment services partnership interest income
- 2454 (otherwise known as investment partnership carried interest income) for federal income tax purposes. To
- 2455 qualify for a subtraction under this subdivision, such income must be attributable to an investment in a
- 2456 "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the
- 2457 Secretary of Administration, provided the business has its principal office or facility in the Commonwealth
- 2458 and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a
- 2459 subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and June
- 2460 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under
- 2461 § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same
- 2462 business.
- 2463 25. a. Income, including investment services partnership interest income (otherwise known as investment
- 2464 partnership carried interest income), attributable to an investment in a Virginia venture capital account. To
- 2465 qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but
- 2466 before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a
- 2467 company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this
- 2468 subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.
- 2469 b. As used in this subdivision 25:
- 2470 "Qualified portfolio company" means a company that (i) has its principal place of business in the
- 2471 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
- 2472 service other than the management or investment of capital; and (iii) provides equity in the company to the
- 2473 Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not
- 2474 include a company that is an individual or sole proprietorship.
- 2475 "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;

2538 2. 30 percent for taxable years beginning on and after January 1, 2022, but before January 1, 2024; and
2539 3. 50 percent for taxable years beginning on and after January 1, 2024.
2540 For purposes of subsection G, "business interest" means the same as that term is defined under § 163(j) of
2541 the Internal Revenue Code.
2542 H. For taxable years beginning before January 1, 2021, there shall be deducted to the extent not otherwise
2543 subtracted from federal taxable income up to \$100,000 of the amount that is not deductible when computing
2544 federal taxable income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck
2545 Protection Program loans.
2546 I. For taxable years beginning on and after January 1, 2026, there shall be deducted the amount paid or
2547 cost incurred for installing a qualifying upgrade required to interconnect a triggering project. No deduction
2548 shall be allowed under this section for a taxpayer who has claimed a deduction under subdivision 19 of
2549 § 58.1-322.03 for the same amount paid or cost incurred to install such qualifying upgrade.
2550 For purposes of this subsection, "qualifying upgrade" and "triggering project" have the same meanings as
2551 provided for those terms in § 56-596.5.
2552 *J. For taxable years beginning on and after January 1, 2026, there shall be deducted to the extent not*
2553 *otherwise subtracted from federal taxable income the amount donated to the Virginia College Opportunity*
2554 *Fund established in § 23.1-701.*