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SENATE BILL NO. 501

Offered January 10, 2024

Prefiled January 9, 2024

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

Patron—Surovell

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

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

D. The Plan may maintain an independent disbursement system for the disbursement of prepaid tuition contract benefits and, in connection with such system, open and maintain a separate account or separate accounts in banks or trust companies organized under the laws of the Commonwealth, national

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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.

§ 23.1-702.I. Advisory committees to the board; membership; terms; qualifications; duties.

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

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

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

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

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

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

§ 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 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 and in the Virginia College Opportunity Fund 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 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, as the board may deem appropriate, to further its goal of making higher education more affordable and accessible to all citizens of the Commonwealth;

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; and

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

§ 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.

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~~ Except as provided in subdivision C 2 of § 23.1-701, 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.

CHAPTER 7.1.

VIRGINIA COLLEGE OPPORTUNITY ENDOWMENT.

§ 23.1-714. Definitions.

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

"Board" means the governing board of the Endowment.

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

"Endowment" means the Virginia College Opportunity Endowment.

"Fund" means the Virginia College Opportunity Fund.

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

"Plan" means the Virginia College Savings Plan.

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

§ 23.1-715. Endowment established; governing board.

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

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

C. 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 23.1-717. Virginia College Opportunity Fund established.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. The amount an individual pays annually in premiums for long-term health care insurance, provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable

years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

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

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

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

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

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

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

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

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

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

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

For purposes of subdivision 15, "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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

551 rating of 85; and (x) programmable thermostats.

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

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

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

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

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

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

575 For purposes of subdivision 15, "business interest" means the same as that term is defined under
576 § 163(j) of the Internal Revenue Code.

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

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

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

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

598 **§ 58.1-344.3. Voluntary contributions of refunds requirements.**

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

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

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

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

612 4. The Department of Taxation shall report annually by the first day of each General Assembly

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

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

1. Nongame wildlife voluntary contribution.

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

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

2. Open space recreation and conservation voluntary contribution.

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

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

3. Voluntary contribution to political party.

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

4. United States Olympic Committee voluntary contribution.

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

5. Housing program voluntary contribution.

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

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

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

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

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

7. Voluntary contribution to the Community Policing Fund.

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

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

8. Voluntary contribution to promote the arts.

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

677 9. Voluntary contribution to the Historic Resources Fund.

678 All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to
679 § 10.1-2202.1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

719 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund.
720 All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for
721 Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act
722 (§ 23.1-628 et seq.).

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

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

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

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

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

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

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

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

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

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

b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as established in § 30-231.4.

c. All moneys so deposited in the Fund shall be administered by the State Council of Higher Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living History and Public Policy Center.

25. Voluntary contribution to the Virginia Caregivers Grant Fund.

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

26. Voluntary contribution to public library foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public library foundation.

27. Voluntary contribution to Celebrating Special Children, Inc.

All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a special fund known as the Celebrating Special Children, Inc. Fund.

28. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for providing Medicare Part D counseling to the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and Human Resources.

29. Voluntary contribution to community foundations.

All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective community foundation. A "community foundation" shall be defined as any institution that meets the membership requirements for a community foundation established by the Council on Foundations.

30. Voluntary contribution to the Virginia Foundation for Community College Education.

a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community colleges in Virginia.

b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia Foundation for Community College Education in accordance with and for the purposes provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).

31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.

All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to be used for the purposes described in § 15.2-6601.

32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.

All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund established pursuant to § 32.1-368.

33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.

All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire commitment to preserve its existence.

34. Voluntary contribution to the Virginia Capitol Preservation Foundation.

All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its

797 mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol
798 and Capitol Square.

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

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

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

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

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

808 2. Voluntary Chesapeake Bay restoration contribution.

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

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

821 c. No later than November 1 of each year, the Secretary of Natural and Historic Resources shall
822 submit a report to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate
823 Committee on Agriculture, Conservation and Natural Resources; the House Committee on
824 Appropriations; the Senate Committee on Finance and Appropriations; and the Virginia delegation to the
825 Chesapeake Bay Commission, describing the grants awarded from moneys deposited in the fund. The
826 report shall include a list of grant recipients, a description of the purpose of each grant, the amount
827 received by each grant recipient, and an assessment of activities or initiatives supported by each grant.
828 The report shall be posted on a website maintained by the Secretary of Natural and Historic Resources,
829 along with a cumulative listing of previous grant awards beginning with awards granted on or after July
830 1, 2014.

831 3. Voluntary Jamestown-Yorktown Foundation Contribution.

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

836 4. State forests voluntary contribution.

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

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

842 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

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

846 6. Voluntary contribution to local school divisions.

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

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

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

857 7. Voluntary contribution to Home Energy Assistance Fund.

858 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to

§ 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy needs.

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

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

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

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

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

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

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

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

§ 58.1-402. Virginia taxable income.

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

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

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

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

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

3. [Repealed.]

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

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

6. [Repealed.]

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

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

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

(2) The related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms

920 comparable to the rates and terms of agreements that the related member has entered into with parties
921 who are not related members for the licensing of intangible property; or

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

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

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

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

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

960 c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under
961 § 58.1-446;

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

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

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

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

977 (4) One of the following applies:

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

981 (ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related

members provided the payments continue to be made at arm's length rates and terms;

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

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

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

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

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

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

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

d. For purposes of subdivision B 9:

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

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

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT).

1043 For purposes of this subdivision, a REIT is a Captive REIT if:

1044 (1) It is not regularly traded on an established securities market;

1045 (2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at
1046 any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a
1047 single entity that is (i) a corporation or an association taxable as a corporation under the Internal
1048 Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal
1049 Revenue Code; and

1050 (3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of
1051 the Internal Revenue Code.

1052 b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall
1053 not be considered a corporation or an association taxable as a corporation:

1054 (1) Any REIT that is not treated as a Captive REIT;

1055 (2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT
1056 subsidiary of a Captive REIT;

1057 (3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed
1058 Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or
1059 value of the beneficial interests or shares of such trust; and

1060 (4) Any Qualified Foreign Entity.

1061 c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of
1062 the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in
1063 determining the ownership of stock, assets, or net profits of any person.

1064 d. For purposes of subdivision B 10:

1065 "Listed Australian Property Trust" means an Australian unit trust registered as a Management
1066 Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is
1067 listed on a recognized stock exchange in Australia and is regularly traded on an established securities
1068 market.

1069 "Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the
1070 laws of the United States and that satisfies all of the following criteria:

1071 (1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented
1072 by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares
1073 or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government
1074 securities;

1075 (2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt
1076 from entity level tax;

1077 (3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed
1078 in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial
1079 interest;

1080 (4) The shares or certificates of beneficial interest of such entity are regularly traded on an
1081 established securities market or, if not so traded, not more than 10 percent of the voting power or value
1082 in such entity is held directly, indirectly, or constructively by a single entity or individual; and

1083 (5) The entity is organized in a country that has a tax treaty with the United States.

1084 e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any
1085 voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset
1086 account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be
1087 taken into consideration when determining if such REIT is a Captive REIT.

1088 11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed
1089 for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax
1090 deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

1091 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal
1092 taxable income:

1093 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
1094 and on obligations or securities of any authority, commission or instrumentality of the United States to
1095 the extent exempt from state income taxes under the laws of the United States including, but not limited
1096 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,
1097 interest on equipment purchase contracts, or interest on other normal business transactions.

1098 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth
1099 or of any political subdivision or instrumentality of this Commonwealth.

1100 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the
1101 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding
1102 year, or the last year in which such corporation has income, under the provisions of the income tax laws
1103 of the Commonwealth.

1104 4. The amount of any refund or credit for overpayment of income taxes imposed by this

Commonwealth or any other taxing jurisdiction.

5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).

6. The amount of wages or salaries eligible for the federal Targeted Jobs 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 by the operation of § 951 of the Internal Revenue Code (subpart F income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue Code (Global Intangible Low-Taxed Income).

8. Any amount included therein which is foreign source income as defined in § 58.1-302.

9. [Repealed.]

10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting stock.

11. [Repealed.]

12, 13. [Expired.]

14. For taxable years beginning on or after January 1, 1995, the amount for "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.

15. For taxable years beginning on or after January 1, 2000, the total amount 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.

16. For taxable years beginning on or after January 1, 2000, but 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 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.

17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to § 58.1-440.1.

18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

19, 20. [Repealed.]

21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount if such related member is subject to Virginia income tax on the same amount.

22. For taxable years beginning on and after January 1, 2009, 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 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. For taxable years beginning on and after January 1, 2009, 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. For taxable years beginning on or after January 1, 2011, 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 must 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 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 must 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. a. Income, including investment services partnership interest income (otherwise known as

investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 for the same investment.

b. As used in this subdivision 25:

"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.

26. 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 an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision C 24 or 25 for the same investment.

b. As used in this subdivision 26:

"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.

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

28. 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.

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

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

2. 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.

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

F. Notwithstanding any other provision of law, the income from any disposition of real property

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

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

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

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

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

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

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