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HOUSE BILL NO. 1305

Offered January 10, 2024

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

Patron—Hayes

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

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

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

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59 organized under the laws of the Commonwealth or the United States. Such independent disbursement
 60 system and any related procedures shall be subject to review and approval by the State Comptroller.
 61 Nothing in this subsection shall be construed to relieve the Plan of its duty to provide prepaid tuition
 62 contract benefit transactions to the Commonwealth's system of general accounting maintained by the
 63 State Comptroller pursuant to § 2.2-802.

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

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

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

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

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

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

82 **§ 23.1-702.1. Advisory committees to the board; membership; terms; qualifications; duties.**

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

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

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

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

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

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

101 **§ 23.1-704. Powers and duties of the board.**

102 The board shall:

103 1. Administer the Plan established by this chapter;

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

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

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

120 5. Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting

121 services and contracts with other states to provide savings trust accounts for residents of contracting
122 states;

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

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

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

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

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

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

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

152 **§ 23.1-706. Standard of care; investment and administration of the Plan.**

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

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

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

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

181 C. The selection of services relating to the operation and administration of the Plan, including

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

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

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

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

195 CHAPTER 7.1.

196 VIRGINIA COLLEGE OPPORTUNITY ENDOWMENT.

197 § 23.1-714. *Definitions.*

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

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

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

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

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

207 *"Income" means income from investment of deposits to the Fund pursuant to subdivision C 2 of
 208 § 23.1-701.*

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

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

212 § 23.1-715. *Endowment established; governing board.*

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

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

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

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

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

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

226 § 23.1-716. *Powers and duties; scholarship program; report.*

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

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

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

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

243 3. a. *Commits, as a condition of receiving a scholarship, to remaining employed or enrolled in*

244 postgraduate education in Virginia for at least eight years after graduating from the institution
 245 subsidized by the scholarship. For purposes of this subdivision, a student shall be considered employed
 246 in Virginia only if such person is employed in a full-time position and his compensation from such
 247 position is subject to taxation pursuant to Chapter 3 (§ 58.1-300 et seq.) of Title 58.1.

248 b. Upon petition by the student, the Endowment may temporarily waive the requirements of
 249 subdivision a if the student demonstrates that (i) he is seeking employment in an industry or profession
 250 consistent with his field of study but has been unable to secure such employment, (ii) he is seeking
 251 enrollment in graduate school but his application is pending or he has been unable to gain admission to
 252 graduate school, (iii) he is not employed or not employed in a full-time position because he is disabled
 253 and unable to work, or (iv) he is not employed or not employed in a full-time position in order to care
 254 for his children or a disabled family member.

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

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

261 D. The program shall be funded only by income from investment of deposits to the Fund pursuant to
 262 subdivision C 2 of § 23.1-701. The Plan shall manage the assets of the Fund with the objective of
 263 creating income for the scholarship program and in accordance with the provisions of Chapter 7
 264 (§ 23.1-700 et seq.), mutatis mutandis; however, the board shall have sole authority over the
 265 administration of the program and the disbursement of income in the form of scholarships.

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

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

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

272 **§ 23.1-717. Virginia College Opportunity Fund established.**

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

283 **§ 58.1-322.03. (For contingent expiration date, see Acts 2023, Sp. Sess. I, ch. 1, cl. 22) Virginia**
 284 **taxable income; deductions.**

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

287 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
 288 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
 289 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
 290 on such federal return and increased by an amount that, when added to the amount deducted under
 291 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
 292 such purposes at a rate of 18 cents per mile; or

293 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
 294 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
 295 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
 296 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,
 297 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of
 298 such amounts in the case of a married individual filing a separate return); and (iii) for taxable years
 299 beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and
 300 \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a
 301 separate return). For purposes of this section, any person who may be claimed as a dependent on
 302 another taxpayer's return for the taxable year may compute the deduction only with respect to earned
 303 income.

304 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for

305 federal income tax purposes.

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

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

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

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

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

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

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

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

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

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

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

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

364 10. The amount an individual pays annually in premiums for long-term health care insurance,
365 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable
366 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on

367 and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the
 368 individual during the taxable year shall be allowed if the individual has claimed a federal income tax
 369 deduction for such taxable year for long-term health care insurance premiums paid by him.

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

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

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

378 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
 379 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
 380 following items of tangible personal property: (i) any clothes washers, room air conditioners,
 381 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
 382 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
 383 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
 384 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
 385 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
 386 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
 387 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
 388 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
 389 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
 390 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
 391 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
 392 rating of 85; and (x) programmable thermostats.

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

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

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

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

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

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

416 For purposes of subdivision 15, "business interest" means the same as that term is defined under
 417 § 163(j) of the Internal Revenue Code.

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

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

425 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser
 426 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of
 427 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable

428 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter
 429 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,
 430 or student aide serving accredited public or private primary and secondary school students in Virginia,
 431 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator
 432 during the taxable year for participation in professional development courses and the purchase of books,
 433 supplies, computer equipment (including related software and services), other educational and teaching
 434 equipment, and supplementary materials used directly in that individual's service to students as an
 435 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on
 436 the eligible educator's federal income tax return for such taxable year.

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

439 **§ 58.1-322.03. (For contingent effective date, see Acts 2023, Sp. Sess. I, ch. 1, cl. 22) Virginia**
 440 **taxable income; deductions.**

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

443 1. a. The amount allowable for itemized deductions for federal income tax purposes where the
 444 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the
 445 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted
 446 on such federal return and increased by an amount that, when added to the amount deducted under
 447 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for
 448 such purposes at a rate of 18 cents per mile; or

449 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income
 450 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,
 451 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a
 452 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,
 453 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of
 454 such amounts in the case of a married individual filing a separate return); (iii) for taxable years
 455 beginning on and after January 1, 2022, but before January 1, 2024, \$8,000 for single individuals and
 456 \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a
 457 separate return); and (iv) for taxable years beginning on and after January 1, 2024, but before January 1,
 458 2026, \$8,500 for single individuals and \$17,000 for married persons (one-half of such amounts in the
 459 case of a married individual filing a separate return). For purposes of this section, any person who may
 460 be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction
 461 only with respect to earned income.

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

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

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

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

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

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

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

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

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

487 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed
 488 during the taxable year for a prepaid tuition contract or college savings trust account entered into with
 489 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as

490 provided in subdivision b, the amount deducted on any individual income tax return in any taxable year
 491 shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction
 492 shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the
 493 purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a
 494 college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in
 495 future taxable years until the purchase price or college savings trust contribution has been fully
 496 deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any
 497 taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of
 498 limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to
 499 recapture in the taxable year or years in which distributions or refunds are made for any reason other
 500 than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or
 501 (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision,
 502 "purchaser" or "contributor" means the person shown as such on the records of the Virginia College
 503 Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid
 504 tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax
 505 attributes associated with a prepaid tuition contract or college savings trust account, including, but not
 506 limited to, carryover and recapture of deductions.

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

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

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

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

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

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

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

536 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
 537 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
 538 following items of tangible personal property: (i) any clothes washers, room air conditioners,
 539 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
 540 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
 541 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
 542 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
 543 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
 544 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
 545 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
 546 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
 547 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
 548 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
 549 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
 550 rating of 85; and (x) programmable thermostats.

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

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

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

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

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

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

574 For purposes of subdivision 15, "business interest" means the same as that term is defined under
 575 § 163(j) of the Internal Revenue Code.

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

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

583 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser
 584 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of
 585 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable
 586 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter
 587 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,
 588 or student aide serving accredited public or private primary and secondary school students in Virginia,
 589 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator
 590 during the taxable year for participation in professional development courses and the purchase of books,
 591 supplies, computer equipment (including related software and services), other educational and teaching
 592 equipment, and supplementary materials used directly in that individual's service to students as an
 593 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on
 594 the eligible educator's federal income tax return for such taxable year.

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

597 **§ 58.1-344.3. Voluntary contributions of refunds requirements.**

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

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

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

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

611 4. The Department of Taxation shall report annually by the first day of each General Assembly
 612 Regular Session to the Chairmen of the House Committee on Finance and Senate Committee on Finance

613 and Appropriations the amounts collected for each entity listed under subsections B and C for the three
614 most recent taxable years for which there is complete data. Such report shall also identify the entities, if
615 any, that will be removed from the individual income tax return because they have failed the
616 requirements in subdivision 1, the entities that will remain on the individual income tax return, and the
617 entities, if any, that will be added to the individual income tax return.

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

621 1. Nongame wildlife voluntary contribution.

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

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

630 2. Open space recreation and conservation voluntary contribution.

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

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

639 3. Voluntary contribution to political party.

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

644 4. United States Olympic Committee voluntary contribution.

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

646 5. Housing program voluntary contribution.

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

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

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

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

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

665 7. Voluntary contribution to the Community Policing Fund.

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

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

672 8. Voluntary contribution to promote the arts.

673 All moneys contributed shall be used by the Virginia Commission for the Arts in its statutory

674 responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special
675 fund known as the Virginia Commission for the Arts Fund.

676 9. Voluntary contribution to the Historic Resources Fund.

677 All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to
678 § 10.1-2202.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

718 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund.
719 All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for
720 Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act
721 (§ 23.1-628 et seq.).

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

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

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

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

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

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

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

735 All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have

- 736 been designated as cancer centers by the National Cancer Institute.
- 737 23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.
- 738 a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program
- 739 Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education
- 740 Scholarship Program.
- 741 b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as
- 742 established in § 30-231.4.
- 743 c. All moneys so deposited in the Fund shall be administered by the State Council of Higher
- 744 Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of
- 745 Title 30.
- 746 24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.
- 747 All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living
- 748 History and Public Policy Center.
- 749 25. Voluntary contribution to the Virginia Caregivers Grant Fund.
- 750 All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to
- 751 § 63.2-2202.
- 752 26. Voluntary contribution to public library foundations.
- 753 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The
- 754 Tax Commissioner shall determine annually the total amounts designated on all returns for each public
- 755 library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
- 756 appropriate amount to the respective public library foundation.
- 757 27. Voluntary contribution to Celebrating Special Children, Inc.
- 758 All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into
- 759 a special fund known as the Celebrating Special Children, Inc. Fund.
- 760 28. Voluntary contributions to the Department for Aging and Rehabilitative Services.
- 761 a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for
- 762 providing Medicare Part D counseling to the elderly and disabled.
- 763 b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund.
- 764 All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to
- 765 provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging
- 766 and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this
- 767 subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the
- 768 Secretary of Health and Human Resources.
- 769 29. Voluntary contribution to community foundations.
- 770 All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The
- 771 Tax Commissioner shall determine annually the total amounts designated on all returns for each
- 772 community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the
- 773 appropriate amount to the respective community foundation. A "community foundation" shall be defined
- 774 as any institution that meets the membership requirements for a community foundation established by
- 775 the Council on Foundations.
- 776 30. Voluntary contribution to the Virginia Foundation for Community College Education.
- 777 a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education
- 778 for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive
- 779 community colleges in Virginia.
- 780 b. All moneys shall be deposited into a special fund known as the Virginia Foundation for
- 781 Community College Education Fund. All moneys so deposited in the Fund shall be administered by the
- 782 Virginia Foundation for Community College Education in accordance with and for the purposes
- 783 provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).
- 784 31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.
- 785 All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access
- 786 Authority to be used for the purposes described in § 15.2-6601.
- 787 32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.
- 788 All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment
- 789 Fund established pursuant to § 32.1-368.
- 790 33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.
- 791 All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in
- 792 its mission to increase the public's knowledge and appreciation of Virginia's marine environment and
- 793 inspire commitment to preserve its existence.
- 794 34. Voluntary contribution to the Virginia Capitol Preservation Foundation.
- 795 All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its
- 796 mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol

797 and Capitol Square.

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

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

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

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

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

807 2. Voluntary Chesapeake Bay restoration contribution.

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

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

820 c. No later than November 1 of each year, the Secretary of Natural and Historic Resources shall
821 submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate
822 Committee on Agriculture, Conservation and Natural Resources; the House Committee on
823 Appropriations; the Senate Committee on Finance and Appropriations; and the Virginia delegation to the
824 Chesapeake Bay Commission, describing the grants awarded from moneys deposited in the fund. The
825 report shall include a list of grant recipients, a description of the purpose of each grant, the amount
826 received by each grant recipient, and an assessment of activities or initiatives supported by each grant.
827 The report shall be posted on a website maintained by the Secretary of Natural and Historic Resources,
828 along with a cumulative listing of previous grant awards beginning with awards granted on or after July
829 1, 2014.

830 3. Voluntary Jamestown-Yorktown Foundation Contribution.

831 All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown
832 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the
833 Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before
834 January 1, 2008.

835 4. State forests voluntary contribution.

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

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

841 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

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

845 6. Voluntary contribution to local school divisions.

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

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

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

856 7. Voluntary contribution to Home Energy Assistance Fund.

857 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to
858 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy

859 needs.

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

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

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

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

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

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

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

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

882 **§ 58.1-402. Virginia taxable income.**

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

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

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

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

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

899 3. [Repealed.]

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

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

904 6. [Repealed.]

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

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

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

916 (2) The related member derives at least one-third of its gross revenues from the licensing of
917 intangible property to parties who are not related members, and the transaction giving rise to the
918 expenses and costs between the corporation and the related member was made at rates and terms
919 comparable to the rates and terms of agreements that the related member has entered into with parties

920 who are not related members for the licensing of intangible property; or

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

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

935 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
936 convincing evidence, that the transaction or transactions between the corporation and a related member
937 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
938 purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner
939 shall permit the corporation to file an amended return. For purposes of such amended return, the
940 requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is
941 satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance
942 or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation
943 within one year of the written permission granted by the Tax Commissioner and any refund of the tax
944 imposed under this article shall include interest at a rate equal to the rate of interest established under
945 § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of
946 such amended return, any related member of the corporation that subtracted from taxable income
947 amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on
948 that portion of such amounts for which the corporation has filed an amended return pursuant to this
949 subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he
950 has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation
951 in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and
952 costs without making the adjustment under subdivision a.

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

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

959 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under
960 § 58.1-446;

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

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

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

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

976 (4) One of the following applies:

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

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

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

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

993 b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to
994 subdivision a may petition the Tax Commissioner, after filing the related income tax return for the
995 taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this
996 article for such taxable year including tax upon any amount of interest expenses and costs required to be
997 added to federal taxable income pursuant to subdivision a, to consider evidence relating to the
998 transaction or transactions between the corporation and a related member or members that resulted in the
999 corporation's taxable income being increased, as required under subdivision a, for such interest expenses
1000 and costs.

1001 If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and
1002 convincing evidence, that the transaction or transactions between the corporation and a related member
1003 or members resulting in such increase in taxable income pursuant to subdivision a had a valid business
1004 purpose other than the avoidance or reduction of the tax due under this chapter and that the related
1005 payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall
1006 permit the corporation to file an amended return. For purposes of such amended return, the requirements
1007 of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has
1008 identified) that the transaction had a valid business purpose other than the avoidance or reduction of the
1009 tax due under this chapter and that the related payments between the parties were made at arm's length
1010 rates and terms. Such amended return shall be filed by the corporation within one year of the written
1011 permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall
1012 include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall
1013 accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related
1014 member of the corporation that subtracted from taxable income amounts received pursuant to subdivision
1015 C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the
1016 corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions
1017 identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing
1018 evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent
1019 taxable years to deduct the related interest expenses and costs without making the adjustment under
1020 subdivision a.

1021 The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of
1022 any petition pursuant to this subdivision, to include costs necessary to secure outside experts in
1023 evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this
1024 subdivision upon payment of such fee.

1025 No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision
1026 shall be maintained in any court of this Commonwealth.

1027 c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under
1028 § 58.1-446.

1029 d. For purposes of subdivision B 9:

1030 "Arm's-length rates and terms" means that (i) two or more related members enter into a written
1031 agreement for the transaction, (ii) such agreement is of a duration and contains payment terms
1032 substantially similar to those that the related member would be able to obtain from an unrelated entity,
1033 (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments
1034 under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv)
1035 the borrower or payor adheres to the payment terms of the agreement governing the transaction or any
1036 amendments thereto.

1037 "Valid business purpose" means one or more business purposes that alone or in combination
1038 constitute the motivation for some business activity or transaction, which activity or transaction
1039 improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

1040 10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible
1041 under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT).
1042 For purposes of this subdivision, a REIT is a Captive REIT if:

- 1043 (1) It is not regularly traded on an established securities market;
- 1044 (2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at
1045 any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a
1046 single entity that is (i) a corporation or an association taxable as a corporation under the Internal
1047 Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal
1048 Revenue Code; and
- 1049 (3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of
1050 the Internal Revenue Code.
- 1051 b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall
1052 not be considered a corporation or an association taxable as a corporation:
- 1053 (1) Any REIT that is not treated as a Captive REIT;
- 1054 (2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT
1055 subsidiary of a Captive REIT;
- 1056 (3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed
1057 Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or
1058 value of the beneficial interests or shares of such trust; and
- 1059 (4) Any Qualified Foreign Entity.
- 1060 c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of
1061 the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in
1062 determining the ownership of stock, assets, or net profits of any person.
- 1063 d. For purposes of subdivision B 10:
- 1064 "Listed Australian Property Trust" means an Australian unit trust registered as a Management
1065 Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is
1066 listed on a recognized stock exchange in Australia and is regularly traded on an established securities
1067 market.
- 1068 "Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the
1069 laws of the United States and that satisfies all of the following criteria:
- 1070 (1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented
1071 by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares
1072 or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government
1073 securities;
- 1074 (2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt
1075 from entity level tax;
- 1076 (3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed
1077 in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial
1078 interest;
- 1079 (4) The shares or certificates of beneficial interest of such entity are regularly traded on an
1080 established securities market or, if not so traded, not more than 10 percent of the voting power or value
1081 in such entity is held directly, indirectly, or constructively by a single entity or individual; and
- 1082 (5) The entity is organized in a country that has a tax treaty with the United States.
- 1083 e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any
1084 voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset
1085 account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be
1086 taken into consideration when determining if such REIT is a Captive REIT.
- 1087 11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed
1088 for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax
1089 deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.
- 1090 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal
1091 taxable income:
- 1092 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
1093 and on obligations or securities of any authority, commission or instrumentality of the United States to
1094 the extent exempt from state income taxes under the laws of the United States including, but not limited
1095 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,
1096 interest on equipment purchase contracts, or interest on other normal business transactions.
- 1097 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth
1098 or of any political subdivision or instrumentality of this Commonwealth.
- 1099 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the
1100 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding
1101 year, or the last year in which such corporation has income, under the provisions of the income tax laws
1102 of the Commonwealth.
- 1103 4. The amount of any refund or credit for overpayment of income taxes imposed by this
1104 Commonwealth or any other taxing jurisdiction.

- 1105 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue
1106 Code (foreign dividend gross-up).
- 1107 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
1108 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.
- 1109 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F
1110 income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue
1111 Code (Global Intangible Low-Taxed Income).
- 1112 8. Any amount included therein which is foreign source income as defined in § 58.1-302.
- 1113 9. [Repealed.]
- 1114 10. The amount of any dividends received from corporations in which the taxpaying corporation
1115 owns 50 percent or more of the voting stock.
- 1116 11. [Repealed.]
- 1117 12, 13. [Expired.]
- 1118 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research
1119 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
1120 deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.
- 1121 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in
1122 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
1123 (§ 22.1-175.1 et seq.) of Title 22.1.
- 1124 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain
1125 derived from the sale or exchange of real property or the sale or exchange of an easement to real
1126 property which results in the real property or the easement thereto being devoted to open-space use, as
1127 that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a
1128 subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating
1129 land for its preservation shall be allowed for three years following the year in which the subtraction is
1130 taken.
- 1131 17. For taxable years beginning on and after January 1, 2001, any amount included therein with
1132 respect to § 58.1-440.1.
- 1133 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
1134 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower
1135 Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a
1136 tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of
1137 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.
- 1138 19, 20. [Repealed.]
- 1139 21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and
1140 costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to
1141 subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that
1142 received such amount if such related member is subject to Virginia income tax on the same amount.
- 1143 22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of
1144 launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended
1145 to provide individuals the training or experience of a launch, without performing an actual launch. To
1146 qualify for a deduction under this subdivision, launch services must be performed in Virginia or
1147 originate from an airport or spaceport in Virginia.
- 1148 23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of
1149 resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the
1150 Commercial Orbital Transportation Services division of the National Aeronautics and Space
1151 Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or
1152 spaceport in Virginia.
- 1153 24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital
1154 gain for federal income tax purposes, or any income taxed as investment services partnership interest
1155 income (otherwise known as investment partnership carried interest income) for federal income tax
1156 purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an
1157 investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business
1158 approved by the Secretary of Administration, provided the business has its principal office or facility in
1159 the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the
1160 investment. To qualify for a subtraction under this subdivision, the investment must be made between
1161 the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an
1162 investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this
1163 subdivision for an investment in the same business.
- 1164 25. a. Income, including investment services partnership interest income (otherwise known as
1165 investment partnership carried interest income), attributable to an investment in a Virginia venture

1166 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or
1167 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this
1168 subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No
1169 subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under
1170 subdivision C 24 for the same investment.

1171 b. As used in this subdivision 25:

1172 "Qualified portfolio company" means a company that (i) has its principal place of business in the
1173 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or
1174 service other than the management or investment of capital; and (iii) provides equity in the company to
1175 the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company"
1176 does not include a company that is an individual or sole proprietorship.

1177 "Virginia venture capital account" means an investment fund that has been certified by the
1178 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital
1179 account, the operator of the investment fund shall register the investment fund with the Department prior
1180 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed
1181 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one
1182 investor who has at least four years of professional experience in venture capital investment or
1183 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,
1184 an undergraduate degree from an accredited college or university in economics, finance, or a similar
1185 field of study. The Department may require an investment fund to provide documentation of the
1186 investor's training, education, or experience as deemed necessary by the Department to determine
1187 substantial equivalency. If the Department determines that the investment fund employs at least one
1188 investor with the experience set forth herein, the Department shall certify the investment fund as a
1189 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent
1190 of the capital committed to its fund in qualified portfolio companies.

1191 26. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a
1192 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before
1193 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by an
1194 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has
1195 claimed a subtraction under subdivision C 24 or 25 for the same investment.

1196 b. As used in this subdivision 26:

1197 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of
1198 § 2.2-115.

1199 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3
1200 of § 2.2-115.

1201 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
1202 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
1203 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
1204 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
1205 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
1206 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
1207 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
1208 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
1209 localities that are distressed or double distressed.

1210 27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of
1211 real property by condemnation proceedings.

1212 28. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received
1213 by the taxpayer under the Rebuild Virginia program established by the Governor and administered by
1214 the Department of Small Business and Supplier Diversity.

1215 D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal
1216 taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided
1217 under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1218 1. If the payment is received in installment payments, then the recognized gain, including any gain
1219 recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year
1220 in which the installment payment is received.

1221 2. If the payment is received in a single payment, then 10 percent of the recognized gain may be
1222 subtracted in the taxable year immediately following the year in which the single payment is received.
1223 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

1224 E. Adjustments to federal taxable income shall be made to reflect the transitional modifications
1225 provided in § 58.1-315.

1226 F. Notwithstanding any other provision of law, the income from any disposition of real property
1227 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or

1228 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after
1229 January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method
1230 described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer
1231 disposition of the property has been made on or before the due date prescribed by law (including
1232 extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in
1233 which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or
1234 conditions established by the Department, which shall be set forth in guidelines developed by the
1235 Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of
1236 such income under certain circumstances. The development of the guidelines shall be exempt from the
1237 Administrative Process Act (§ 2.2-4000 et seq.).

1238 G. There shall be deducted to the extent included in and not otherwise subtracted from federal
1239 taxable income a percentage of the business interest disallowed as a deduction pursuant to § 163(j) of
1240 the Internal Revenue Code in the amount of:

1241 1. 20 percent for taxable years beginning on and after January 1, 2018, but before January 1, 2022;
1242 2. 30 percent for taxable years beginning on and after January 1, 2022, but before January 1, 2024;
1243 and

1244 3. 50 percent for taxable years beginning on and after January 1, 2024.

1245 For purposes of subsection G, "business interest" means the same as that term is defined under
1246 § 163(j) of the Internal Revenue Code.

1247 H. For taxable years beginning before January 1, 2021, there shall be deducted to the extent not
1248 otherwise subtracted from federal taxable income up to \$100,000 of the amount that is not deductible
1249 when computing federal taxable income solely on account of the portion of subdivision B 10 of
1250 § 58.1-301 related to Paycheck Protection Program loans.

1251 *I. For taxable years beginning on and after January 1, 2024, there shall be deducted to the extent*
1252 *not otherwise subtracted from federal taxable income any amount donated to the Virginia College*
1253 *Opportunity Fund established under § 23.1-717.*