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## HOUSE BILL NO. 2319

House Amendments in [ ] - January 23, 2023

A *BILL to amend and reenact §§ 58.1-320 and 58.1-322.03, as it is currently effective and as it shall become effective, of the Code of Virginia and to repeal the eighth enactment of Chapter 2 of the Acts of Assembly of 2022, Special Session I, relating to individual income tax; rates and deductions.*

Patron Prior to Engrossment—Delegate McNamara

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-320 and 58.1-322.03, as it is currently effective and as it shall become effective, of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-320. Imposition of tax.**

A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every individual as follows:

~~Two percent on~~ On income not exceeding \$3,000, *two percent;*

~~Three percent on~~ On income in excess of \$3,000, but not in excess of \$5,000, *three percent;*

~~Five percent on income in excess of \$5,000, but not in excess of \$12,000 for taxable years beginning before January 1, 1987;~~

~~Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;~~

~~Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;~~

~~Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989;~~

~~Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning January 1, 1990;~~

~~Five and three-quarters percent on income in excess of \$12,000 for taxable years beginning before January 1, 1987;~~

~~Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January 1, 1987, through December 31, 1987;~~

~~Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January 1, 1988, through December 31, 1988;~~

~~Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January 1, 1989, through December 31, 1989; and~~

~~Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and after January 1, 1990~~

*On income in excess of \$5,000, but not in excess of \$17,000, five percent; and*

*On income in excess of \$17,000, (i) 5.75 percent, for taxable years beginning before January 1, 2024, and (ii) 5.5 percent, for taxable years beginning on and after January 1, 2024.*

**§ 58.1-322.03. (Contingent expiration date) 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 2024, \$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); *and (iii) for taxable years beginning on and after January 1, 2024, but before January 1, 2026, \$9,000 for single individuals and \$18,000 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

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59 dependent on another taxpayer's return for the taxable year may compute the deduction only with respect  
60 to earned income.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For taxable years beginning on and after January 1, 2022, 30 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 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.

**§ 58.1-322.03. (Effective pursuant to Va. Const. Art. IV, § 13; contingent expiration date) 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~~ 2024, \$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); *and (iii) for taxable years beginning on and after January 1, 2024, but before January 1, 2026, \$9,000 for single individuals and \$18,000 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 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

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

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

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

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

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

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

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

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

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

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

15. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent

305 of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For  
306 taxable years beginning on and after January 1, 2022, 30 percent of business interest disallowed as a  
307 deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business  
308 interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

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

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

316 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser  
317 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of  
318 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable  
319 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter  
320 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,  
321 or student aide serving accredited public or private primary and secondary school students in Virginia,  
322 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator  
323 during the taxable year for participation in professional development courses and the purchase of books,  
324 supplies, computer equipment (including related software and services), other educational and teaching  
325 equipment, and supplementary materials used directly in that individual's service to students as an  
326 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on  
327 the eligible educator's federal income tax return for such taxable year.

328 **§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 7) Virginia**  
329 **taxable income; deductions.**

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

332 1. a. The amount allowable for itemized deductions for federal income tax purposes where the  
333 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the  
334 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted  
335 on such federal return and increased by an amount that, when added to the amount deducted under  
336 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for  
337 such purposes at a rate of 18 cents per mile; or

338 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income  
339 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,  
340 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a  
341 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,  
342 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of  
343 such amounts in the case of a married individual filing a separate return); ~~and~~ (iii) for taxable years  
344 beginning on and after January 1, 2022, but before January 1, ~~2026~~ 2024, \$8,000 for single individuals  
345 and \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a  
346 separate return); *and (iv) for taxable years beginning on and after January 1, 2024, but before January*  
347 *1, 2026, \$9,000 for single individuals and \$18,000 for married persons (one-half of such amounts in the*  
348 *case of a married individual filing a separate return).* For purposes of this section, any person who may  
349 be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction  
350 only with respect to earned income.

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

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

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

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

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

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

365 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have  
366 attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted

367 federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers.  
368 For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total  
369 combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

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

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

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

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

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

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

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

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

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

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

425 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6  
426 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the  
427 following items of tangible personal property: (i) any clothes washers, room air conditioners,

dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

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

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

15. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For taxable years beginning on and after January 1, 2022, 30 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 before January 1, 2021, up to \$100,000 of the amount that is not deductible when computing federal adjusted gross income solely on account of the portion of subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

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

**§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 8) 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); (ii) for taxable years beginning on and after January 1, 2019, but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); ~~and~~ (iii) for taxable years beginning on and after January 1, [ 2022 2024 ] , but before January 1, [ 2026 2024 ] , \$8,000 for single individuals and \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return); *and (iv) for taxable years beginning on and after January 1, 2024, but before January 1, 2026, \$9,000 for single individuals and \$18,000 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 the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be

551 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust  
552 account, less any amounts previously deducted.

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

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

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

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

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

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

577 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6  
578 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the  
579 following items of tangible personal property: (i) any clothes washers, room air conditioners,  
580 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency  
581 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of  
582 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an  
583 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least  
584 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating  
585 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of  
586 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and  
587 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a  
588 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that  
589 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual  
590 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization  
591 rating of 85; and (x) programmable thermostats.

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

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

608 15. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent  
609 of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For  
610 taxable years beginning on and after January 1, 2022, 30 percent of business interest disallowed as a  
611 deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business  
612 interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

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

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

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

**2. That the eighth enactment of Chapter 2 of the Acts of Assembly of 2022, Special Session I, is repealed.**

ENGROSSED

HB2319E