

23104313D

## SENATE BILL NO. 1519

Offered January 20, 2023

A *BILL to amend and reenact §§ 2.2-2744, 2.2-2753, 2.2-2905, 2.2-3114, 2.2-3705.4, 2.2-3705.7, 2.2-3711, 2.2-4006, 2.2-4343, 8.01-424, 23.1-306, 23.1-700, 23.1-701, 23.1-704 through 23.1-707, 23.1-1004, 30-330 through 30-333, 30-335, 51.1-505.01, 58.1-322.02, as it is currently effective and as it shall become effective, 58.1-322.03, as it is currently effective and as it shall become effective, and 58.1-344.4 of the Code of Virginia, relating to public institutions of higher education; Virginia College Savings Plan; renamed Commonwealth Savers Plan; duties of governing board.*

Patrons—Barker and Saslaw

Referred to Committee on Education and Health

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

1. That §§ 2.2-2744, 2.2-2753, 2.2-2905, 2.2-3114, 2.2-3705.4, 2.2-3705.7, 2.2-3711, 2.2-4006, 2.2-4343, 8.01-424, 23.1-306, 23.1-700, 23.1-701, 23.1-704 through 23.1-707, 23.1-1004, 30-330 through 30-333, 30-335, 51.1-505.01, 58.1-322.02, as it is currently effective and as it shall become effective, 58.1-322.03, as it is currently effective and as it shall become effective, and 58.1-344.4 of the Code of Virginia are amended and reenacted as follows:

**§ 2.2-2744. Definitions.**

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

"Board" means the governing board of the ~~Virginia College Savings~~ *Commonwealth Savers* Plan.

"Committee" means the Program Advisory Committee established pursuant to § 2.2-2746.

"Eligible employee" means any individual who is (i) 18 years of age or older, (ii) currently employed at least 30 hours a week, and (iii) receiving wages.

"Eligible employer" means a nongovernmental business, industry, trade, profession, or other enterprise in the Commonwealth, whether conducted on a for-profit or nonprofit basis, that employed 25 or more eligible employees, as reported to the Virginia Employment Commission pursuant to 16VAC5-32-20, or any successor regulation, for the quarter ending December 31 and the preceding three quarters of the preceding calendar year and has been operating for at least two years prior to Program implementation. "Eligible employer" does not include an employer that sponsors, maintains, or contributes to an automatic enrollment payroll deduction IRA or a qualified retirement plan in compliance with federal law for its employees, including plans qualified under § 401(a), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code. An employer shall become an eligible employer at any time if it meets the eligibility requirements under this chapter.

"Fee" means any investment management charges, administrative charges, investment advice charges, trading fees, marketing and sales fees, revenue sharing, broker fees, and other costs necessary to run the Program.

"Individual retirement account" or "IRA" means a Roth or traditional individual retirement account or annuity under § 408 or 408A of the Internal Revenue Code.

"Participating employee" means any eligible employee who is enrolled in the Program.

"Participating employer" means an employer that facilitates a payroll deposit retirement savings agreement pursuant to this chapter for its eligible employees.

"Participating individual" means any individual who enrolls in the Program independent of an employment relationship with an eligible employer, maintains an account in the Program, and is not a participating employee.

"Payroll deposit retirement savings agreement" means an arrangement by which an employer allows employees to remit payroll deduction contributions to the Program.

"Plan" means the ~~Virginia College Savings~~ *Commonwealth Savers* Plan.

"Program" means the state-facilitated IRA savings program established in this chapter and administered by the Plan.

"Program Trust" means the Program trust fund established by § 2.2-2752.

"Wages" means any compensation, as such term is defined in § 219(f)(1) of the Internal Revenue Code, that is paid to an eligible employee by his employer during the calendar year.

**§ 2.2-2753. Audit and annual reports.**

The Program shall be subject to the reporting requirements set forth in § 23.1-709. The Program shall be subject to the applicable provisions of the ~~Virginia College Savings~~ *Commonwealth Savers* Plan Oversight Act (§ 30-330 et seq.).

**§ 2.2-2905. Certain officers and employees exempt from chapter.**

INTRODUCED

SB1519

59 The provisions of this chapter shall not apply to:  
60 1. Officers and employees for whom the Constitution specifically directs the manner of selection;  
61 2. Officers and employees of the Supreme Court and the Court of Appeals;  
62 3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either  
63 house thereof is required or not;  
64 4. Officers elected by popular vote or by the General Assembly or either house thereof;  
65 5. Members of boards and commissions however selected;  
66 6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of  
67 accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and  
68 notaries public;  
69 7. Officers and employees of the General Assembly and persons employed to conduct temporary or  
70 special inquiries, investigations, or examinations on its behalf;  
71 8. The presidents and teaching and research staffs of state educational institutions;  
72 9. Commissioned officers and enlisted personnel of the National Guard;  
73 10. Student employees at institutions of higher education and patient or inmate help in other state  
74 institutions;  
75 11. Upon general or special authorization of the Governor, laborers, temporary employees, and  
76 employees compensated on an hourly or daily basis;  
77 12. County, city, town, and district officers, deputies, assistants, and employees;  
78 13. The employees of the Virginia Workers' Compensation Commission;  
79 14. The officers and employees of the Virginia Retirement System;  
80 15. Employees whose positions are identified by the State Council of Higher Education and the  
81 boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the  
82 Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of  
83 Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The  
84 Library of Virginia, and approved by the Director of the Department of Human Resource Management  
85 as requiring specialized and professional training;  
86 16. Employees of the Virginia Lottery;  
87 17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing  
88 and service industries who have a human resources classification of industry worker;  
89 18. Employees of the Virginia Commonwealth University Health System Authority;  
90 19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for  
91 such employees shall be subject to the review and approval of the Board of Visitors of the University of  
92 Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia  
93 Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the  
94 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);  
95 20. In executive branch agencies the employee who has accepted serving in the capacity of chief  
96 deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential  
97 assistant for policy or administration. An employee serving in either one of these two positions shall be  
98 deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve  
99 in this exempt capacity;  
100 21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the  
101 provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);  
102 22. Officers and employees of the Virginia Port Authority;  
103 23. Employees of the ~~Virginia College Savings~~ *Commonwealth Savers Plan*;  
104 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental  
105 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to  
106 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure  
107 (§ 2.2-3000 et seq.);  
108 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as  
109 state employees for purposes of participation in the Virginia Retirement System, health insurance, and  
110 all other employee benefits offered by the Commonwealth to its classified employees;  
111 26. Employees of the Virginia Indigent Defense Commission;  
112 27. Any chief of a campus police department that has been designated by the governing body of a  
113 public institution of higher education as exempt, pursuant to § 23.1-809;  
114 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage  
115 Control Authority; and  
116 29. Officers and employees of the Fort Monroe Authority.  
117 **§ 2.2-3114. Disclosure by state officers and employees.**  
118 A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant  
119 Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of  
120 any circuit court, judges and substitute judges of any district court, members of the State Corporation

Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the Board of the Virginia College Savings *Commonwealth Savers* Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings *Commonwealth Savers* Plan, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the

Council pursuant to § 2.2-3117 or 2.2-3118.

**§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.**

A. The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except as provided in subsection B or where such disclosure is otherwise prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a public institution of higher education in the Commonwealth, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the ~~Virginia College~~ *Savings Commonwealth Savers* Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals. Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

For purposes of this subdivision:

"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.

"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. The exclusion provided by this subdivision shall not apply to protect from disclosure

(a) information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor or (b) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or the terms and conditions of such grants or contracts. For purposes of clause (a), the identity of the donor may be withheld if (1) the donor has requested anonymity in connection with or as a condition of making a pledge or donation and (2) the pledge or donation does not impose terms or conditions directing academic decision-making.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

9. Records provided to the Governor or the designated reviewers by a qualified institution, as those terms are defined in § 23.1-1239, related to a proposed memorandum of understanding, or proposed amendments to a memorandum of understanding, submitted pursuant to Chapter 12.1 (§ 23.1-1239 et seq.) of Title 23.1. A memorandum of understanding entered into pursuant to such chapter shall be subject to public disclosure after it is agreed to and signed by the Governor.

B. The custodian of a scholastic record shall not release the address, phone number, or email address of a student in response to a request made under this chapter without written consent. For any student who is (i) 18 years of age or older, (ii) under the age of 18 and emancipated, or (iii) attending an institution of higher education, written consent of the student shall be required. For any other student, written consent of the parent or legal guardian of such student shall be required.

**§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. State income, business, and estate tax returns, personal property tax returns, and confidential records held pursuant to § 58.1-3.

2. Working papers and correspondence of the Office of the Governor, the Lieutenant Governor, or the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates or the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in the Commonwealth. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Further, information publicly available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

"Members of the General Assembly" means each member of the Senate of Virginia and the House of Delegates and their legislative aides when working on behalf of such member.

"Office of the Governor" means the Governor; the Governor's chief of staff, counsel, director of policy, and Cabinet Secretaries; the Assistant to the Governor for Intergovernmental Affairs; and those individuals to whom the Governor has delegated his authority pursuant to § 2.2-104.

"Working papers" means those records prepared by or for a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both (a) any library patron who has borrowed or accessed material or resources from a library and (b) the material or resources such patron borrowed or accessed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

4. Contract cost estimates prepared for the confidential use of the Department of Transportation in

awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

5. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

6. Information furnished by a member of the General Assembly to a meeting of a standing committee, special committee, or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 30-110 or of formulating advisory opinions to members on standards of conduct, or both.

7. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money charged or paid for such utility service.

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

10. Information on the site-specific location of rare, threatened, endangered, or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body that has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exclusion shall not apply to requests from the owner of the land upon which the resource is located.

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the board of visitors of The College of William and Mary in Virginia, acting pursuant to § 23.1-2803, or by the ~~Virginia College Savings Commonwealth Savers~~ Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the board of visitors of the University of Virginia, prepared for the board of visitors of The College of William and Mary in Virginia, prepared by the retirement system, a local finance board or board of trustees, or the ~~Virginia College Savings Commonwealth Savers~~ Plan, or provided to the retirement system, a local finance board or board of trustees, or the ~~Virginia College Savings Commonwealth Savers~~ Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, the board of visitors of The College of William and Mary in Virginia, or the ~~Virginia College Savings Commonwealth Savers~~ Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

13. Financial, medical, rehabilitative, and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority

under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.

15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

17. Information held by the Virginia Lottery pertaining to (i) the social security number, tax identification number, state sales tax number, home address and telephone number, personal and lottery banking account and transit numbers of a retailer, and financial information regarding the nonlottery operations of specific retail locations and (ii) individual lottery winners, except that a winner's name, hometown, and amount won shall be disclosed. If the value of the prize won by the winner exceeds \$10 million, the information described in clause (ii) shall not be disclosed unless the winner consents in writing to such disclosure.

18. Information held by the Board for Branch Pilots relating to the chemical or drug testing of a person regulated by the Board, where such person has tested negative or has not been the subject of a disciplinary action by the Board for a positive test result.

19. Information pertaining to the planning, scheduling, and performance of examinations of holder records pursuant to the Virginia Disposition of Unclaimed Property Act (§ 55.1-2500 et seq.) prepared by or for the State Treasurer or his agents or employees or persons employed to perform an audit or examination of holder records.

20. Information held by the Virginia Department of Emergency Management or a local governing body relating to citizen emergency response teams established pursuant to an ordinance of a local governing body that reveal the name, address, including e-mail address, telephone or pager numbers, or operating schedule of an individual participant in the program.

21. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to prevent the disclosure of information defined as directory information under regulations implementing the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

22. Information submitted for inclusion in the Statewide Alert Network administered by the

Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the *Virginia College Savings Commonwealth Savers Plan*, acting pursuant to § 23.1-704 relating to:

a. Internal deliberations of or decisions by the retirement system or the *Virginia College Savings Commonwealth Savers Plan* on the pursuit of particular investment strategies, or the selection or termination of investment managers, prior to the execution of such investment strategies or the selection or termination of such managers, if disclosure of such information would have an adverse impact on the financial interest of the retirement system or the *Virginia College Savings Commonwealth Savers Plan*; and

b. Trade secrets provided by a private entity to the retirement system or the *Virginia College Savings Commonwealth Savers Plan* if disclosure of such records would have an adverse impact on the financial interest of the retirement system or the *Virginia College Savings Commonwealth Savers Plan*.

For the records specified in subdivision b to be excluded from the provisions of this chapter, the entity shall make a written request to the retirement system or the *Virginia College Savings Commonwealth Savers Plan*:

(1) Invoking such exclusion prior to or upon submission of the data or other materials for which protection from disclosure is sought;

(2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The retirement system or the *Virginia College Savings Commonwealth Savers Plan* shall determine whether the requested exclusion from disclosure meets the requirements set forth in subdivision b.

Nothing in this subdivision shall be construed to prevent the disclosure of the identity or amount of any investment held or the present value and performance of all asset classes and subclasses.

25. Information held by the Department of Corrections made confidential by former § 53.1-233.

26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

27. Personal information, as defined in § 2.2-3801, contained in the Veterans Care Center Resident Trust Funds concerning residents or patients of the Department of Veterans Services Care Centers, except that access shall not be denied to the person who is the subject of the information.

28. Information maintained in connection with fundraising activities by the Veterans Services Foundation pursuant to § 2.2-2716 that reveal the address, electronic mail address, facsimile or telephone number, social security number or other identification number appearing on a driver's license or other document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2 or the comparable law of another jurisdiction, or credit card or bank account data of identifiable donors, except that access shall not be denied to the person who is the subject of the information. Nothing in this subdivision, however, shall be construed to prevent the disclosure of information relating to the amount, date, purpose, and terms of the pledge or donation or the identity of the donor, unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the foundation for the performance of services or other work or (ii) the terms and conditions of such grants or contracts.

29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.



32. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, or (iii) individual cases of abuse, neglect, or exploitation of adults as defined in § 63.2-1603 are discussed by multidisciplinary teams established pursuant to §§ 15.2-1627.5 and 63.2-1605. The findings of any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

33. Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.

34. Information discussed in a closed session of the Physical Therapy Compact Commission or the Executive Board or other committees of the Commission for purposes set forth in subsection E of § 54.1-3491.

35. Information held by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, relating to (i) internal deliberations of or decisions by the Authority on the pursuit of particular investment strategies prior to the execution of such investment strategies and (ii) trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided by a private entity to the Authority, if such disclosure of records pursuant to clause (i) or (ii) would have an adverse impact on the financial interest of the Authority or a private entity.

36. Personal information provided to or obtained by the Virginia Lottery in connection with the voluntary exclusion program administered pursuant to § 58.1-4015.1.

37. Personal information provided to or obtained by the Virginia Lottery concerning the identity of any person reporting prohibited conduct pursuant to § 58.1-4043.

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable

litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the State Board of Local and Regional Jails discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or

of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the *Virginia College Savings Commonwealth Savers Plan*, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the *Virginia College Savings Commonwealth Savers Plan* or provided to the retirement system, a local finance board or board of trustees, or the *Virginia College Savings Commonwealth Savers Plan* under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the *Virginia College Savings Commonwealth Savers Plan*. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8, and those portions of meetings in which individual death cases of persons with developmental disabilities are discussed by the Developmental Disabilities Mortality Review Committee established pursuant to § 37.2-314.1.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the *Virginia College Savings Commonwealth Savers Plan* wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in §

674 56-484.12, related to the provision of wireless E-911 service.

675 27. Those portions of disciplinary proceedings by any regulatory board within the Department of  
676 Professional and Occupational Regulation, Department of Health Professions, or the Board of  
677 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach  
678 a decision or meetings of health regulatory boards or conference committees of such boards to consider  
679 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as  
680 requested by either of the parties.

681 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of  
682 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are  
683 defined in § 33.2-1800, or any independent review panel appointed to review information and advise  
684 the responsible public entity concerning such records.

685 29. Discussion of the award of a public contract involving the expenditure of public funds, including  
686 interviews of bidders or offerors, and discussion of the terms or scope of such contract, where  
687 discussion in an open session would adversely affect the bargaining position or negotiating strategy of  
688 the public body.

689 30. Discussion or consideration of grant or loan application information subject to the exclusion in  
690 subdivision 17 of § 2.2-3705.6 by the Commonwealth Health Research Board.

691 31. Discussion or consideration by the Commitment Review Committee of information subject to the  
692 exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually  
693 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

694 32. Discussion or consideration of confidential proprietary information and trade secrets developed  
695 and held by a local public body providing certain telecommunication services or cable television services  
696 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
697 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et  
698 seq.).

699 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless  
700 Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets  
701 subject to the exclusion in subdivision 19 of § 2.2-3705.6.

702 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting  
703 security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

704 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee  
705 created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative  
706 files.

707 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
708 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and  
709 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and  
710 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or  
711 recover scholarship awards.

712 37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion  
713 in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia  
714 Port Authority.

715 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
716 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
717 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
718 Savings Commonwealth Savers Plan acting pursuant to § 23.1-706, or by the Virginia College Savings  
719 Commonwealth Savers Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of  
720 information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

721 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of  
722 § 2.2-3705.6 related to economic development.

723 40. Discussion or consideration by the Board of Education of information relating to the denial,  
724 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

725 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created  
726 by executive order for the purpose of studying and making recommendations regarding preventing  
727 closure or realignment of federal military and national security installations and facilities located in  
728 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization  
729 appointed by a local governing body, during which there is discussion of information subject to the  
730 exclusion in subdivision 8 of § 2.2-3705.2.

731 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
732 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
733 information of donors.

734 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
735 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information

contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant, loan, or investment application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 for a grant, loan, or investment pursuant to Article 11 (§ 2.2-2351 et seq.) of Chapter 22.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

52. Discussion or consideration by the Commonwealth of Virginia Innovation Partnership Authority (the Authority), an advisory committee of the Authority, or any other entity designated by the Authority, of information subject to the exclusion in subdivision 35 of § 2.2-3705.7.

53. Deliberations of the Virginia Lottery Board conducted pursuant to § 58.1-4105 regarding the denial or revocation of a license of a casino gaming operator, or the refusal to issue, suspension of, or revocation of any license or permit related to casino gaming, and discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

54. Deliberations of the Virginia Lottery Board in an appeal conducted pursuant to § 58.1-4007 regarding the denial of, revocation of, suspension of, or refusal to renew any license or permit related to sports betting and any discussion, consideration, or review of matters related to investigations excluded from mandatory disclosure under subdivision 1 of § 2.2-3705.3.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of

797 public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance  
798 of such bonds.

799 **§ 2.2-4006. Exemptions from requirements of this article.**

800 A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia  
801 Register Act shall be exempted from the operation of this article:

802 1. Agency orders or regulations fixing rates or prices.

803 2. Regulations that establish or prescribe agency organization, internal practice or procedures,  
804 including delegations of authority.

805 3. Regulations that consist only of changes in style or form or corrections of technical errors. Each  
806 promulgating agency shall review all references to sections of the Code of Virginia within their  
807 regulations each time a new supplement or replacement volume to the Code of Virginia is published to  
808 ensure the accuracy of each section or section subdivision identification listed.

809 4. Regulations that are:

810 a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no  
811 agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days  
812 of the law's effective date;

813 b. Required by order of any state or federal court of competent jurisdiction where no agency  
814 discretion is involved; or

815 c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not  
816 differ materially from those required by federal law or regulation, and the Registrar has so determined in  
817 writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be  
818 published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

819 5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B  
820 of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or  
821 more Board meetings and one public hearing.

822 6. Regulations of (i) the regulatory boards served by the Department of Labor and Industry pursuant  
823 to Title 40.1 and the Department of Professional and Occupational Regulation or the Department of  
824 Health Professions pursuant to Title 54.1 and (ii) the Board of Accountancy that are limited to reducing  
825 fees charged to regulants and applicants.

826 7. The development and issuance of procedural policy relating to risk-based mine inspections by the  
827 Department of Energy authorized pursuant to §§ 45.2-560 and 45.2-1149.

828 8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13  
829 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control  
830 Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et  
831 seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act  
832 (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine  
833 Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission  
834 (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of  
835 § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended  
836 Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including  
837 potentially affected citizens groups, to assist in the development of the general permit, (iii) provides  
838 notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least  
839 one public hearing on the proposed general permit.

840 9. The development and issuance by the Board of Education of guidelines on constitutional rights  
841 and restrictions relating to the recitation of the pledge of allegiance to the American flag in public  
842 schools pursuant to § 22.1-202.

843 10. Regulations of the Board of the ~~Virginia College Savings~~ *Commonwealth Savers* Plan adopted  
844 pursuant to § 23.1-704.

845 11. Regulations of the Marine Resources Commission.

846 12. Regulations adopted by the Board of Housing and Community Development pursuant to (i)  
847 Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et  
848 seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the  
849 Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of  
850 § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written  
851 comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§  
852 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions  
853 of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of  
854 § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the  
855 Governor and General Assembly.

856 13. Amendments to regulations of the Board to schedule a substance pursuant to subsection D or E  
857 of § 54.1-3443.

858 14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant

to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the provisions of this subdivision, any such waste load allocations adopted, amended, or repealed by the Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption.

16. Amendments to the State Health Services Plan adopted by the Board of Health following receipt of recommendations by the State Health Services Task Force pursuant to § 32.1-102.2:1 if the Board (i) provides a Notice of Intended Regulatory Action in accordance with the requirements of § 2.2-4007.01, (ii) provides notice and receives comments as provided in § 2.2-4007.03, and (iii) conducts at least one public hearing on the proposed amendments.

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this section shall be in accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012.

C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and that is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

**§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the respective public institution of higher education pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the ~~Virginia College Savings~~ *Commonwealth Savers* Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The

920 exemption shall be in writing and kept on file with the agency's disbursement records.

921 9. Any town with a population of less than 3,500, except as stipulated in the provisions of  
922 §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through  
923 2.2-4377 and Chapter 43.1 (§ 2.2-4378 et seq.).

924 10. Any county, city or town whose governing body has adopted, by ordinance or resolution,  
925 alternative policies and procedures which are (i) based on competitive principles and (ii) generally  
926 applicable to procurement of goods and services by such governing body and its agencies, except as  
927 stipulated in subdivision 12.

928 This exemption shall be applicable only so long as such policies and procedures, or other policies  
929 and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town.  
930 Such policies and standards may provide for incentive contracting that offers a contractor whose bid is  
931 accepted the opportunity to share in any cost savings realized by the locality when project costs are  
932 reduced by such contractor, without affecting project quality, during construction of the project. The fee,  
933 if any, charged by the project engineer or architect for determining such cost savings shall be paid as a  
934 separate cost and shall not be calculated as part of any cost savings.

935 11. Any school division whose school board has adopted, by policy or regulation, alternative policies  
936 and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement  
937 of goods and services by the school board, except as stipulated in subdivision 12.

938 This exemption shall be applicable only so long as such policies and procedures, or other policies or  
939 procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This  
940 provision shall not exempt any school division from any centralized purchasing ordinance duly adopted  
941 by a local governing body.

942 12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of  
943 subsections B, C, and D of § 2.2-4303, §§ 2.2-4305, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333  
944 through 2.2-4338, 2.2-4342, 2.2-4343.1, and 2.2-4367 through 2.2-4377, Chapter 43.1 (§ 2.2-4378 et  
945 seq.), and § 58.1-1902 shall apply to all counties, cities, and school divisions and to all towns having a  
946 population greater than 3,500 in the Commonwealth.

947 The method for procurement of professional services through competitive negotiation set forth in  
948 §§ 2.2-4302.2, 2.2-4303.1, and 2.2-4303.2 shall also apply to all counties, cities, and school divisions,  
949 and to all towns having a population greater than 3,500, where the cost of the professional service is  
950 expected to exceed \$80,000 in the aggregate or for the sum of all phases of a contract or project. A  
951 school board that makes purchases through its public school foundation or purchases educational  
952 technology through its educational technology foundation, either as may be established pursuant to  
953 § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases,  
954 the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

955 13. A public body that is also a utility operator may purchase services through or participate in  
956 contracts awarded by one or more utility operators that are not public bodies for utility marking services  
957 as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of  
958 services under this subdivision may deviate from the procurement procedures set forth in this chapter  
959 upon a determination made in advance by the public body and set forth in writing that competitive  
960 sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is  
961 awarded based on competitive principles.

962 14. Procurement of any construction or planning and design services for construction by a Virginia  
963 nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design  
964 or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit  
965 corporation or organization is obligated to conform to procurement procedures that are established by  
966 federal statutes or regulations, whether those federal procedures are in conformance with the provisions  
967 of this chapter.

968 15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and  
969 Interpreting the Executive Mansion.

970 16. The Eastern Virginia Medical School in the selection of services related to the management and  
971 investment of its endowment and other institutional funds. The selection of these services shall, however,  
972 be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

973 17. The Department of Corrections in the selection of pre-release and post-incarceration services and  
974 the Department of Juvenile Justice in the selection of pre-release and post-commitment services.

975 18. The University of Virginia Medical Center to the extent provided by subdivision A 3 of  
976 § 23.1-2213.

977 19. The purchase of goods and services by a local governing body or any authority, board,  
978 department, instrumentality, institution, agency or other unit of state government when such purchases  
979 are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or  
980 by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

981 20. The contract by community services boards or behavioral health authorities with an administrator



or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

21. [Expired].

22. The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed \$100,000, provided that the procurement is accomplished by (i) obtaining written informal solicitation of a minimum of three bidders or offerors if practicable and (ii) including a written statement regarding the basis for awarding the contract.

23. The Virginia Industries for the Blind when procuring components, materials, supplies, or services for use in commodities and services furnished to the federal government in connection with its operation as an AbilityOne Program-qualified nonprofit agency for the blind under the Javits-Wagner-O'Day Act, 41 U.S.C. §§ 8501-8506, provided that the procurement is accomplished using procedures that ensure that funds are used as efficiently as practicable. Such procedures shall require documentation of the basis for awarding contracts. Notwithstanding the provisions of § 2.2-1117, no public body shall be required to purchase such components, materials, supplies, services, or commodities.

24. The purchase of personal protective equipment for private, nongovernmental entities by the Governor pursuant to subdivision (11) of § 44-146.17 during a disaster caused by a communicable disease of public health threat for which a state of emergency has been declared. However, such purchase shall provide for competition where practicable and include a written statement regarding the basis for awarding any contract.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

**§ 8.01-424. Approval of compromises on behalf of persons under a disability in suits or actions to which they are parties.**

A. In any action or suit wherein a person under a disability is a party, the court in which the matter is pending shall have the power to approve and confirm a compromise of the matters in controversy on behalf of such party, including claims under the provisions of any liability insurance policy, if such compromise is deemed to be to the interest of the party. Any order or decree approving and confirming the compromise shall be binding upon such party, except that the same may be set aside for fraud.

B. In case of damage to the person or property of a person under a disability, caused by the wrongful act, neglect, or default of any person, when death did not ensue therefrom, any person or insurer interested in compromise of any claim for such damages, including any claim under the provisions of any liability insurance policy, may, upon motion to the court in which the action is pending for the recovery of damages on account of such injury, or if no such action is pending, then to any circuit court, move the court to approve the compromise. The court shall require the movant to give reasonable notice of such motion to all parties and to any person found by the court to be interested in the compromise.

C. A compromise action involving a claim for wrongful death shall be in accordance with the applicable provisions of § 8.01-55. Nothing in this section shall be construed to affect the provisions of § 8.01-76.

D. In any compromise action, the court shall direct the payment of the proceeds of the compromise agreement, when approved, as follows:

1. Payment of the sum into court as provided by § 8.01-600 or to the general receiver of such court;

2. In the case of damage to the person or property of a minor, by investment in a college savings trust account for which the minor is the beneficiary pursuant to a college savings trust agreement with the ~~Virginia College Savings Commonwealth Savers~~ Plan as set forth in subsection B of § 23.1-707, provided that (i) the investment options pursuant to such agreement are restricted to target enrollment portfolios; (ii) the order or decree approving and confirming the compromise requires the minor beneficiary's parent, as that term is defined in § 22.1-1, to act as the custodian of the account; and (iii) except in the case of a distribution from the account to be applied toward the minor beneficiary's qualified higher education expenses, as that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, the order or decree approving and confirming the compromise prohibits the minor beneficiary's parent from making any transfer, withdrawal, termination, or other account transaction unless the court provides prior approval pursuant to a written order;

3. To a duly qualified fiduciary of the person under a disability, after due inquiry as to the adequacy of the bond of such fiduciary;

4. As provided in § 8.01-606; or

5. Where the agreement of settlement provides for payments to be made over a period of time in the future, whether such payments are lump sum, periodic, or a combination of both, the court shall approve the settlement only if it finds that all payments which are due to be made are (i) secured by a bond issued by an insurance company authorized to write such bonds in this Commonwealth or (ii) to be made or irrevocably guaranteed by an insurance company or companies authorized to do business in this Commonwealth and rated "A plus" (A+) or better by Best's Insurance Reports. Payments made under this subdivision totaling not more than \$4,000 in any calendar year may be paid in accordance with § 8.01-606. Payments made under this subdivision totaling more than \$4,000 in any calendar year while the recipient is under a disability shall be paid to a duly qualified fiduciary after due inquiry as to adequacy of the bond of such fiduciary.

E. Payments made under this section, in the case of damage to the person or property of a minor, may be made payable in the discretion of the court to the parent or guardian of the minor to be held in trust for the benefit of the minor. Any such trust shall be subject to court approval and the court may provide for the termination of such trust at any time following attainment of majority which the court deems to be in the best interest of the minor. In an order authorizing the trust or additions to an existing trust, the court may order that the trustee thereof be subject to the same duty to qualify in the clerk's office and to file an inventory and annual accountings with the commissioner of accounts as would apply to a testamentary trustee.

**§ 23.1-306. Public institutions of higher education; six-year plans; institutional partnership performance agreements.**

A. The governing board of each public institution of higher education shall (i) develop and adopt biennially in odd-numbered years and amend or affirm biennially in even-numbered years a six-year plan for the institution; (ii) submit a preliminary version of such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance and Appropriations no later than July 1 of each odd-numbered year; and (iii) submit preliminary amendments to or a preliminary affirmation of each such plan to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance and Appropriations no later than July 1 of each even-numbered year. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall include a report of the institution's active contributions to efforts to stimulate the economic development of the Commonwealth, the area in which the institution is located, and, for those institutions subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10, the areas that lag behind the Commonwealth in terms of income, employment, and other factors. Each such preliminary plan and preliminary amendment to or preliminary affirmation of such plan shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. No such preliminary plan, amendments, or affirmation shall be posted on the General Assembly's website.

B. The Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance and Appropriations, or their designees, shall review each institution's preliminary plan, amendments, or affirmation and provide comments to the institution on such plan, amendments, or affirmation by September 1 of the relevant year. Each institution shall respond to any such comments by October 1 of that year and submit a finalized version of such plan, amendments, or affirmation to the Council, the General Assembly, the Governor, and the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Education and Health, and the Senate Committee on Finance and Appropriations no later than December 1 of that year. Each such finalized version shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

C. Each plan shall be structured in accordance with, and be consistent with, the objective and purposes of this chapter set forth in § 23.1-301 and the criteria developed pursuant to § 23.1-309 and shall be in a form and manner prescribed by the Council, in consultation with the Secretary of Finance, the Secretary of Education, the Director of the Department of Planning and Budget, the Director of the Council, the Staff Director of the House Committee on Appropriations, and the Staff Director of the Senate Committee on Finance and Appropriations, or their designees.

D. Each six-year plan shall (i) address the institution's academic, financial, and enrollment plans, including the number of Virginia and non-Virginia students, for the six-year period; (ii) indicate the planned use of any projected increase in general fund, tuition, or other nongeneral fund revenues; (iii) be based upon any assumptions provided by the Council, following consultation with the Department of Planning and Budget and the staffs of the House Committee on Appropriations and the Senate

Committee on Finance and Appropriations, for funding relating to state general fund support pursuant to §§ 23.1-303, 23.1-304, and 23.1-305 and subdivision 9; (iv) be aligned with the institution's six-year enrollment projections; and (v) include:

1. Financial planning reflecting the institution's anticipated level of general fund, tuition, and other nongeneral fund support for each year of the next biennium;

2. The institution's anticipated annual tuition and educational and general fee charges required by (i) degree level and (ii) domiciliary status, as provided in § 23.1-307;

3. Plans for providing financial aid to help mitigate the impact of tuition and fee increases on low-income and middle-income students and their families as described in subdivision 9, including the projected mix of grants and loans;

4. Degree conferral targets for undergraduate Virginia students;

5. Plans for optimal year-round use of the institution's facilities and instructional resources;

6. Plans for the development of an instructional resource-sharing program with other public institutions of higher education and private institutions of higher education;

7. Plans with regard to any other incentives set forth in § 23.1-305 or any other matters the institution deems appropriate;

8. The identification of (i) new programs or initiatives including quality improvements and (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, as provided in subsection C of § 23.1-307; and

9. An institutional student financial aid commitment that, in conjunction with general funds appropriated for that purpose, provides assistance to students from both low-income and middle-income families and takes into account the information and recommendations resulting from the review of federal and state financial aid programs and institutional practices conducted pursuant to subdivisions B 2 and C 1 of § 23.1-309.

E. In developing such plans, each public institution of higher education shall consider potential future impacts of tuition increases on the *Virginia College Savings Commonwealth Savers Plan* and *ABLE Savings Trust Accounts* (§ 23.1-700 et seq.) and shall discuss such potential impacts with the *Virginia College Savings Commonwealth Savers Plan*. The chief executive officer of the *Virginia College Savings Commonwealth Savers Plan* shall provide to each institution the Plan's assumptions underlying the contract pricing of the program.

F. 1. In conjunction with the plans included in the six-year plan as set forth in subsection D, each public institution of higher education, Richard Bland College, and the Virginia Community College System may submit one innovative proposal with clearly defined performance measures, including any request for necessary authority or support from the Commonwealth, for a performance pilot. If the General Assembly approves the proposed performance pilot, it shall include approval language in the general appropriation act. A performance pilot shall advance the objectives of this chapter by addressing innovative requests related to college access, affordability, cost predictability, enrollment management subject to specified commitments regarding undergraduate in-state student enrollment, alternative tuition and fee structures and affordable pathways to degree attainment, internships and work study, employment pathways for undergraduate Virginia students, strategic talent development, state or regional economic development, pathways to increase timely degree completion, or other priorities set out in the general appropriation act.

2. A performance pilot may include or constitute an institutional partnership performance agreement, which shall be set forth in a memorandum of understanding that includes mutually dependent commitments by the institution, the Commonwealth, and identified partners, if any, related to one or more of the priorities set forth in subdivision 1 or set forth in a general appropriation act. No such institutional partnership performance agreement shall create a legally enforceable obligation of the Commonwealth.

3. No more than six performance pilots shall be approved in a single session of the General Assembly.

4. Development and approval of any performance pilot proposal shall proceed in tandem with consideration of the institution's six-year plan, as follows:

a. An institution that intends to propose a performance pilot shall communicate that intention as early as practicable, but not later than April 1 of the year in which the performance pilot will be proposed, to the reviewers listed in subsection B, the co-chairmen of the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education, and the Governor. In developing a proposed performance pilot, the institution shall consider the Commonwealth's educational and economic policies and priorities, including those reflected in the Virginia Plan for Higher Education issued by the Council, the economic development policy developed pursuant to § 2.2-205, the strategic plan developed pursuant to § 2.2-2237.1, relevant regional economic growth and diversification plans prepared by regional councils pursuant to the Virginia Growth and Opportunity Act (§ 2.2-2484 et seq.), and any additional guidance

provided by the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education and the Governor.

b. An institution that submits a performance pilot shall include the one innovative proposal with clearly defined performance measures, and any corresponding authority and support requested from the Commonwealth, with its submission of the preliminary version of its six-year plan pursuant to clause (ii) of subsection A or with its preliminary amendment or affirmation submission pursuant to clause (iii) of subsection A.

c. The reviewers listed in subsection B, or their designees, shall review and comment on any proposed performance pilot in accordance with the six-year plan review and comment process established in subsection B and may expedite such review and comment process to facilitate the executive and legislative budget process or for other reasons. No later than October 15 of the relevant year, the reviewers shall communicate to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations their recommendations regarding each performance pilot proposal. Such recommendations shall include the reviewers' comments regarding how the proposed performance pilots, individually and collectively, support the strategic educational and economic policies of the Commonwealth.

d. Each performance pilot proposal shall include evidence of its approval by the institution's governing board and, if accepted, shall be referenced in the general appropriation act.

#### CHAPTER 7.

#### ~~VIRGINIA COLLEGE SAVINGS COMMONWEALTH SAVERS PLAN AND ABLE SAVINGS TRUST ACCOUNTS.~~

##### **§ 23.1-700. Definitions.**

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

"ABLE savings trust account" means an account established pursuant to this chapter to assist individuals and families to save private funds to support individuals with disabilities to maintain health, independence, and quality of life, with such account used to apply distributions for qualified disability expenses for an eligible individual, as both such terms are defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Board" means the governing board of the Plan.

"College savings trust account" means an account established pursuant to this chapter to assist individuals and families to enhance the accessibility and affordability of higher education, with such account used to apply distributions from the account toward qualified higher education expenses, as that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

"Contributor" means a person who contributes money to a savings trust account established pursuant to this chapter on behalf of a qualified beneficiary and who is listed as the owner of the savings trust account.

*"Education savings trust account" means an account established pursuant to this chapter to assist individuals and families to enhance the accessibility, affordability, and attainability of higher education, with such account used to apply distributions from the account toward qualified higher education expenses, as that term is defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.*

"Non-Virginia public and accredited nonprofit independent or private institutions of higher education" means public and accredited nonprofit independent or private institutions of higher education that are located outside the Commonwealth.

"Plan" means the ~~Virginia College Savings Commonwealth Savers Plan~~.

"Prepaid tuition contract" means the contract or account entered into by the board and a purchaser pursuant to this chapter for the advance payment of tuition at a fixed, guaranteed level for a qualified beneficiary to attend any public institution of higher education to which the qualified beneficiary is admitted.

"Public institution of higher education" has the same meaning as provided in § 23.1-100.

"Purchaser" means a person who makes or is obligated to make advance payments in accordance with a prepaid tuition contract and who is listed as the owner of the prepaid tuition contract.

"Qualified beneficiary" or "beneficiary" means (i) a resident of the Commonwealth, as determined by the board, who is the beneficiary of a prepaid tuition contract and who may apply advance tuition payments to tuition as set forth in this chapter; (ii) a beneficiary of a prepaid tuition contract purchased by a resident of the Commonwealth, as determined by the board, who may apply advance tuition payments to tuition as set forth in this chapter; or (iii) a beneficiary of a savings trust account established pursuant to this chapter.

"Savings trust account" means an ABLE savings trust account or ~~a college an education~~ savings trust account.

"Savings trust agreement" means the agreement entered into by the board and a contributor that

establishes a savings trust account.

"Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any public institution of higher education and all mandatory fees required as a condition of enrollment of all students. At the discretion of the board, a beneficiary may apply benefits under a prepaid tuition contract and distributions from a ~~college~~ *an education* savings trust account (i) toward graduate-level tuition and (ii) toward qualified higher education expenses, as that term is defined in 26 U.S.C. § 529 or any other applicable section of the Internal Revenue Code of 1986, as amended.

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

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

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

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

D. The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition contract benefits and, in connection with such system, open and maintain a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national banking associations, federal home loan banks, or, to the extent permitted by law, savings institutions organized under the laws of the Commonwealth or the United States. Such independent disbursement system and any related procedures shall be subject to review and approval by the State Comptroller. Nothing in this subsection shall be construed to relieve the Plan of its duty to provide prepaid tuition contract benefit transactions to the Commonwealth's system of general accounting maintained by the State Comptroller pursuant to § 2.2-802.

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

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

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

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

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

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

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

The board shall:

1. Administer the Plan established by this chapter;
2. Develop and implement programs for (i) the prepayment of undergraduate tuition, as defined in

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

3. Invest moneys in the Plan in any instruments, obligations, securities, or property deemed appropriate by the board;

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

5. Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services and contracts with other states to provide savings trust accounts for residents of contracting states;

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

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

8. Develop and implement scholarship or matching grant programs, or both, and fund programs or partnerships to enhance educational accessibility, affordability, and attainability for all Virginians, focusing on underserved and underrepresented communities and students, including public or private programs or partnerships focused on workforce development, scholarships, and mentoring, advising, or coaching services for secondary and postsecondary students, as the board may deem appropriate, to further its goal of making higher education more affordable and accessible to all citizens of the Commonwealth in consultation with the relevant shareholders. The board shall also develop a funding and allocation policy for such programs or partnerships from the Fund, establish program or partnership metrics and evaluation standards, and provide ongoing review of such programs or partnerships;

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

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

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

#### § 23.1-705. Board actions not a debt of Commonwealth.

A. As used in this section, "current obligations of the Plan" means amounts required for the payment of contract benefits or other obligations of the Plan, the maintenance of the Plan, and operating expenses for the current biennium. "Current obligations of the Plan" also includes any additional benefit established pursuant to subsection D of § 23.1-707 and any programs or partnerships established for the purpose of enhancing the accessibility, affordability, and attainability of higher education pursuant to subdivision 8 of § 23.1-704. The estimated amount for such obligations shall be included in the sum sufficient appropriation required by subsection C.

B. No act or undertaking of the board is a debt or a pledge of the full faith and credit of the Commonwealth or any political subdivision of the Commonwealth, and all such acts and undertakings are payable solely from the Plan.

C. Notwithstanding the provisions of subsection B, in order to ensure that the Plan is able to meet its current obligations, the Governor shall include in the budget bills submitted pursuant to § 2.2-1509 a sum sufficient appropriation for the purpose of ensuring that the Plan can meet the current obligations of the Plan. Any sums appropriated by the General Assembly for such purpose shall be deposited into the Fund. All amounts paid into the Fund pursuant to this subsection shall constitute and be accounted for as advances by the Commonwealth to the Plan and, subject to the rights of the Plan's contract holders, shall be repaid to the Commonwealth without interest from available operating revenue of the Plan in excess of amounts required for the payment of current obligations of the Plan.

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

A. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of the Plan, the board, and any person, investment manager, or committee to whom the board delegates any of its investment authority, shall act as trustee and shall exercise the judgment of care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but to the permanent disposition of funds, considering the probable income and the probable safety of their capital. *No officer, director, or member of the board or of any advisory committee to the board whose actions are within the standard of care of this section shall be held personally liable for losses suffered by the Plan.*

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

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

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

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

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

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

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

**§ 23.1-707. Prepaid tuition contracts and education and ABLE savings trust agreements.**

A. Each prepaid tuition contract made pursuant to this chapter shall include the following terms and provisions:

1. The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;
2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;
3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;
4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;

1412 5. Terms and conditions for a substitution for the qualified beneficiary originally named;  
1413 6. Terms and conditions for termination of the contract, including any refunds, withdrawals, or  
1414 transfers of tuition prepayments, and the name of the person entitled to terminate the contract;  
1415 7. The time period during which the qualified beneficiary is required to claim benefits from the Plan;  
1416 8. The number of credit hours or quarters, semesters, terms, or units contracted for by the purchaser,  
1417 as applicable;  
1418 9. All other rights and obligations of the purchaser and the trust; and  
1419 10. Any other terms and conditions that the board deems necessary or appropriate, including those  
1420 necessary to conform the contract with the requirements of § 529 of the Internal Revenue Code of 1986,  
1421 as amended, which specifies the requirements for qualified state tuition programs.

1422 B. Each college education savings trust agreement made pursuant to this chapter shall include the  
1423 following terms and provisions:  
1424 1. The maximum and minimum contribution allowed on behalf of each qualified beneficiary for the  
1425 payment of qualified higher education expenses, as that term is defined in § 529 of the Internal Revenue  
1426 Code of 1986, as amended, or other applicable federal law;  
1427 2. Provisions for withdrawals, refunds, transfers, and any penalties;  
1428 3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust  
1429 account is opened;  
1430 4. Terms and conditions for a substitution for the qualified beneficiary originally named;  
1431 5. Terms and conditions for termination of the account, including any refunds, withdrawals, or  
1432 transfers, and applicable penalties, and the name of the person entitled to terminate the account;  
1433 6. The time period during which the qualified beneficiary is required to use benefits from the savings  
1434 trust account;  
1435 7. All other rights and obligations of the contributor and the Plan; and  
1436 8. Any other terms and conditions that the board deems necessary or appropriate, including those  
1437 necessary to conform the savings trust account with the requirements of § 529 of the Internal Revenue  
1438 Code of 1986, as amended, or other applicable federal law.

1439 C. Each ABLE savings trust agreement made pursuant to this chapter shall include the following  
1440 terms and provisions:  
1441 1. The maximum and minimum annual contribution and maximum account balance allowed on behalf  
1442 of each qualified beneficiary for the payment of qualified disability expenses, as defined in § 529A of  
1443 the Internal Revenue Code of 1986, as amended, or other applicable federal law;  
1444 2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any penalties;  
1445 3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust  
1446 account is opened;  
1447 4. Terms and conditions for a substitution for the qualified beneficiary originally named;  
1448 5. Terms and conditions for termination of the account, including any transfers to the state upon the  
1449 death of the qualified beneficiary, refunds, withdrawals, transfers, applicable penalties, and the name of  
1450 the person entitled to terminate the account;  
1451 6. The time period during which the qualified beneficiary is required to use benefits from the savings  
1452 trust account;  
1453 7. All other rights and obligations of the contributor and the Plan; and  
1454 8. Any other terms and conditions that the board deems necessary or appropriate, including those  
1455 necessary to conform the savings trust account with the requirements of § 529A of the Internal Revenue  
1456 Code of 1986, as amended, or other applicable federal law.

1457 D. In addition to the provisions required by subsection A, each prepaid tuition contract entered into  
1458 prior to July 1, 2019, shall include provisions for the application of tuition prepayments (i) at accredited  
1459 nonprofit independent or private institutions of higher education, including actual interest and income  
1460 earned on such prepayments, and (ii) at non-Virginia public and accredited nonprofit independent or  
1461 private institutions of higher education, including principal and reasonable return on such principal as  
1462 determined by the board. Payments authorized for accredited nonprofit independent or private institutions  
1463 of higher education shall not exceed the projected highest payment made for tuition at a public  
1464 institution of higher education in the same academic year, less a fee to be determined by the board.  
1465 Payments authorized for non-Virginia public and accredited nonprofit independent or private institutions  
1466 of higher education shall not exceed the projected average payment made for tuition at a public  
1467 institution of higher education in the same academic year, less a fee to be determined by the board. In  
1468 no event, however, shall the benefit paid on any prepaid tuition contract entered into prior to July 1,  
1469 2019, be less than the sum of tuition prepayments made and a reasonable return on such prepayments to  
1470 be determined by the board, less any fees determined by the board, *provided, however, that at the*  
1471 *discretion of the board the benefit paid on any prepaid tuition contract entered into prior to July 1,*  
1472 *2019, whether already depleted or not, may be supplemented by an additional benefit to be determined*  
1473 *on such terms and conditions as the board may determine acting in its capacity as fiduciary of the Plan.*



E. In addition to the provisions required by subsection A, each prepaid tuition contract entered into on or after July 1, 2019, shall include provisions for the application of tuition prepayments, at a rate equal to the percentage of enrollment-weighted average tuition at public institutions of higher education to be determined by the board, at (i) public institutions of higher education, (ii) accredited nonprofit independent or private institutions of higher education, and (iii) non-Virginia public and accredited nonprofit independent or private institutions of higher education. In no event, however, shall the benefit paid on any prepaid tuition contract entered into on or after July 1, 2019, be less than tuition prepayments made, less any fees as determined by the board.

F. All prepaid tuition contracts and savings trust agreements shall specifically provide that if after a specified period of time the contract or savings trust agreement has not been terminated and the qualified beneficiary's rights have not been exercised, the board, after making a reasonable effort to contact the purchaser or contributor and the qualified beneficiary or their agents, shall report such unclaimed moneys to the State Treasurer pursuant to § 55.1-2524.

G. 1. Notwithstanding any provision of law to the contrary, money in the Plan is exempt from creditor process, is not liable to attachment, garnishment, or other process, and shall not be seized, taken, appropriated, or applied by any legal or equitable process or operation of law to pay any debt or liability of any purchaser, contributor, or beneficiary. Unless required by federal law, the Commonwealth, its agencies, and its instrumentalities shall not seek payment pursuant to 26 U.S.C. § 529A from any ABLE savings trust account or its proceeds for benefits provided to the beneficiary of the account and shall not undertake estate recovery from any ABLE savings trust account pursuant to 26 U.S.C. § 529A.

2. Unless prohibited by federal law, the beneficiary of an ABLE savings trust account may appoint a survivor. In the event of the beneficiary's death, if the survivor is (i) an eligible individual, as defined in 26 U.S.C. § 529A(e), then such survivor shall become the beneficiary of the ABLE savings trust account or (ii) not an eligible individual, as defined in 26 U.S.C. § 529A(e), then any proceeds remaining after final distributions have been made on behalf of the deceased beneficiary shall be distributed to the survivor and the account shall be closed.

H. Notwithstanding any other provision of state law that requires consideration of one or more financial circumstances of an individual for the purpose of determining (i) the individual's eligibility to receive any assistance or benefit pursuant to such provision of state law or (ii) the amount of any such assistance or benefit that such individual is eligible to receive pursuant to such provision of state law, any (a) moneys in an ABLE savings trust account for which such individual is the beneficiary, including any interest on such moneys, (b) contributions to an ABLE savings trust account for which such individual is the beneficiary, and (c) distribution for qualified disability expenses for such individual from an ABLE savings trust account for which such individual is the beneficiary shall be disregarded for such purpose with respect to any period during which such individual remains the beneficiary of, makes contributions to, or receives distributions for qualified disability expenses from such ABLE savings trust account.

I. No prepaid tuition contract or savings trust account shall be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge.

J. The board's decision on any dispute, claim, or action arising out of or relating to a prepaid tuition contract or savings trust agreement made or entered into pursuant to this chapter or benefits under such prepaid tuition contract or savings trust agreement shall be considered a case decision as defined in § 2.2-4001 and all proceedings related to such dispute, claim, or action shall be conducted pursuant to Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act. Judicial review shall be provided exclusively pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

#### **§ 23.1-1004. Management agreement; eligibility and application.**

A. The governing board and administration of each public institution of higher education that meets the state goals set forth in subsection A of § 23.1-1002 and meets the requirements of this article to demonstrate the ability to manage successfully the administrative and financial operations of the institution without jeopardizing the financial integrity and stability of the institution may negotiate with the Governor to develop a management agreement with the Commonwealth to exercise restructured financial and administrative authority.

B. No public institution of higher education shall enter into a management agreement unless:

1. a. Its most current and unenhanced bond rating received from Moody's Investors Service, Inc., Standard & Poor's, Inc., or Fitch Investor's Services, Inc., is at least AA- (i.e., AA minus) or its equivalent, provided that such bond rating has been received within the last three years of the date that the initial management agreement is entered into; or

b. The institution has participated in decentralization pilot programs in the areas of finance and capital outlay, demonstrated management competency in those two areas as evidenced by a written

1535 certification from the Cabinet Secretary designated by the Governor, received restructured operational  
1536 authority under a memorandum of understanding pursuant to Article 3 (§ 23.1-1003 et seq.) in at least  
1537 one functional area, and demonstrated management competency in that area for a period of at least two  
1538 years;

1539 2. At least an absolute two-thirds of the institution's governing board has voted in the affirmative for  
1540 a resolution in support of a request for restructured operational authority under a management  
1541 agreement;

1542 3. The institution submits to the Governor a written request for his approval of the management  
1543 agreement that contains evidence that (i) the institution possesses the necessary administrative  
1544 infrastructure, experience, and expertise to perform successfully its public educational mission as a  
1545 covered institution; (ii) the institution is financially able to operate as a covered institution without  
1546 jeopardizing the financial integrity and stability of the institution; (iii) the institution consistently meets  
1547 the financial and administrative management standards pursuant to § 23.1-1001; and (iv) the institution's  
1548 governing board has adopted performance and accountability standards, in addition to any institutional  
1549 performance benchmarks included in the general appropriation act and developed pursuant to § 23.1-206,  
1550 against which its implementation of the restructured operational authority under the management  
1551 agreement can be measured;

1552 4. The institution provides a copy of the written request to the Chairmen of the House Committee on  
1553 Appropriations, the House Committee on Education, the Senate Committee on Finance and  
1554 Appropriations, and the Senate Committee on Education and Health;

1555 5. The institution agrees to reimburse the Commonwealth for any additional costs that the  
1556 Commonwealth incurs to provide health or other group insurance benefits to employees and undertake  
1557 any risk management program that are attributable to the institution's exercise of restructured operational  
1558 authority. The Secretary of Finance and the Secretary of Administration, in consultation with the  
1559 Virginia Retirement System and the affected institutions, shall establish procedures for determining any  
1560 amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly  
1561 and solely to the affected programs;

1562 6. The institution considers potential future impacts of tuition increases on the ~~Virginia College~~  
1563 ~~Savings Commonwealth Savers~~ Plan and discusses such potential impacts with parties participating in the  
1564 development of the management agreement. The chief executive officer of the ~~Virginia College Savings~~  
1565 ~~Commonwealth Savers~~ Plan shall provide to the institution and such parties the Plan's assumptions  
1566 underlying the contract pricing of the program; and

1567 7. The Governor transmits a draft of any management agreement that affects insurance or benefit  
1568 programs administered by the Virginia Retirement System to the Board of Trustees of the Virginia  
1569 Retirement System, which shall review the relevant provisions of the management agreement to ensure  
1570 compliance with the applicable provisions of Title 51.1, administrative policies and procedures, and  
1571 federal regulations governing retirement plans and advise the Governor and appropriate Cabinet  
1572 Secretaries of any conflicts.

## 1573 CHAPTER 51.

### 1574 VIRGINIA COLLEGE SAVINGS ~~COMMONWEALTH~~ SAVERS PLAN OVERSIGHT ACT.

#### 1575 § 30-330. Title of chapter and purpose.

1576 The General Assembly hereby designates the Joint Legislative Audit and Review Commission (the  
1577 Commission) to oversee and evaluate the ~~Virginia College Savings Commonwealth Savers~~ Plan on a  
1578 continuing basis and to make such special studies and reports as may be requested by the General  
1579 Assembly, the House Committee on Appropriations, or the Senate Committee on Finance and  
1580 Appropriations.

#### 1581 § 30-331. Duties and powers.

1582 A. The areas of review and evaluation to be conducted by the Commission shall include, but are not  
1583 limited to, the following: (i) structure and governance of the ~~Virginia College Savings Commonwealth~~  
1584 ~~Savers~~ Plan; (ii) structure of the investment portfolio; (iii) investment practices, policies, and  
1585 performance; (iv) actuarial policy; and (v) administration and management of the ~~Virginia College~~  
1586 ~~Savings Commonwealth Savers~~ Plan.

1587 B. For purposes of carrying out its duties under this chapter, the Commission shall have the  
1588 following powers, including but not limited to:

1589 1. Access to the information, records, and facilities of the ~~Virginia College Savings Commonwealth~~  
1590 ~~Savers~~ Plan and any corporations or subsidiaries thereof or other entities owned, directly or indirectly, or  
1591 otherwise created by or on behalf of the Plan.

1592 2. Access to the public and executive session meetings and records of the Board of the ~~Virginia~~  
1593 ~~College Savings Commonwealth Savers~~ Plan, as well as those of any advisory committees. Access shall  
1594 include the right to attend such meetings.

1595 3. Access to the ~~Virginia College Savings Commonwealth Savers~~ Plan's employees, consultants,  
1596 actuaries, investment managers, advisors, attorneys, accountants, or other contractors in the employ or

hire of the ~~Virginia College Savings Commonwealth Savers~~ Plan. Such persons shall cooperate with the Commission and upon its request shall provide specific information or opinions in the form requested.

C. The chairman of the Commission may appoint a permanent subcommittee to provide guidance and direction for oversight activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.

D. Confidential or proprietary records of the ~~Virginia College Savings Commonwealth Savers~~ Plan or its subsidiary corporations provided to the Commission shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**§ 30-332. Required reports.**

A. The ~~Virginia College Savings Commonwealth Savers~~ Plan shall submit to the General Assembly, through the Commission, annual reports on the investment programs of the ~~Virginia College Savings Commonwealth Savers~~ Plan. The report shall be presented in a format approved by the Commission and shall include information concerning (i) planned or actual material changes in asset allocation, (ii) investment performance of all asset classes and subclasses, and (iii) investment policies and programs.

B. The ~~Virginia College Savings Commonwealth Savers~~ Plan shall submit an annual report on the actuarial soundness of the Plan's prepaid programs, which shall include (i) contract pricing policies and objectives, (ii) current and projected assets and actuarially estimated value of tuition obligations, and (iii) actuarial assumptions.

C. The ~~Virginia College Savings Commonwealth Savers~~ Plan shall furnish such reports or information as may be requested by the Commission or standing committees of the General Assembly having jurisdiction over the subject matter that is the basis of such committees' inquiry.

D. The Commission shall publish the following reports concerning the ~~Virginia College Savings Commonwealth Savers~~ Plan: (i) a biennial status report that shall include, at a minimum and where appropriate, findings and recommendations and (ii) with the assistance of an actuary, a review of the ~~Virginia College Savings Commonwealth Savers~~ Plan's annual actuarial valuation reports once every four years.

**§ 30-333. Use of consultants.**

The Commission may employ on a consulting basis such investment, actuarial, and other professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this chapter. Such consultants shall provide, upon request, assistance to the House Committee on Appropriations and Senate Committee on Finance and Appropriations on matters related to the ~~Virginia College Savings Commonwealth Savers~~ Plan.

**§ 30-335. Funding for the Commission's oversight activities.**

The Commission's reasonable and necessary expenses related to its duties under this chapter shall be paid by the ~~Virginia College Savings Commonwealth Savers~~ Plan. On or before September 30 of each year, the Commission shall submit to the Board of the ~~Virginia College Savings Commonwealth Savers~~ Plan an itemized estimate for the next fiscal year of the amounts necessary to pay the Commission's expenses related to its duties under this chapter and shall include the estimate as part of the agency's budget submission to the House Committee on Appropriations and the Senate Committee on Finance and Appropriations.

**§ 51.1-505.01. Additional accidental death and dismemberment benefits.**

The group life, accidental death, and dismemberment insurance coverage purchased by the Board shall include, but not be limited to, the following benefits:

A. If, as a result of an accident, an insured employee dies at least 75 miles from his principal residence, an additional accidental death benefit shall be paid for the preparation and transportation of the employee to a mortuary. The additional benefit shall be the lesser of the actual cost for such preparation and transportation or \$5,000;

B. If an insured employee dies or suffers a dismemberment as a result of an accident that occurs while the employee is driving or riding in a private passenger vehicle, an additional accidental death or dismemberment benefit shall be paid, provided that (i) the private passenger vehicle is equipped with a safety restraint system; (ii) such safety restraint system was being used properly by the insured employee at the time of the accident, as certified in the official accident report or by the official investigating officer; and (iii) at the time of the accident, the driver of the private passenger vehicle held a current license to operate a private passenger vehicle and was not intoxicated, driving while impaired or under the influence of alcohol or drugs, as is defined or determined under applicable law.

The additional benefit shall be the lesser of 10 percent of the amount otherwise payable due to such accidental death or dismemberment or \$50,000.

C. Death or dismemberment from a felonious assault.

1. If an insured employee dies or suffers a dismemberment as a result of an accident caused by a felonious assault committed by other than an immediate family member, there shall be paid an additional accidental death or dismemberment benefit equal to the lesser of 25 percent of the amount

1658 otherwise payable due to such accidental death or dismemberment or \$50,000.

1659 2. In addition, if (i) an insured employee dies as a result of an accident caused by a felonious assault  
1660 committed by other than an immediate family member, and (ii) such insured employee has a qualifying  
1661 child at the time of such accident, a college savings trust account under the *Virginia College Savings*  
1662 *Commonwealth Savers* Plan (§ 23.1-700 et seq.) shall be opened for each qualifying child. The  
1663 Retirement System shall be the contributor of any such account and shall contribute into the account of  
1664 each such qualifying child an amount approximately equal to the current average cost, as published by  
1665 the State Council of Higher Education for Virginia, of four years of tuition and mandatory fees at  
1666 baccalaureate public institutions of higher education in the Commonwealth. The qualified beneficiary, as  
1667 defined in § 23.1-700, shall be the qualifying child on whose behalf such account was opened. Specific  
1668 benefits of the college savings trust account shall be as defined by the *Virginia College Savings*  
1669 *Commonwealth Savers* Plan.

1670 Disbursements from a college savings trust account opened under this section shall be governed by  
1671 procedures adopted by the Board of Trustees of the Virginia Retirement System in accordance with  
1672 § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, and any other  
1673 additional procedures as determined by the Board of the *Virginia College Savings Commonwealth Savers*  
1674 Plan. College savings trust account funds shall be payable only for qualified higher education expenses  
1675 to a post-secondary eligible educational institution. Any funds in a college savings trust account that are  
1676 not used by a qualifying child before the expiration of the time period for the use of such funds, as  
1677 determined by the *Virginia College Savings Commonwealth Savers* Plan, shall be paid to the Retirement  
1678 System promptly after the expiration of such period.

1679 **§ 58.1-322.02. (Effective until date pursuant to Va. Const., Art. IV, § 13) Virginia taxable**  
1680 **income; subtractions.**

1681 In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal  
1682 adjusted gross income, there shall be subtracted:

1683 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States  
1684 and on obligations or securities of any authority, commission, or instrumentality of the United States to  
1685 the extent exempt from state income taxes under the laws of the United States, including, but not  
1686 limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of  
1687 federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

1688 2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth  
1689 or of any political subdivision or instrumentality of the Commonwealth.

1690 3. Benefits received under Title II of the Social Security Act and other benefits subject to federal  
1691 income taxation solely pursuant to § 86 of the Internal Revenue Code.

1692 4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code;  
1693 however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a  
1694 subtraction under this subdivision.

1695 5. The amount of any refund or credit for overpayment of income taxes imposed by the  
1696 Commonwealth or any other taxing jurisdiction.

1697 6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not  
1698 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

1699 7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

1700 8. The wages or salaries received by any person for active and inactive service in the National Guard  
1701 of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days  
1702 of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3  
1703 and below shall be entitled to the deductions specified in this subdivision.

1704 9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before  
1705 December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for  
1706 information provided to a law-enforcement official or agency, or to a nonprofit corporation created  
1707 exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of  
1708 perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an  
1709 employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime  
1710 for which the reward was paid, or any person who is compensated for the investigation of crimes or  
1711 accidents.

1712 10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction  
1713 for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the  
1714 Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and  
1715 members of limited liability companies to the extent and in the same manner as other deductions may  
1716 pass through to such partners, shareholders, and members.

1717 11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or  
1718 stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account  
1719 or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as

defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the ~~Virginia College Savings~~ *Commonwealth Savers* Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on and after January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution,

1781 or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II  
1782 and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual  
1783 forced into labor against his will, under the threat of death, during World War II and its prelude and  
1784 direct aftermath.

1785 20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased  
1786 military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction  
1787 amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal  
1788 gross income in accordance with § 134 of the Internal Revenue Code.

1789 21. The death benefit payments from an annuity contract that are received by a beneficiary of such  
1790 contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an  
1791 insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under  
1792 this subdivision shall be allowed only for that portion of the death benefit payment that is included in  
1793 federal adjusted gross income.

1794 22. Any gain recognized from the sale of launch services to space flight participants, as defined in  
1795 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of  
1796 a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch  
1797 services must be performed in Virginia or originate from an airport or spaceport in Virginia.

1798 23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined  
1799 in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the  
1800 National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8,  
1801 and launched from an airport or spaceport in Virginia.

1802 24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income  
1803 taxed as investment services partnership interest income (otherwise known as investment partnership  
1804 carried interest income) for federal income tax purposes. To qualify for a subtraction under this  
1805 subdivision, such income shall be attributable to an investment in a "qualified business," as defined in  
1806 § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided  
1807 that the business has its principal office or facility in the Commonwealth and less than \$3 million in  
1808 annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this  
1809 subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No  
1810 taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4  
1811 shall be eligible for the subtraction under this subdivision for an investment in the same business.

1812 25. For taxable years beginning on and after January 1, 2014, any income of an account holder for  
1813 the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's  
1814 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36  
1815 and (ii) interest income or other income for federal income tax purposes attributable to such person's  
1816 first-time home buyer savings account.

1817 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction  
1818 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys  
1819 or funds withdrawn from the first-time home buyer savings account were used for any purpose other  
1820 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under  
1821 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable  
1822 year that was used for other than the payment of eligible costs, computed by multiplying the amount  
1823 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in  
1824 the account at the time of the withdrawal to the total balance in the account at such time.

1825 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)  
1826 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the  
1827 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101  
1828 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)  
1829 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified  
1830 beneficiary.

1831 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings  
1832 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

1833 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year  
1834 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of  
1835 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal  
1836 Revenue Code.

1837 27. a. Income, including investment services partnership interest income (otherwise known as  
1838 investment partnership carried interest income), attributable to an investment in a Virginia venture  
1839 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or  
1840 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this  
1841 subdivision for an investment in a company that is owned or operated by a family member or an  
1842 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has

claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

b. As used in this subdivision 27:

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

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

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

b. As used in this subdivision 28:

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

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

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

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

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

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

**§ 58.1-322.02. (Effective pursuant to Va. Const., Art. IV, § 13) Virginia taxable income; subtractions.**

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. Benefits received under Title II of the Social Security Act and other benefits subject to federal

income taxation solely pursuant to § 86 of the Internal Revenue Code.

4. Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

8. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.

9. Amounts received by an individual, not to exceed \$1,000 for taxable years beginning on or before December 31, 2019, and \$5,000 for taxable years beginning on or after January 1, 2020, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

10. The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

11. Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

12. Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the ~~Virginia College Savings~~ *Commonwealth Savers* Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

13. All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

14. For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

15. Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

16. The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

17. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

18. a. Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

b. For taxable years beginning on and after January 1, 2022, but before January 1, 2023, up to \$10,000 of military benefits; for taxable years beginning on and after January 1, 2023, but before January 1, 2024, up to \$20,000 of military benefits; for taxable years beginning on and after January 1, 2024, but before January 1, 2025, up to \$30,000 of military benefits; and for taxable years beginning on



and after January 1, 2025, up to \$40,000 of military benefits. For purposes of this subdivision b, "military benefits" means any (i) military retirement income received for service in the Armed Forces of the United States, (ii) qualified military benefits received pursuant to § 134 of the Internal Revenue Code, (iii) benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States under the Survivor Benefit Plan program established by the U.S. Department of Defense, and (iv) military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States. The subtraction allowed by this subdivision b shall be allowed only for military benefits received by an individual age 55 or older. No subtraction shall be allowed pursuant to this subdivision b if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to subdivision a or any other provision of Virginia or federal law.

19. Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, surviving spouse, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Administration, provided that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's

2027 first-time home buyer savings account established pursuant to Chapter 12 (§ 36-171 et seq.) of Title 36  
2028 and (ii) interest income or other income for federal income tax purposes attributable to such person's  
2029 first-time home buyer savings account.

2030 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction  
2031 taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys  
2032 or funds withdrawn from the first-time home buyer savings account were used for any purpose other  
2033 than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under  
2034 § 36-174. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable  
2035 year that was used for other than the payment of eligible costs, computed by multiplying the amount  
2036 withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in  
2037 the account at the time of the withdrawal to the total balance in the account at such time.

2038 However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i)  
2039 withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the  
2040 account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101  
2041 through 1330; or (iii) transferred from an account established pursuant to Chapter 12 (§ 36-171 et seq.)  
2042 of Title 36 into another account established pursuant to such chapter for the benefit of another qualified  
2043 beneficiary.

2044 For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings  
2045 account," and "qualified beneficiary" mean the same as those terms are defined in § 36-171.

2046 26. For taxable years beginning on and after January 1, 2015, any income for the taxable year  
2047 attributable to the discharge of a student loan solely by reason of the student's death. For purposes of  
2048 this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal  
2049 Revenue Code.

2050 27. a. Income, including investment services partnership interest income (otherwise known as  
2051 investment partnership carried interest income), attributable to an investment in a Virginia venture  
2052 capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or  
2053 after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this  
2054 subdivision for an investment in a company that is owned or operated by a family member or an  
2055 affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has  
2056 claimed a subtraction under subdivision 24 or a tax credit under § 58.1-339.4 for the same investment.

2057 b. As used in this subdivision 27:

2058 "Qualified portfolio company" means a company that (i) has its principal place of business in the  
2059 Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or  
2060 service other than the management or investment of capital; and (iii) provides equity in the company to  
2061 the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company"  
2062 does not include a company that is an individual or sole proprietorship.

2063 "Virginia venture capital account" means an investment fund that has been certified by the  
2064 Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital  
2065 account, the operator of the investment fund shall register the investment fund with the Department prior  
2066 to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed  
2067 to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one  
2068 investor who has at least four years of professional experience in venture capital investment or  
2069 substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to,  
2070 an undergraduate degree from an accredited college or university in economics, finance, or a similar  
2071 field of study. The Department may require an investment fund to provide documentation of the  
2072 investor's training, education, or experience as deemed necessary by the Department to determine  
2073 substantial equivalency. If the Department determines that the investment fund employs at least one  
2074 investor with the experience set forth herein, the Department shall certify the investment fund as a  
2075 Virginia venture capital account at such time as the investment fund actually invests at least 50 percent  
2076 of the capital committed to its fund in qualified portfolio companies.

2077 28. a. Income attributable to an investment in a Virginia real estate investment trust. To qualify for a  
2078 subtraction under this subdivision, the investment shall be made on or after January 1, 2019, but before  
2079 December 31, 2024. No subtraction shall be allowed for an investment in a trust that is managed by a  
2080 family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for  
2081 a taxpayer who has claimed a subtraction under subdivision 24 or 27 or a tax credit under § 58.1-339.4  
2082 for the same investment.

2083 b. As used in this subdivision 28:

2084 "Distressed" means satisfying the criteria applicable to a locality described in subdivision E 2 of  
2085 § 2.2-115.

2086 "Double distressed" means satisfying the criteria applicable to a locality described in subdivision E 3  
2087 of § 2.2-115.

2088 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.

§ 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed. If the Department determines that the trust satisfies the preceding criteria, the Department shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double distressed.

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

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

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

**§ 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, \$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 the Virginia College Savings Commonwealth Savers Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of

2150 Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax  
2151 return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust  
2152 account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions  
2153 are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual  
2154 contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward  
2155 and subtracted in future taxable years until the purchase price or college savings trust contribution has  
2156 been fully deducted; however, except as provided in subdivision b, in no event shall the amount  
2157 deducted in any taxable year exceed \$4,000 per contract or college savings trust account.  
2158 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken  
2159 hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are  
2160 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the  
2161 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the  
2162 purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the  
2163 records of the ~~Virginia College Savings~~ *Commonwealth Savers Plan* as of December 31 of the taxable  
2164 year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account,  
2165 the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or  
2166 college savings trust account, including, but not limited to, carryover and recapture of deductions.

2167 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has  
2168 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000  
2169 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be  
2170 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust  
2171 account, less any amounts previously deducted.

2172 8. The total amount an individual actually contributed in funds to the Virginia Public School  
2173 Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1,  
2174 provided that the individual has not claimed a deduction for such amount on his federal income tax  
2175 return.

2176 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a  
2177 primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1  
2178 to attend continuing teacher education courses that are required as a condition of employment; however,  
2179 the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed  
2180 for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition  
2181 costs on his federal income tax return.

2182 10. The amount an individual pays annually in premiums for long-term health care insurance,  
2183 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable  
2184 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on  
2185 and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the  
2186 individual during the taxable year shall be allowed if the individual has claimed a federal income tax  
2187 deduction for such taxable year for long-term health care insurance premiums paid by him.

2188 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as  
2189 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such  
2190 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

2191 a. If the payment is received in installment payments, then the recognized gain may be subtracted in  
2192 the taxable year immediately following the year in which the installment payment is received.

2193 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be  
2194 subtracted in the taxable year immediately following the year in which the single payment is received.  
2195 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

2196 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6  
2197 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the  
2198 following items of tangible personal property: (i) any clothes washers, room air conditioners,  
2199 dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency  
2200 requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of  
2201 Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an  
2202 electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least  
2203 two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating  
2204 and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of  
2205 at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and  
2206 a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a  
2207 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that  
2208 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual  
2209 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization  
2210 rating of 85; and (x) programmable thermostats.

2211 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, \$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

2273 federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers.  
2274 For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total  
2275 combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

2276 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted  
2277 gross income minus any benefits received under Title II of the Social Security Act and other benefits  
2278 subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

2279 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow  
2280 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a  
2281 deduction for the payment of such fee on his federal income tax return.

2282 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed  
2283 during the taxable year for a prepaid tuition contract or college savings trust account entered into with  
2284 the ~~Virginia College Savings Commonwealth Savers~~ Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of  
2285 Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax  
2286 return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust  
2287 account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions  
2288 are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual  
2289 contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward  
2290 and subtracted in future taxable years until the purchase price or college savings trust contribution has  
2291 been fully deducted; however, except as provided in subdivision b, in no event shall the amount  
2292 deducted in any taxable year exceed \$4,000 per contract or college savings trust account.  
2293 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken  
2294 hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are  
2295 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the  
2296 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the  
2297 purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the  
2298 records of the ~~Virginia College Savings Commonwealth Savers~~ Plan as of December 31 of the taxable  
2299 year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account,  
2300 the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or  
2301 college savings trust account, including, but not limited to, carryover and recapture of deductions.

2302 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has  
2303 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000  
2304 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be  
2305 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust  
2306 account, less any amounts previously deducted.

2307 8. The total amount an individual actually contributed in funds to the Virginia Public School  
2308 Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1,  
2309 provided that the individual has not claimed a deduction for such amount on his federal income tax  
2310 return.

2311 9. An amount equal to 20 percent of the tuition costs incurred by an individual employed as a  
2312 primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1  
2313 to attend continuing teacher education courses that are required as a condition of employment; however,  
2314 the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed  
2315 for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition  
2316 costs on his federal income tax return.

2317 10. The amount an individual pays annually in premiums for long-term health care insurance,  
2318 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable  
2319 years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on  
2320 and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the  
2321 individual during the taxable year shall be allowed if the individual has claimed a federal income tax  
2322 deduction for such taxable year for long-term health care insurance premiums paid by him.

2323 11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as  
2324 provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such  
2325 payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

2326 a. If the payment is received in installment payments, then the recognized gain may be subtracted in  
2327 the taxable year immediately following the year in which the installment payment is received.

2328 b. If the payment is received in a single payment, then 10 percent of the recognized gain may be  
2329 subtracted in the taxable year immediately following the year in which the single payment is received.  
2330 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

2331 12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6  
2332 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the  
2333 following items of tangible personal property: (i) any clothes washers, room air conditioners,  
2334 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. 7) 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

2396 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income  
2397 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,  
2398 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a  
2399 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,  
2400 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of  
2401 such amounts in the case of a married individual filing a separate return); and (iii) for taxable years  
2402 beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and  
2403 \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a  
2404 separate return). For purposes of this section, any person who may be claimed as a dependent on  
2405 another taxpayer's return for the taxable year may compute the deduction only with respect to earned  
2406 income.

2407 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for  
2408 federal income tax purposes.

2409 b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be  
2410 entitled to an additional personal exemption in the amount of \$800.

2411 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be  
2412 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income  
2413 tax purposes.

2414 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is  
2415 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services  
2416 necessary for gainful employment.

2417 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under  
2418 permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the  
2419 child as a personal exemption under § 151 of the Internal Revenue Code.

2420 5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

2421 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have  
2422 attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted  
2423 federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers.  
2424 For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total  
2425 combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

2426 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted  
2427 gross income minus any benefits received under Title II of the Social Security Act and other benefits  
2428 subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

2429 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow  
2430 donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a  
2431 deduction for the payment of such fee on his federal income tax return.

2432 7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed  
2433 during the taxable year for a prepaid tuition contract or college savings trust account entered into with  
2434 the ~~Virginia College Savings~~ *Commonwealth Savers* Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of  
2435 Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax  
2436 return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust  
2437 account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions  
2438 are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual  
2439 contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward  
2440 and subtracted in future taxable years until the purchase price or college savings trust contribution has  
2441 been fully deducted; however, except as provided in subdivision b, in no event shall the amount  
2442 deducted in any taxable year exceed \$4,000 per contract or college savings trust account.  
2443 Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken  
2444 hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are  
2445 made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the  
2446 Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the  
2447 purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the  
2448 records of the ~~Virginia College Savings~~ *Commonwealth Savers* Plan as of December 31 of the taxable  
2449 year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account,  
2450 the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or  
2451 college savings trust account, including, but not limited to, carryover and recapture of deductions.

2452 b. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has  
2453 attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000  
2454 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be  
2455 allowed a deduction for the full amount paid for the contract or contributed to a college savings trust  
2456 account, less any amounts previously deducted.

2457 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 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

2519 solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the  
2520 Internal Revenue Code.

2521 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not  
2522 deductible when computing federal adjusted gross income solely on account of the portion of  
2523 subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

2524 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser  
2525 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of  
2526 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable  
2527 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter  
2528 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,  
2529 or student aide serving accredited public or private primary and secondary school students in Virginia,  
2530 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator  
2531 during the taxable year for participation in professional development courses and the purchase of books,  
2532 supplies, computer equipment (including related software and services), other educational and teaching  
2533 equipment, and supplementary materials used directly in that individual's service to students as an  
2534 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on  
2535 the eligible educator's federal income tax return for such taxable year.

2536 **§ 58.1-322.03. (Contingently effective pursuant to Acts 2022, Sp. Sess. I, c. 2, cl. 8) Virginia**  
2537 **taxable income; deductions.**

2538 In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia  
2539 adjusted gross income as defined in § 58.1-321:

2540 1. a. The amount allowable for itemized deductions for federal income tax purposes where the  
2541 taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the  
2542 amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted  
2543 on such federal return and increased by an amount that, when added to the amount deducted under  
2544 § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for  
2545 such purposes at a rate of 18 cents per mile; or

2546 b. Provided that the taxpayer has not itemized deductions for the taxable year on his federal income  
2547 tax return: (i) for taxable years beginning before January 1, 2019, and on and after January 1, 2026,  
2548 \$3,000 for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a  
2549 married individual filing a separate return); (ii) for taxable years beginning on and after January 1, 2019,  
2550 but before January 1, 2022, \$4,500 for single individuals and \$9,000 for married persons (one-half of  
2551 such amounts in the case of a married individual filing a separate return); and (iii) for taxable years  
2552 beginning on and after January 1, 2022, but before January 1, 2026, \$8,000 for single individuals and  
2553 \$16,000 for married persons (one-half of such amounts in the case of a married individual filing a  
2554 separate return). For purposes of this section, any person who may be claimed as a dependent on  
2555 another taxpayer's return for the taxable year may compute the deduction only with respect to earned  
2556 income.

2557 2. a. A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for  
2558 federal income tax purposes.

2559 b. Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be  
2560 entitled to an additional personal exemption in the amount of \$800.

2561 The additional deduction for blind or aged taxpayers allowed under this subdivision shall be  
2562 allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income  
2563 tax purposes.

2564 3. A deduction equal to the amount of employment-related expenses upon which the federal credit is  
2565 based under § 21 of the Internal Revenue Code for expenses for household and dependent care services  
2566 necessary for gainful employment.

2567 4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under  
2568 permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the  
2569 child as a personal exemption under § 151 of the Internal Revenue Code.

2570 5. a. A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

2571 b. A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have  
2572 attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted  
2573 federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers.  
2574 For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total  
2575 combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

2576 For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted  
2577 gross income minus any benefits received under Title II of the Social Security Act and other benefits  
2578 subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

2579 6. The amount an individual pays as a fee for an initial screening to become a possible bone marrow  
2580 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 Commonwealth Savers Plan*, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. 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 Commonwealth Savers Plan* as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

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

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

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

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

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

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

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

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

2642 cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that  
2643 has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual  
2644 fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization  
2645 rating of 85; and (x) programmable thermostats.

2646 13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living  
2647 tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12  
2648 months of such donation, provided that the donor has not taken a medical deduction in accordance with  
2649 the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in  
2650 the taxable year in which the donation is made or the taxable year in which the 12-month period  
2651 expires.

2652 14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or  
2653 older with earned income of at least \$20,000 for the year and federal adjusted gross income not in  
2654 excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy  
2655 covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers  
2656 may claim a deduction for such premiums under federal income tax laws. As used in this subdivision,  
2657 "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The  
2658 deduction shall not be allowed for any portion of such premiums paid for which the individual has (a)  
2659 been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or  
2660 subtraction under another provision of this section, or (d) claimed a federal income tax credit or any  
2661 income tax credit pursuant to this chapter.

2662 15. For taxable years beginning on and after January 1, 2018, but before January 1, 2022, 20 percent  
2663 of business interest disallowed as a deduction pursuant to § 163(j) of the Internal Revenue Code. For  
2664 taxable years beginning on and after January 1, 2022, 30 percent of business interest disallowed as a  
2665 deduction pursuant to § 163(j) of the Internal Revenue Code. For purposes of this subdivision, "business  
2666 interest" means the same as that term is defined under § 163(j) of the Internal Revenue Code.

2667 16. For taxable years beginning on and after January 1, 2019, the actual amount of real and personal  
2668 property taxes imposed by the Commonwealth or any other taxing jurisdiction not otherwise deducted  
2669 solely on account of the dollar limitation imposed on individual deductions by § 164(b)(6)(B) of the  
2670 Internal Revenue Code.

2671 17. For taxable years beginning before January 1, 2021, up to \$100,000 of the amount that is not  
2672 deductible when computing federal adjusted gross income solely on account of the portion of  
2673 subdivision B 10 of § 58.1-301 related to Paycheck Protection Program loans.

2674 18. For taxable years beginning on and after January 1, 2022, but before January 1, 2025, the lesser  
2675 of \$500 or the actual amount paid or incurred for eligible educator qualifying expenses. For purposes of  
2676 this subdivision, "eligible educator" means an individual who for at least 900 hours during the taxable  
2677 year in which the credit under this section is claimed served as a teacher licensed pursuant to Chapter  
2678 15 (§ 22.1-289.1 et seq.) of Title 22.1, instructor, student counselor, principal, special needs personnel,  
2679 or student aide serving accredited public or private primary and secondary school students in Virginia,  
2680 and "qualifying expenses" means 100 percent of the amount paid or incurred by an eligible educator  
2681 during the taxable year for participation in professional development courses and the purchase of books,  
2682 supplies, computer equipment (including related software and services), other educational and teaching  
2683 equipment, and supplementary materials used directly in that individual's service to students as an  
2684 eligible educator, provided that such purchases were neither reimbursed nor claimed as a deduction on  
2685 the eligible educator's federal income tax return for such taxable year.

2686 **§ 58.1-344.4. Voluntary contributions of refunds into Commonwealth Savers Plan accounts.**

2687 A. If an individual is entitled to an income tax refund for the taxable year, that individual may  
2688 designate on his Virginia individual income tax return a contribution to one or more ~~Virginia College~~  
2689 ~~Savings~~ *Commonwealth Savers* Plan accounts established under Chapter 7 (§ 23.1-700 et seq.) of Title  
2690 23.1, in the amount of the entire individual income tax refund or a portion thereof.

2691 B. 1. The Department of Taxation shall send each contribution made pursuant to subsection A to the  
2692 ~~Virginia College Savings~~ *Commonwealth Savers* Plan with the following information:

2693 a. The amount of the individual income tax refund or that portion of the refund that the individual  
2694 has chosen to contribute;

2695 b. The taxpayer's name, Social Security number or taxpayer identification number, address, and  
2696 telephone number; and

2697 c. The ~~Virginia College Savings~~ *Commonwealth Savers* Plan account number or numbers into which  
2698 the contributions will be deposited.

2699 2. If a contribution to a ~~Virginia College Savings~~ *Commonwealth Savers* Plan account is designated  
2700 in an individual income tax return filed jointly by married individuals, the Department of Taxation shall  
2701 send the information described in subdivision 1 for both spouses to the ~~Virginia College Savings~~  
2702 *Commonwealth Savers* Plan.

2703 C. 1. If the taxpayer owns a single ~~Virginia College Savings~~ *Commonwealth Savers* Plan account, the

2704 ~~Virginia College Savings Commonwealth Savers~~ Plan shall deposit the contribution made pursuant to  
2705 subsection A into that account.

2706 2. If the taxpayer owns more than one ~~Virginia College Savings Commonwealth Savers~~ Plan account,  
2707 the ~~Virginia College Savings Commonwealth Savers~~ Plan shall allocate the contribution made pursuant  
2708 to subsection A between or among the accounts in equal amounts, or as otherwise designated by the  
2709 taxpayer.

2710 3. If the taxpayer does not own an existing ~~Virginia College Savings Commonwealth Savers~~ Plan  
2711 account and does not wish to open an account, contributions made pursuant to subsection A shall be  
2712 returned to the taxpayer by the ~~Virginia College Savings Commonwealth Savers~~ Plan.

2713 D. For the purpose of determining interest on an overpayment or refund under § 58.1-1833, no  
2714 interest shall accrue after the Department of Taxation sends the contribution to the ~~Virginia College~~  
2715 ~~Savings Commonwealth Savers~~ Plan.

2716 E. Any taxpayer designating that a refund be contributed to a ~~Virginia College Savings~~  
2717 ~~Commonwealth Savers~~ Plan account shall, by making such designation, be deemed to authorize the  
2718 Department of Taxation to provide all necessary information, including the information specified in  
2719 subdivision B 1, to the ~~Virginia College Savings Commonwealth Savers~~ Plan.