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HOUSE BILL NO. 858

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact § 58.1-322.03 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to economic development; incentives to attract knowledge workers.

Patrons—Reid, Willett and Keam

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-322.03 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13 as follows:

§ 58.1-322.03. Virginia taxable income; deductions.

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

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

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

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

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

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

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

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

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

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

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

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

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with

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

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

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

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

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

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

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

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

106 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6
107 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the
108 following items of tangible personal property: (i) any clothes washers, room air conditioners,
109 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency
110 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of
111 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an
112 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least
113 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating
114 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of
115 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and
116 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a
117 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that
118 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual
119 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization
120 rating of 85; and (x) programmable thermostats.

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

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

15. For taxable years beginning on and after January 1, 2018, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

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

17. For taxable years beginning on and after January 1, 2020, but before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

18. *For taxable years beginning on and after January 1, 2022, but before January 1, 2028, 50 percent of the amount a qualified knowledge worker, as that term is defined in § 58.1-339.13, pays for residential high speed internet access or \$600, whichever is less. However, if the qualified knowledge worker is a resident of a locality that has lost more than 10 percent of its population since the 2010 census, the amount of the deduction shall be 50 percent of the amount paid for high speed internet access or \$1,200, whichever is less.*

§ 58.1-339.13. Tax credits for qualified knowledge workers.

A. For the purposes of this section:

"Distressed locality" means a locality that has lost more than 10 percent of its population since the 2010 census.

"Eligible computer equipment" means computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, high-speed Internet connectivity equipment, computer security software and devices, and all related delivery, installation, and maintenance fees. "Eligible computer equipment" includes only equipment that is purchased in new condition.

"Federal credit" means the amount of the federal income tax credit available for the purchase of a residential electric vehicle charger under § 30C of the Internal Revenue Code prior to December 31, 2021.

"Information technology" means communications, telecommunications, automated data processing, applications, databases, data networks, the Internet, management information systems, and related fields.

"Knowledge worker" means an individual possessing advanced skills in the field of information technology, including network engineers, software developers, data scientists, and artificial intelligence, machine learning, or quantum computing professionals.

"Qualified knowledge worker" means a knowledge worker who becomes domiciled in Virginia during the current or previous taxable year. "Qualified knowledge worker" includes only individuals who (i) maintain their domicile in Virginia for at least six months prior to claiming the credit and (ii) have not been domiciled in or been a resident of the Commonwealth in the five years prior to the qualifying period.

"Qualifying period" means (i) for the credit authorized under subsection B, the 12-month period beginning on the date that the qualified knowledge worker establishes his domicile in Virginia and (ii) for the credit authorized under subsection C, the three-year period beginning on the date that the qualified knowledge worker establishes his domicile in Virginia.

B. 1. For taxable years beginning on and after January 1, 2022, but before January 1, 2028, a qualified knowledge worker shall be allowed a nonrefundable credit against the tax levied pursuant to § 58.1-320 for the purchase of a residential electric vehicle charger during the qualifying period.

182 2. The amount of the credit shall equal either (i) the amount of the federal credit or (ii) for qualified
183 knowledge workers in a distressed locality, twice the amount of the federal credit.

184 3. The amount of the credit that may be claimed in any single taxable year shall not exceed the
185 taxpayer's liability for taxes imposed by this chapter for that taxable year. If the amount of credit
186 allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the taxpayer
187 purchased a residential electric vehicle charger, the amount that exceeds the tax liability may be carried
188 over for credit against the income taxes of the taxpayer in the next five taxable years or until the total
189 amount of the tax credit has been taken, whichever is sooner.

190 C. 1. For taxable years beginning on and after January 1, 2022, but before January 1, 2028, a
191 qualified knowledge worker shall be allowed a nonrefundable credit against the tax levied pursuant to
192 § 58.1-320 for the purchase of eligible computer equipment in each taxable year during the qualifying
193 period.

194 2. The amount of the credit shall equal the sum paid by an individual pursuant to the tax imposed
195 pursuant to Chapter 6 (§ 58.1-600 et seq.) for no more than (i) \$5,000 of eligible computer expenses or
196 (ii) for qualified knowledge workers in a distressed locality, \$10,000 of eligible computer expenses.

197 3. The amount of the credit that may be claimed in any single taxable year shall not exceed the
198 taxpayer's liability for taxes imposed by this chapter for that taxable year. If the amount of credit
199 allowed under this section exceeds the taxpayer's tax liability for the taxable year in which the taxpayer
200 purchased eligible computer equipment, the amount that exceeds the tax liability may be carried over
201 for credit against the income taxes of the taxpayer in the next five taxable years or until the total
202 amount of the tax credit has been taken, whichever is sooner.

203 D. A qualified knowledge worker shall be eligible to claim the credit authorized under subsection B
204 or C, or both. However, no individual may claim a credit pursuant to subsection B in more than one
205 taxable year. An individual may claim a credit pursuant to subsection C in more than one taxable year.

206 E. The total amount of credits granted under this section shall not exceed \$1 million per taxable
207 year. In each taxable year, the Department shall allocate \$500,000 in tax credits for eligible recipients
208 in a distressed locality, and the remaining \$500,000 in tax credits for eligible recipients in
209 non-distressed localities. However, in the event that the amount of credits claimed in either distressed
210 localities or non-distressed localities in the taxable year is less than \$500,000, the remaining amount of
211 credits may be allocated to eligible recipients in the other class of localities. In the event that
212 applications for the tax credits exceed \$1 million for any taxable year, the Department shall allocate the
213 credits on a pro rata basis.

214 F. The Tax Commissioner shall develop guidelines for claiming the credits provided by this section.
215 Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et
216 seq.).

217 2. That the Department of Taxation shall report annually to the Chairmen of the Senate
218 Committee on Finance and Appropriations and the House Committees on Finance and
219 Appropriations regarding the cost of the tax incentives established by the provisions of this act
220 and the number of new residents and families relocating to Virginia and utilizing one or more of
221 the incentives established by this act.