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SENATE BILL NO. 452

Offered January 14, 2026

A BILL to amend and reenact §§ 23.1-700, 23.1-704, 34-26, 34-34, 40.1-28.7:7, 58.1-322.02, 58.1-322.03, 58.1-902, and 60.2-212 of the Code of Virginia and to amend the Code of Virginia by adding in Title 23.1 a chapter numbered 7.1, consisting of sections numbered 23.1-714 through 23.1-722, and by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:12, relating to Commonwealth Savers Plan; ImABLE accounts established; tax treatment.

Patron—Jordan

Referred to Committee on Finance and Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-700, 23.1-704, 34-26, 34-34, 40.1-28.7:7, 58.1-322.02, 58.1-322.03, 58.1-902, and 60.2-212 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 23.1 a chapter numbered 7.1, consisting of sections numbered 23.1-714 through 23.1-722, and by adding in Article 1 of Chapter 3 of Title 40.1 a section numbered 40.1-28.7:12 as follows:

§ 23.1-700. Definitions.

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

"ABLE savings trust account" means an account established pursuant to this chapter 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 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 or *ImABLE account* established pursuant to this chapter on behalf of a qualified beneficiary and who is listed as the owner of the savings trust account or *ImABLE account*.

"*ImABLE account*" means an account established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) and administered by the Plan.

"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.

"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 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; (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; ~~or~~ (iii) a beneficiary of a savings trust account established pursuant to this chapter; or (iv) an account holder of an *ImABLE account* established pursuant to Chapter 7.1 (§ 23.1-714 et seq.).

"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.

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

The board shall:

1. Administer the Plan established by this chapter;
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 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 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; *and (iv) contributions to ImABLE accounts;*
3. Invest moneys in the Plan 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; 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.

CHAPTER 7.1.

COMMONWEALTH SAVERS PLAN AND IMABLE ACCOUNTS.

§ 23.1-714. Definitions.

For purposes of this chapter, unless the context requires a different meaning:

"Account holder" means an individual who establishes and owns an ImABLE account, including minors on whose behalf a parent, grandparent, other family member, or legal guardian has established an ImABLE account.

"Commonwealth Savers Plan" means the board and programs established pursuant to Chapter 7 (§ 23.1-700 et seq.).

"Contribution" means any payment of funds into an ImABLE account by the account holder, an employer on behalf of the account holder, or any third party on behalf of the account holder.

"Distribution" means any withdrawal of funds from an ImABLE account by or on behalf of the account holder.

"Eligible individual" means any individual who is a resident of the Commonwealth, as determined by the Commonwealth Savers Plan, or any individual who receives earned income from sources within the Commonwealth, with a disability that began before the age of 46 and such individual is receiving

Supplemental Security Income payments or Social Security Disability Insurance benefits or has a licensed physician who has signed a document that includes a diagnosis and states that such individual has marked and severe functional limitations that began before the age of 46.

"Employer" means any individual, partnership, association, corporation, limited liability company, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee, including any hiring party engaging independent contractors.

"ImABLE account" means an account established pursuant to this chapter that permits tax-free accumulation of earnings and tax-free distributions for any purpose without penalty.

"Independent contractor" means a person who performs services for remuneration and who is not an employee, as determined under Internal Revenue Service guidelines for evaluating independent contractor status, including the interpretation of common law doctrine and any regulations regarding determining whether an individual is an independent contractor.

"Qualified distribution" means any distribution from an ImABLE account.

"Rollover" means a rollover contribution to an ImABLE account from another ImABLE account or from any other qualified savings account established pursuant to federal law.

§ 23.1-715. ImABLE accounts.

A. Any eligible individual may establish an ImABLE account with the Commonwealth Savers Plan, or with any financial institution authorized by the Commonwealth Savers Plan, to serve as an ImABLE account custodian. Only one ImABLE account shall be allowed for an individual, but multiple parties may contribute to such account on behalf of such individual pursuant to subsection B.

B. Payments and contributions to an ImABLE account may be made by (i) the account holder; (ii) the employer of the account holder, including any hiring party engaging the account holder as an independent contractor; (iii) any family member of the account holder; and (iv) any other third party on behalf of the account holder.

C. All contributions to an ImABLE account shall be made in cash and shall be made on an after-tax basis. No reductions in Virginia taxable income shall be allowed for contributions to an ImABLE account.

D. The Commonwealth Savers Plan shall establish procedures for (i) account establishment and maintenance, (ii) investment of account assets, (iii) account distributions, (iv) recordkeeping and reporting, and (v) account transfers and rollovers.

§ 23.1-716. Contribution limits.

A. Notwithstanding any other provision of law, the maximum aggregate annual contribution to any one ImABLE account from all sources shall not exceed \$25,000 per account holder, adjusted on July 1 of each fiscal year by the year-over-year percentage increase in the Chained Consumer Price Index for All Urban Consumers (C-CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or any predecessor or successor index. Calculations made pursuant to this section shall be made by the State Treasurer and rounded up to the nearest dollar.

B. For account holders who are 50 years of age or older before the close of the taxable year, the aggregate annual contribution limit set in subsection A shall be increased by \$1,000.

C. Any excess contributions shall be subject to a penalty as established by the Commonwealth Savers Plan that is consistent with federal tax treatment of excess contributions to individual retirement accounts.

D. Notwithstanding the provisions of subsections A and B, the Commonwealth Savers Plan may, in its discretion, establish reduced contribution limits to ImABLE accounts during a temporary implementation phase, provided that such limits are increased to the maximum amounts in subsections A and B no later than July 1, 2029.

§ 23.1-717. Taxation of ImABLE accounts.

Notwithstanding any other provision of law:

1. No tax levied pursuant to Article 2 (§ 58.1-320 et seq.) of Chapter 3 of Title 58.1 shall be imposed upon the earnings or appreciation of assets held in an ImABLE account.

2. No qualified distributions from an ImABLE account shall be included in the Virginia taxable income of the account holder or any beneficiary.

3. No rollovers between ImABLE accounts or from any other qualified accounts as permitted by law shall be subject to the tax levied pursuant Article 2 (§ 58.1-320 et seq.) of Chapter 3 of Title 58.1 if such rollover is completed within 60 days of the distribution from the originating account.

§ 23.1-718. Distributions from ImABLE accounts.

A taxpayer may take a distribution from an ImABLE account at any time and for any purpose and shall be subject to no penalties, purpose restrictions, required minimum distributions based on age, or any other limitations except those necessary to prevent fraud or ensure proper account administration. Upon the death of an account holder, the assets of the account shall be distributed to (i) the designated beneficiary or beneficiaries or (ii) if there is no designated beneficiary, to the account holder's estate.

§ 23.1-719. Coordination with federal law.

ImABLE accounts established pursuant to this chapter shall be administered in coordination with and to the maximum extent allowed by federal law while maintaining the full benefits conferred by this chapter and

Virginia law. Contributions by employers to ImABLE accounts shall not affect worker classification status under Virginia law, notwithstanding any federal provision to the contrary. To the extent allowed by federal law, the Commonwealth Savers Plan may coordinate with federal programs to maximize benefits for account holders.

§ 23.1-720. ImABLE account impact evaluation review.

The Joint Legislative Audit and Review Commission shall conduct a comprehensive evaluation of the implementation of the provisions of this chapter no later than December 1, 2031, and every five years thereafter. The Commonwealth Savers Plan shall provide all data and assistance necessary to complete such evaluation. Such evaluation shall include a review of (i) participation rates by income level, geographic region, and demographic characteristics; (ii) average account balances and contribution patterns; (iii) distribution and fund utilization patterns; (iv) impact on state revenues; (v) administrative costs and efficiencies; (vi) comparisons with similar programs in other states; and (vii) recommendations for ways to improve the ImABLE account program established pursuant to this chapter. The Commonwealth Savers Plan shall provide all data and assistance necessary for the Joint Legislative Audit and Review Commission to complete its evaluation.

§ 23.1-721. Prospective state and gift tax treatment.

A. Notwithstanding any other provision of law to the contrary, (i) transfers to an ImABLE account and the designation or change of a beneficiary of an ImABLE account shall not be treated as a taxable gift for purposes of any Virginia gift tax that may be enacted absent explicit authorization from the General Assembly therefor and (ii) ImABLE accounts shall be accorded the same treatment as qualified tuition programs under § 529 of the Internal Revenue Code for purposes of any generation-skipping transfer tax that may be enacted absent explicit authorization from the General Assembly therefor.

B. Upon the death of an account holder, a surviving spouse shall have the option to (i) roll the deceased spouse's ImABLE account into his own ImABLE account without tax consequences, (ii) maintain the account as an inherited ImABLE account with continued tax-deferred growth, or (iii) take distributions pursuant to § 23.1-718.

§ 23.1-722. Virginia ImABLE Fund and Grant Program.

A. As used in this section:

"Fund" means the Virginia ImABLE Fund established in subsection B.

"Grant Program" means the Virginia ImABLE Grant Program established in subsection C.

"Qualifying project" means all or any part of projects pursued for the Fund and Grant Program by a private business, a nonprofit organization, or a locality that assist eligible individuals with support expenses.

"Support expenses" means any expenses (i) incurred by an eligible individual, (ii) related to a disability or handicap, and (iii) that help the eligible individual maintain or improve his health, independence, or quality of life, including employment training and support, financial management and administrative services, legal fees, health, prevention and wellness, educational, housing, and transportation expenses, expenses for oversight and monitoring, and other basic living expenses.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia ImABLE Fund. The Fund shall be established on the books of the Comptroller. All funds appropriated for such purpose, and any gifts, donations, grants, bequests, and other funds received on its behalf, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of (i) awarding grants on a competitive basis through the Grant Program established pursuant to subsection C or (ii) implementing and administering the Fund and Grant Program. Moneys used for implementing and administering the Fund and Grant Program shall be limited to amounts necessary to implement the Fund and Grant Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Plan.

C. The Virginia ImABLE Grant Program is hereby established for the purpose of awarding grants on a competitive basis to qualifying projects from such funds as may be available from the Fund. The Commonwealth Savers Plan shall oversee each grant awarded through the Grant Program and ensure thorough annual reporting on each grant. The Grant Program shall be administered by the Commonwealth Savers Plan. In administering the Grant Program, the Commonwealth Savers Plan shall consult with the other departments and stakeholders prior to publishing guidelines and criteria for grant awards.

D. The Commonwealth Savers Plan shall submit an annual report to the General Assembly regarding administration of the Fund and Grant Program for the preceding fiscal year. The report shall include the number of grants awarded, the number of qualifying projects started, the number of qualifying projects completed, the number of eligible individuals supported, and any other relevant impacts of the Fund and Grant Program. The report shall be furnished to the Chairs of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations no later than November 1 of each year. No annual report shall be required in any year in which the Fund and Grant Program do not receive funding.

§ 34-26. Poor debtor's exemption; exempt articles enumerated.

In addition to the exemptions provided in Chapter 2 (§ 34-4 et seq.), every householder shall be entitled to hold exempt from creditor process the following enumerated items:

1. The family Bible.
- 1a. Wedding and engagement rings.
2. Family portraits and family heirlooms not to exceed \$5,000 in value.
3. (i) A lot in a burial ground and (ii) any preneed funeral contract not to exceed \$5,000.
4. All wearing apparel of the householder not to exceed \$1,000 in value.
- 4a. All household furnishings including, but not limited to, beds, dressers, floor coverings, stoves, refrigerators, washing machines, dryers, sewing machines, pots and pans for cooking, plates, and eating utensils, not to exceed \$5,000 in value.
- 4b. Firearms, not to exceed a total of \$3,000 in value.
5. All animals owned as pets, such as cats, dogs, birds, squirrels, rabbits, and other pets not kept or raised for sale or profit.
6. Medically prescribed health aids.
7. Tools, books, instruments, implements, equipment, and machines, including motor vehicles, vessels, and aircraft, which are necessary for use in the course of the householder's occupation or trade not exceeding \$10,000 in value, except that a perfected security interest on such personal property shall have priority over the claim of exemption under this section. A motor vehicle, vessel, or aircraft used to commute to and from a place of occupation or trade and not otherwise necessary for use in the course of such occupation or trade shall not be exempt under this subdivision. "Occupation," as used in this subdivision, includes enrollment in any public or private elementary, secondary, or career and technical education school or institution of higher education.
8. Motor vehicles, not held as exempt under subdivision 7, owned by the householder, not to exceed a total of \$10,000 in value, except that a perfected security interest on a motor vehicle shall have priority over the claim of exemption under this subdivision.
9. Those portions of a tax refund or governmental payment attributable to the Child Tax Credit or Additional Child Tax Credit pursuant to § 24 of the Internal Revenue Code of 1986, as amended, or the Earned Income Credit pursuant to § 32 of the Internal Revenue Code of 1986, as amended.
10. Unpaid spousal or child support.
11. *ImABLE accounts established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1. Such exemption shall include all contributions and earnings on such accounts up to the contribution limitation established pursuant to § 23.1-716.*

The value of an item claimed as exempt under this section shall be the fair market value of the item less any prior security interest.

The monetary limits, where provided, are applicable to the total value of property claimed as exempt under that subdivision.

The purchase of an item claimed as exempt under this section with nonexempt property in contemplation of bankruptcy or creditor process shall not be deemed to be in fraud of creditors.

No officer or other person shall levy or distrain upon, or attach, such articles, or otherwise seek to subject such articles to any lien or process. It shall not be required that a householder designate any property exempt under this section in a deed in order to secure such exemption.

On April 1, 2027, and at each three-year interval ending on April 1 thereafter, each monetary limit in effect under this section immediately before such April 1 shall be adjusted to reflect the change in the Consumer Price Index for all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, for the most recent three-year period ending immediately before January 1 preceding such April 1, and rounded to the nearest \$25, the dollar amount that represents such change. Adjustments made in this section shall not apply with respect to bankruptcy cases commenced before April 1, 2027.

§ 34-34. Certain retirement benefits exempt.

A. For the purposes of this section:

"Alternate payee" shall have the same meaning as provided under § 206 of the Employee Retirement Income Security Act of 1974 (ERISA). In the case of a retirement plan that is not subject to ERISA, the term "alternate payee" means an individual who has an interest in a retirement plan pursuant to a judgment, decree, or order, including approval of a property settlement agreement, that would be described in § 206(d)(3)(B) of ERISA if the retirement plan were subject to ERISA.

"Annual benefit" means an amount payable as an annuity for the lifetime of the individual who claims the exemption provided under this section, assuming that annuity payments will commence upon the individual's attainment of age sixty-five or, if the individual attained age sixty-five on or before the exemption provided under this section is claimed, the individual's age on the date that the exemption is claimed.

"Retirement plan" means a plan, account, or arrangement that is intended to satisfy the requirements of United States Internal Revenue Code §§ 401, 403 (a), 403 (b), 408, 408 A, 409 (as in effect prior to repeal by United States P.L. 98-369), or § 457, or an *ImABLE account established pursuant to Chapter 7.1 (§ 23.1-714*

et seq.) of Title 23.1. Whether a plan, account, or arrangement is intended to satisfy the requirements of one of the foregoing provisions shall be determined based on all of the relevant facts and circumstances, including, but not limited to, the issuance of a favorable determination letter by the United States Internal Revenue Service, reports or returns filed with United States or state agencies, and communications from the plan sponsor to participants.

B. Except as otherwise provided in this section, the interest of an individual under a retirement plan shall be exempt from creditor process to the same extent permitted under federal bankruptcy law for such a plan. The exemption provided by this section shall be available whether such individual has an interest in the retirement plan as a participant, beneficiary, contingent annuitant, alternate payee, or otherwise.

C. The exemption provided under subsection B shall not apply to claims made against an individual by the alternate payee of such individual or to claims made against such individual by the Commonwealth in administrative actions pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 or any court process to enforce a child or child and spousal support obligation.

D. If two individuals who are married or were married are entitled to claim the exemption provided under subsection B of an interest under the same retirement plan or plans and such individuals are jointly subject to creditor process as to the same debt or obligation and the debt or obligation arose during the marriage, then the exemption provided under subsection B as to such debts or obligations shall not exceed, in the aggregate, the exemption permitted under federal bankruptcy law for such a plan. The exemption permitted under federal bankruptcy law shall be allocated among such persons in the same proportion as their respective interests in the retirement plan or plans.

E. The exemption provided under this section must be claimed within the time limits prescribed by § 34-17.

§ 40.1-28.7:7. Misclassification of workers.

A. An individual who has not been properly classified as an employee may bring a civil action for damages against his employer for failing to properly classify the employee if the employer had knowledge of the individual's misclassification. An individual's representative may bring the action on behalf of the individual. If the court finds that the employer has not properly classified the individual as an employee, the court may award the individual damages in the amount of any wages, salary, employment benefits, including expenses incurred by the employee that would otherwise have been covered by insurance, or other compensation lost to the individual, a reasonable attorney fee, and the costs incurred by the individual in bringing the action.

B. In a proceeding under subsection A, an individual who performs services for a person for remuneration shall be presumed to be an employee of the person that paid such remuneration, and the person that paid such remuneration shall be presumed to be the employer of the individual who was paid for performing the services, unless it is shown that the individual is an independent contractor as determined under the Internal Revenue Service guidelines.

C. As used in this section, "Internal Revenue Service guidelines" means the most recent version of the guidelines published by the Internal Revenue Service for evaluating independent contractor status, including its interpretation of common law doctrine on independent contractors, and any regulations that the Internal Revenue Service may promulgate regarding determining whether an employee is an independent contractor, including 26 C.F.R. § 31.3121(d)-1.

D. In a proceeding under subsection A, a hiring party providing an individual with personal protective equipment in response to a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared pursuant to § 44-146.17 shall not be considered in any determination regarding whether such individual is an employee or independent contractor. For the purposes of this subsection, the terms "communicable disease of public health threat," "disaster," and "state of emergency" have the same meaning as provided in § 44-146.16.

E. In a proceeding under subsection A, contributions by a hiring party to an individual's ImABLE account established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1 shall not be considered in any determination regarding whether such individual is an employee or independent contractor, regardless of the amount, frequency, or regularity of such contributions and whether such contributions are made pursuant to a written agreement, policy, or informal arrangement.

§ 40.1-28.7:12. ImABLE account contributions; effect on employment classification; liberal construction.

A. No agency, department, board, commission, or political subdivision of the Commonwealth shall use the existence of, amount of, or frequency of contributions by any hiring party to an ImABLE account established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1 as a factor in determining whether an individual is an employee or an independent contractor.

B. This section applies to all determinations of employment classification for any purpose under Virginia law, including (i) unemployment compensation under Title 60.2, (ii) workers' compensation under Title 65.2, (iii) minimum wage requirements under § 40.1-28.10, (iv) tax withholding obligations, and (v) any other employment-related benefits or obligations.

C. Nothing in this section shall (i) alter the underlying tests for determining employment classification under Virginia law, (ii) prevent enforcement of proper worker classification based on other factors, or (iii) create a presumption of independent contractor status solely based on the existence of ImABLE account contributions.

D. This section shall be liberally construed to effectuate its remedial purpose of ensuring that the existence and use of an ImABLE account, as established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1, does not impede worker flexibility or create unintended employment relationships.

§ 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 (§ 23.1-700 et seq.) 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.

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

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

b. As used in this subdivision 27:

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

"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

554 employs at least one investor with the experience set forth herein, the Department shall certify the investment
555 fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50
556 percent of the capital committed to its fund in qualified portfolio companies.

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

563 b. As used in this subdivision 28:

564 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
565 § 2.2-115.

566 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3 of
567 § 2.2-115.

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

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

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

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

585 32. *For taxable years beginning on and after January 1, 2027, any income attributable to a distribution*
586 *from an ImABLE account established by or on behalf of the taxpayer pursuant to Chapter 7.1 (§ 23.1-714 et*
587 *seq.) of Title 23.1, including any earnings, appreciation, or other gains realized within such account. This*
588 *subtraction shall apply to all qualified distributions as described in § 23.1-718 from such account regardless*
589 *of the purpose for which such distribution is made or the length of time the funds were held in such account.*

590 **§ 58.1-322.03. Virginia taxable income; deductions.**

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

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

599 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax
600 return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2027, \$3,000 for
601 single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married
602 individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019, but before
603 January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in
604 the case of a married individual filing a separate return); (iii) for taxable years beginning on and after January
605 1, 2022, but before January 1, 2024, \$8,000 for single individuals and \$16,000 for married persons (one-half
606 of such amounts in the case of a married individual filing a separate return); (iv) for taxable years beginning
607 on and after January 1, 2024, but before January 1, 2025, \$8,500 for single individuals and \$17,000 for
608 married persons (one-half of such amounts in the case of a married individual filing a separate return); and (v)
609 for taxable years beginning on and after January 1, 2025, but before January 1, 2027, \$8,750 for single
610 individuals and \$17,500 for married persons (one-half of such amounts in the case of a married individual
611 filing a separate return). For purposes of this section, any person who may be claimed as a dependent on
612 another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

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

615 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 (§ 23.1-700 et seq.) 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 *or for any amounts paid or contributed to another person's ImABLE account established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1*. 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 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

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

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

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

11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as

provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

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

b. 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.

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

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

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

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

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

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

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

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

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

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

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

income tax return for such taxable year.

19. For taxable years beginning on 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.

§ 58.1-902. Tax on transfer of taxable estate of residents; amounts; credit; property of resident defined.

A. A tax in the amount of the federal credit is imposed on the transfer of the taxable estate of every resident, subject, where applicable, to the credit provided for in subsection B.

B. If the real and tangible personal property of a resident is located outside of the Commonwealth and is subject to a death tax imposed by another state for which a credit is allowed under § 2011 of the Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States relating to federal estate taxes, the amount of tax due under this section shall be credited with the lesser of:

1. The amount of the death tax paid the other state and credited against the federal estate tax; or
2. An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross estate over which another state or states have jurisdiction to the same extent to which Virginia would exert jurisdiction under this chapter with respect to the residents of such other state or states and the denominator of which is the value of the decedent's gross estate.

C. Property of a resident includes:

1. Real property situated in the Commonwealth of Virginia;
2. Tangible personal property having an actual situs in the Commonwealth of Virginia; and
3. Intangible personal property owned by the resident regardless of where it is located.

D. Notwithstanding the provisions of subsection C:

1. *ImABLE accounts established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1 that are transferred to a designated beneficiary upon the death of the account holder shall not be included in the gross estate of the decedent for purposes of Virginia estate taxation pursuant to Article 6 (§ 58.1-360 et seq.) of Chapter 3, provided that (i) the beneficiary is the surviving spouse of the account holder, a descendant of the account holder, a dependent of the account holder as defined in § 152 of the Internal Revenue Code, or a qualified charity as defined in § 170(c) of the Internal Revenue Code; (ii) the total value of an ImABLE account so transferred does not exceed \$500,000; and (iii) the account was established at least one year prior to the death of the account holder;*

2. *Any ImABLE account balance exceeding the limitation in clause (ii) of subdivision 1 shall be included in the decedent's gross estate and subject to estate taxation pursuant to Article 6 (§ 58.1-360 et seq.) of Chapter 3; and*

3. *If no qualified beneficiary is designated or surviving, the ImABLE account shall be included in the decedent's gross estate.*

§ 60.2-212. Employment.

A. "Employment" means:

1. Any service including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied; and

2. Any service, of whatever nature, performed by an individual for any employing unit, for remuneration or under any contract of hire, written or oral, and irrespective of citizenship or residence of either,

a. Within the United States, or

b. On or in connection with an American vessel or American aircraft under a contract of service which is entered into within the United States or during the performance of which and while the individual is employed on the vessel or aircraft it touches at a port in the United States, if such individual performs such services on or in connection with such vessel or aircraft when outside the United States, provided that the operating office, from which the operations of the vessel or aircraft are ordinarily and regularly supervised, managed, directed or controlled, is within the Commonwealth.

B. Notwithstanding subdivision A 2 b of ~~subsection A of this section~~, "employment" means all service performed by an officer or member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within the Commonwealth.

C. Services performed by an individual for remuneration shall be deemed to be employment subject to this title unless the Commission determines that such individual is not an employee for purposes of the Federal Insurance Contributions Act and the Federal Unemployment Tax Act, based upon an application of the standard used by the Internal Revenue Service for such determinations.

D. Notwithstanding the provisions of subsection C, an individual who performs services as a real estate

802 salesperson, under direction of a real estate broker under Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1, or as
803 a real estate appraiser under Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 pursuant to an executed
804 independent contractor agreement and for remuneration solely by way of commission or fee, shall not be an
805 employee for purposes of this chapter.

806 E. Notwithstanding the provisions of subsection C, a hiring party providing an individual with personal
807 protective equipment in response to a disaster caused by a communicable disease of public health threat for
808 which a state of emergency has been declared pursuant to § 44-146.17 shall not be considered in any
809 determination regarding whether such individual is an employee or independent contractor. For the purposes
810 of this subsection, the terms "communicable disease of public health threat," "disaster," and "state of
811 emergency" have the same meaning as provided in § 44-146.16.

812 F. *Notwithstanding the provisions of subsection C, a hiring party providing contributions (i) to an*
813 *individual's ImABLE account established pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1 or (ii) to*
814 *an individual's portable benefit account shall not be considered in any determination regarding whether such*
815 *individual is an employee or independent contractor. This exclusion applies to all such contributions*
816 *regardless of amount, frequency, or whether made pursuant to a written agreement.*

817 **2. That the Commonwealth Savers Plan, as defined in § 23.1-714 of the Code of Virginia, as created by**
818 **this act, may promulgate regulations to implement the provisions of this act to be effective within 280**
819 **days of its enactment. Such emergency regulations shall be effective for no longer than 18 months from**
820 **adoption.**

821 **3. That the Commonwealth Savers Plan, as defined in § 23.1-714 of the Code of Virginia, as created by**
822 **this act, shall accept voluntary enrollment of individuals in a program that authorizes such individuals**
823 **to begin establishing ImABLE accounts pursuant to Chapter 7.1 (§ 23.1-714 et seq.) of Title 23.1 of the**
824 **Code of Virginia, as created by this act, on and after July 1, 2026.**

825 **4. That nothing in the first enactment of this act shall affect (i) existing rights under prepaid tuition**
826 **contracts, college savings trust accounts, or ABLE savings trust accounts established pursuant to**
827 **Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 of the Code of Virginia; (ii) the tax treatment of**
828 **contributions or distributions from other qualified savings plans to the extent permitted by the Code of**
829 **Virginia and federal law; and (iii) any employment classification determinations made prior to July 1,**
830 **2026.**

831 **5. That if any provision of this act or the application thereof to any person or circumstance is held**
832 **invalid, such invalidity shall not affect other provisions or applications of this act that can be given**
833 **effect without the invalid provision or application, and accordingly the provisions of this act are**
834 **severable.**