VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-2702, 29.1-101, 58.1-344.3, and 58.1-546 of the Code of Virginia and to repeal §§ 30-19.1:10, 58.1-345, 58.1-345.1, 58.1-346, 58.1-346.1:1, 58.1-346.2:1, 58.1-346.3:1, and 58.1-346.4:1 through 58.1-346.24 of the Code of Virginia, relating to income tax voluntary contribution checkoffs.

[H 2303]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2702, 29.1-101, 58.1-344.3, and 58.1-546 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2702. Virginia Arts Foundation Fund.

A. There is created the Virginia Arts Foundation Fund, a special nonreverting trust fund on the books of the Comptroller, to be administered by the Foundation.

B. The Fund shall include such funds as may be appropriated by the General Assembly; revenues transferred to the Fund from the special license plates for Virginians for the Arts program pursuant to § 46.2-749.2:2; voluntary contributions collected through the income tax checkoff for the arts pursuant to ~~§ 58.1-346.6~~ *subdivision B 8 of § 58.1-344.3*; and designated gifts, contributions and bequests of money, securities, or other property of whatsoever character.

C. All money, securities, or other property designated for the Fund and any interest or income there from shall remain in the Fund and shall not revert to the general fund. The Fund's principal shall not be subject to expenditure by the Foundation.

§ 29.1-101. Game Protection Fund.

The amount received by the State Treasurer from the collection of admittance, parking, or other use fees, the sale of hunting, trapping and fishing licenses, revenue generated from the sales and use tax pursuant to subsection E of § 58.1-638, and such other items as may accrue to the Board shall be set aside and shall constitute the Game Protection Fund. The income and principal of this Fund, including any unexpended balance, shall be a separate fund in the state treasury and shall only be used for the payment of the salaries, allowances, wages, and expenses incident to carrying out the provisions of the hunting, trapping and inland fish laws and for no other purpose, except as provided in §§ 29.1-101.01, 29.1-701, ~~58.1-345~~ *subdivision B 1 of 58.1-344.3,* and 58.1-1410.

§ 58.1-344.3. Voluntary contributions of refunds requirements.

A. 1. For taxable years beginning on and after January 1, ~~2004~~ *2005,* all *entities entitled to* voluntary contributions of tax refunds ~~legislation shall satisfy the requirements in § 30-19.1:10~~ *listed in subsections B and C must have received at least $10,000 in contributions in each of the three previous taxable years for which there is complete data and in which such entity was listed on the individual income tax return.*

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

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

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

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

B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions of

not less than $1:

1. Nongame wildlife voluntary contribution.

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

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

2. Open space recreation and conservation voluntary contribution.

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

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

3. Voluntary contribution to political party.

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

4. United States Olympic Committee voluntary contribution.

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

5. Housing program voluntary contribution.

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

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

6. Voluntary contributions to the Department for the Aging.

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

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

7. Voluntary contribution to the Community Policing Fund.

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

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

8. Voluntary contribution to promote the arts.

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

9. Voluntary contribution to the Historic Resources Fund.

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

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

All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public

Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

11. Voluntary contribution to the Center for Governmental Studies.

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

12. Voluntary contribution to the Law and Economics Center.

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

13. Voluntary contribution to Children of America Finding Hope.

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

14. Voluntary contribution to 4-H Educational Centers.

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

15. Voluntary contribution to promote organ and tissue donation.

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

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

16. Voluntary contributions to the Virginia War Memorial Foundation and the National D-Day Memorial Foundation.

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

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

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

18. Voluntary contribution to the Tuition Assistance Grant Fund.

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

b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act (§ 23-38.11 et seq.).

19. Voluntary contribution to the Spay and Neuter Fund.

All moneys contributed shall be paid to the Spay and Neuter Fund for use by the Virginia Federation of Humane Societies in its mission of providing low-cost spay and neuter surgeries through direct provision or contract throughout the Commonwealth.

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

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

21. Voluntary contribution for the Office of Commonwealth Preparedness.

All moneys contributed shall be paid to the Department of Emergency Management for the Office of Commonwealth Preparedness.

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

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

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

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

b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as established in § 23-38.53:24.

c. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in accordance with and for the purposes provided in Chapter 4.4:5 (§ 23-38.53:21 et seq.) of Title 23 and Chapter 34 (§ 30-226 et seq.) of Title 30.

24. Voluntary contribution to the Dr. Martin Luther King, Jr. Commission Fund.

a. All moneys contributed shall be paid to the Dr. Martin Luther King, Jr. Commission Fund to support the work of the Dr. Martin Luther King, Jr. Memorial Commission and to generate nonstate funds to maintain the Martin Luther King, Jr. Living History and Public Policy Center.

b. All moneys shall be deposited into the Dr. Martin Luther King, Jr. Commission Fund as established in § 30-192.7.

c. All moneys so deposited in the Fund shall be administered by the Division of Legislative Services in accordance with and for the purposes provided in Chapter 27 (§ 30-192 et seq.) of Title 30.

25. Voluntary contribution to the Virginia Caregivers Grant Fund.

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

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

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

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

2. Voluntary Chesapeake Bay Restoration Contribution.

a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2.

b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund to be administered by the Office of the Secretary of Natural Resources. All moneys so deposited shall be used for the purposes of providing grants for the implementation of tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2.

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

4. State forests voluntary contribution.

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

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

5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

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

6. Voluntary contribution to local school divisions.

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

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

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

7. Voluntary contribution to Home Energy Assistance Fund.

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

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

§ 58.1-546. Refund of overpayment; credits against tax.

A. If the amount of local income tax computed is less than the amount theretofore paid, the excess shall be refunded out of the state treasury on the order of the Tax Commissioner upon the Comptroller. Refunds issued hereunder shall not be reduced by any of the voluntary contributions permitted under ~~§§ 58.1-345, 58.1-345.1, 58.1-346, 58.1-346.1 or § 58.1-346.2~~ *subdivisions B 1 through B 5 of § 58.1-344.3.*

B. The tax credits provided in Articles 3 (§ 58.1-330 et seq.) and 13 (§ 58.1-430 et seq.) of this chapter shall not apply to the local income tax.

2. That §§ 30-19.1:10, 58.1-345, 58.1-345.1, 58.1-346, 58.1-346.1:1, 58.1-346.2:1, 58.1-346.3:1, and 58.1-346.4:1 through 58.1-346.24 of the Code of Virginia are repealed.