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SENATE BILL NO. 501

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 1, 2024)

(Patron Prior to Substitute—Senator Surovell)

A BILL to amend and reenact §§ 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, 23.1-711, 23.1-713, 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 Chapter 7 of Title 23.1 an article numbered 2, consisting of sections numbered 23.1-714 through 23.1-717, relating to Virginia College Savings Plan; Virginia College Opportunity Endowment and Fund established; report.

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-700, 23.1-701, 23.1-704, 23.1-706, 23.1-707, 23.1-711, 23.1-713, 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 Chapter 7 of Title 23.1 an article numbered 2, consisting of sections numbered 23.1-714 through 23.1-717, as follows:

CHAPTER 7.

VIRGINIA COLLEGE SAVINGS PLAN AND ABLE SAVINGS TRUST ACCOUNTS; VIRGINIA
COLLEGE OPPORTUNITY ENDOWMENT AND FUND.

Article 1.

*Virginia College Savings Plan and ABLE Savings Trust Accounts.***§ 23.1-700. Definitions.**

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

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

"Board" means the governing board of the Plan.

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

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

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

"Plan" means the Virginia College Savings Plan.

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

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

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

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

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

"Savings trust agreement" means the agreement entered into by the board and a contributor that establishes a savings trust account.

"Tuition" means the quarter, semester, or term charges imposed for undergraduate tuition by any

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

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

A. To enhance the accessibility and affordability 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~~ *article*, except as otherwise authorized or provided in this ~~chapter~~ *article*, 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. *After the fiscal year beginning January 1, 2024, the board shall deposit \$500 million from the Fund into the Virginia College Opportunity Fund established in § 23.1-717. Each fiscal year thereafter, 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 College Opportunity Investment Advisory Committee established pursuant to § 23.1-702.1 shall submit to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance and Appropriations a report on the current surplus of all funds and a recommendation on the prudence of directing additional deposits of actuarial surpluses into the Fund. In making such recommendation, the College Opportunity Investment Advisory Committee shall determine whether (i) the funded status, as defined in § 23.1-707.1, of the Plan does not meet or exceed 105 percent; (ii) any recommended transfers would violate the standard of care specified in § 23.1-706; (iii) any recommended transfers would result in there being insufficient funds to ensure the actuarial soundness of the Plan; or (iv) any recommended transfers would jeopardize the Plan's ability to meet any obligation incurred under the provisions of this article.*

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

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

F. Members appointed to the board shall serve terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed to the board shall

serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

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

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

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

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

§ 23.1-702.1. College Opportunity Investment Advisory Committee; membership; terms; qualifications; duties.

A. In addition to the advisory committees described in § 23.1-702, the board shall establish the College Opportunity Investment Advisory Committee (the Committee) to assist the General Assembly in determining amounts to deposit into the Virginia College Opportunity Fund established by § 23.1-702 from 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.

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~~ article;

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~~ article 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~~ article 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~~ *article*; 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 Article 2 (§ 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~~ *article* 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~~ *article*; 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~~ *article*.

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

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

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

A. Each prepaid tuition contract made pursuant to this ~~chapter~~ *article* shall include the following

terms and provisions:

1. The amount of payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary;

2. The terms and conditions under which purchasers shall remit payments, including the dates of such payments;

3. Provisions for late payment charges, defaults, withdrawals, refunds, and any penalties;

4. The name and date of birth of the qualified beneficiary on whose behalf the contract is made;

5. Terms and conditions for a substitution for the qualified beneficiary originally named;

6. Terms and conditions for termination of the contract, including any refunds, withdrawals, or transfers of tuition prepayments, and the name of the person entitled to terminate the contract;

7. The time period during which the qualified beneficiary is required to claim benefits from the Plan;

8. The number of credit hours or quarters, semesters, terms, or units contracted for by the purchaser, as applicable;

9. All other rights and obligations of the purchaser and the trust; and

10. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the contract with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, which specifies the requirements for qualified state tuition programs.

B. Each college savings trust agreement made pursuant to this ~~chapter~~ *article* shall include the following terms and provisions:

1. The maximum and minimum contribution allowed on behalf of each qualified beneficiary for the payment of 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;

2. Provisions for withdrawals, refunds, transfers, and any penalties;

3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;

4. Terms and conditions for a substitution for the qualified beneficiary originally named;

5. Terms and conditions for termination of the account, including any refunds, withdrawals, or transfers, and applicable penalties, and the name of the person entitled to terminate the account;

6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;

7. All other rights and obligations of the contributor and the Plan; and

8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

C. Each ABLE savings trust agreement made pursuant to this ~~chapter~~ *article* shall include the following terms and provisions:

1. The maximum and minimum annual contribution and maximum account balance allowed on behalf of each qualified beneficiary for the payment of qualified disability expenses, as defined in § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law;

2. Provisions for withdrawals, refunds, transfers, return of excess contributions, and any penalties;

3. The name, address, and date of birth of the qualified beneficiary on whose behalf the savings trust account is opened;

4. Terms and conditions for a substitution for the qualified beneficiary originally named;

5. Terms and conditions for termination of the account, including any transfers to the state upon the death of the qualified beneficiary, refunds, withdrawals, transfers, applicable penalties, and the name of the person entitled to terminate the account;

6. The time period during which the qualified beneficiary is required to use benefits from the savings trust account;

7. All other rights and obligations of the contributor and the Plan; and

8. Any other terms and conditions that the board deems necessary or appropriate, including those necessary to conform the savings trust account with the requirements of § 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.

D. In addition to the provisions required by subsection A, each prepaid tuition contract entered into prior to July 1, 2019, shall include provisions for the application of tuition prepayments (i) at accredited nonprofit independent or private institutions of higher education, including actual interest and income earned on such prepayments, and (ii) at non-Virginia public and accredited nonprofit independent or private institutions of higher education, including principal and reasonable return on such principal as determined by the board. Payments authorized for accredited nonprofit independent or private institutions of higher education shall not exceed the projected highest payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. Payments authorized for non-Virginia public and accredited nonprofit independent or private institutions

of higher education shall not exceed the projected average payment made for tuition at a public institution of higher education in the same academic year, less a fee to be determined by the board. In no event, however, shall the benefit paid on any prepaid tuition contract entered into prior to July 1, 2019, be less than the sum of tuition prepayments made and a reasonable return on such prepayments to be determined by the board, less any fees determined by the board.

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

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

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

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

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

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

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

§ 23.1-711. Admission to institutions not guaranteed; coverage limitations.

Nothing in this ~~chapter~~ article or in any prepaid tuition contract or savings trust agreement entered into pursuant to this ~~chapter~~ article shall be construed as a promise or guarantee:

1. By the board or the Commonwealth of any admission to, continued enrollment at, or graduation from any public institution of higher education;

2. That the beneficiary's cost of tuition at an institution of higher education will be covered in full by the proceeds of the beneficiary's prepaid tuition contract, provided, however, that a prepaid tuition contract will cover that portion of tuition that is required under the terms of any such contract based on the tuition prepayments made; or

3. That any qualified higher education expense will be covered in full by contributions to or earnings

on any savings trust account.

§ 23.1-713. Liberal construction of article.

Insofar as the provisions of this ~~chapter~~ article are inconsistent with the provisions of any other general, special, or local law, the provisions of this ~~chapter~~ article shall control. This ~~chapter~~ article constitutes full and complete authority, without regard to the provisions of any other law, for performing the acts authorized in this ~~chapter~~ article and shall be liberally construed to effect the purposes of this ~~chapter~~ article.

Article 2.

Virginia College Opportunity Endowment and Fund.

§ 23.1-714. Definitions.

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

"Board" means the governing board of the Endowment.

"College Opportunity Fund Scholar" means a student enrolled in an eligible university who is a recipient of a scholarship through the Virginia College Opportunity Endowment scholarship program pursuant to § 23.1-716.

"College Opportunity Fund Graduate" means an individual who received a scholarship through the Virginia College Opportunity Endowment scholarship program pursuant to § 23.1-716 and subsequently graduated from the institution subsidized by the scholarship.

"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 Endowment Scholarship Program established by the Endowment under the provisions of this article.

§ 23.1-715. Virginia College Opportunity 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 chairman and a vice-chairman 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; Endowment Scholarship Program; report.

A. The Endowment shall establish the Endowment Scholarship 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 Program, including policies and guidelines regarding student eligibility, application procedures, criteria for selecting student applicants for scholarships, scholarship amounts, requirements for College Opportunity Fund Scholars 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 College Opportunity Fund Scholar 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 and draws down such Federal Pell Grant

429 prior to applying for the scholarship.

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

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

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

444 C. The Virginia Employment Commission and the Virginia Department of Transportation shall
445 provide the College Opportunity Endowment Fund access to the information of each College
446 Opportunity Fund Graduate to verify that the College Opportunity Fund Graduate is in compliance with
447 the provisions of subdivision B 3, including verification that such College Opportunity Fund Graduate
448 pays Virginia income taxes. If a College Opportunity Fund Graduate breaches his commitment made
449 under subdivision B 3, the Endowment shall require him to reimburse the Fund for all scholarship funds
450 received pursuant to this section. Any such reimbursement shall be paid by the College Opportunity
451 Fund Graduate in the form of an income-based repayment plan over a maximum of eight years, on such
452 terms as may be prescribed by the Endowment pursuant to subsection A. If a College Opportunity Fund
453 Graduate is found in noncompliance with this income-based repayment plan, any outstanding balance
454 shall be recorded as a tax lien and shall be referred to the Attorney General for enforcement or
455 collection. It shall not be incumbent upon any eligible university to identify students in breach of
456 commitments made under subdivision B 3 or to administer income-based repayment plans or any other
457 form of debt collection on behalf of the Endowment.

458 D. The Program shall be funded only by income from investment of deposits to the Fund pursuant to
459 subdivision C 2 of § 23.1-701. The Plan shall manage the assets of the Fund with the objective of
460 creating income for the Program and in accordance with the provisions of Article 1 (§ 23.1-700 et seq.),
461 mutatis mutandis; however, the board shall have sole authority over the administration of the Program
462 and the disbursement of income in the form of scholarships. Ninety percent of all annual income shall
463 be allocated to the award of College Opportunity Endowment Fund scholarships. Priority for the award
464 of scholarships for full tuition and the whole costs of fees and room and board shall be given to
465 College Opportunity Fund Scholars attending eligible universities. Ten percent of all annual income
466 shall be allocated to the board to support other programs established for the purpose of enhancing
467 educational access and affordability for students with recognized financial need, including to fund
468 supplementary scholarships and grants awarded through the Two-Year College Transfer Grant Program
469 established pursuant to Article 4 (§ 23.1-622 et seq.) of Chapter 6, the New Economy Workforce
470 Credential Grant Program established pursuant to Article 4.1 (§ 23.1-627.1 et seq.) of Chapter 6, the
471 Tuition Assistance Grant Act established pursuant to Article 5 (§ 23.1-628 et seq.) of Chapter 6, and the
472 Virginia Guaranteed Assistance Program and Fund established pursuant to Article 6 (§ 23.1-636 et seq.)
473 of Chapter 6. All unused income each year shall revert to Endowment Fund principal. The income of
474 the Fund shall be paid out, not less than annually, but no amount of the corpus shall be spent. For the
475 purposes of this subsection, "corpus" of the Fund means at the time of determination the sum of any
476 gifts, grants, and contributions that have been credited to the Fund and any income not appropriated
477 and withdrawn from the Fund prior to June 30 of each year, less withdrawals from the corpus.

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

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

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

484 **§ 23.1-717. Virginia College Opportunity Fund established.**

485 There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia
486 College Opportunity Fund. The Fund shall be established on the books of the Comptroller. Any deposits
487 to the Fund pursuant to subdivision C 2 of § 23.1-701, all funds appropriated to the Fund, and any
488 gifts, donations, grants, bequests, and other funds received on its behalf shall be paid into the state
489 treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and
490 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 article. 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 chairman 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

675 federal income tax purposes.

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

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

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

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

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

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

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

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

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

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

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

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

734 10. The amount an individual pays annually in premiums for long-term health care insurance,
735 provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable
736 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.

§ 58.1-344.3. Voluntary contributions of refunds requirements.

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

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

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

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

4. The Department of Taxation shall report annually by the first day of each General Assembly Regular Session to the Chairmen of the House 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.

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

9. Voluntary contribution to the Historic Resources Fund.

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

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

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

11. Voluntary contribution to the Center for Governmental Studies.

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

12. Voluntary contribution to the Law and Economics Center.

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

13. Voluntary contribution to Children of America Finding Hope.

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

14. Voluntary contribution to 4-H Educational Centers.

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

15. Voluntary contribution to promote organ and tissue donation.

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

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

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

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

921 portion to the Virginia War Memorial division of the Department of Veterans Services and the other
922 portion to the National D-Day Memorial Foundation.

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

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

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

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

930 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund.
931 All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for
932 Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act
933 (§ 23.1-628 et seq.).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

961 25. Voluntary contribution to the Virginia Caregivers Grant Fund.

962 All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to
963 § 63.2-2202.

964 26. Voluntary contribution to public library foundations.

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

969 27. Voluntary contribution to Celebrating Special Children, Inc.

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

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

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

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

981 29. Voluntary contribution to community foundations.

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

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

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

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

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

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

2. Voluntary Chesapeake Bay restoration contribution.

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

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

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

3. Voluntary Jamestown-Yorktown Foundation Contribution.

All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown

1044 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the
1045 Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before
1046 January 1, 2008.

1047 4. State forests voluntary contribution.

1048 a. All moneys contributed shall be used for the development and implementation of conservation and
1049 education initiatives in the state forests system.

1050 b. All moneys shall be deposited into a special fund known as the State Forests System Fund,
1051 established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State
1052 Forester for the purposes set forth herein.

1053 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

1054 All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established
1055 pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured
1056 medical catastrophes.

1057 6. Voluntary contribution to local school divisions.

1058 a. All moneys contributed shall be used by a specified local public school foundation as created by
1059 and for the purposes stated in § 22.1-212.2:2.

1060 b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers
1061 designated for a local public school foundation over refundable amounts shall be deposited into the state
1062 treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for
1063 each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall
1064 pay the appropriate amount to the respective public school foundation.

1065 c. In order for a public school foundation to be eligible to receive contributions under this section,
1066 school boards must notify the Department during the taxable year in which they want to participate prior
1067 to the deadlines and according to procedures established by the Tax Commissioner.

1068 7. Voluntary contribution to Home Energy Assistance Fund.

1069 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to
1070 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy
1071 needs.

1072 8. Voluntary contribution to the Virginia Military Family Relief Fund.

1073 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in
1074 providing assistance to military service personnel on active duty and their families for living expenses
1075 including, but not limited to, food, housing, utilities, and medical services.

1076 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief
1077 Fund, established and administered pursuant to § 44-102.2.

1078 9. Voluntary contribution to the Federation of Virginia Food Banks.

1079 All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State
1080 Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable
1081 make an equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area
1082 Food Bank, Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia
1083 and the Eastern Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

1084 The Secretary of Finance may request records or receipts of all distributions by the Federation of
1085 Virginia Food Banks of such moneys contributed for purposes of ensuring compliance with the
1086 requirements of this subdivision.

1087 10. *Voluntary contribution to the Virginia College Opportunity Fund established in § 23.1-717, which*
1088 *shall be deposited in such fund.*

1089 D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected
1090 for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner
1091 shall determine annually the total amount designated for each entity in subsections B and C on all
1092 individual income tax returns and shall report the same to the State Treasurer, who shall credit that
1093 amount to each entity's respective special fund.

1094 **§ 58.1-402. Virginia taxable income.**

1095 A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable
1096 income and any other income taxable to the corporation under federal law for such year of a corporation
1097 adjusted as provided in subsections B, C, D, E, G, and H.

1098 For a regulated investment company and a real estate investment trust, such term means the
1099 "investment company taxable income" and "real estate investment trust taxable income," respectively, to
1100 which shall be added in each case any amount of capital gains and any other income taxable to the
1101 corporation under federal law which shall be further adjusted as provided in subsections B, C, D, E, G,
1102 and H.

1103 B. There shall be added to the extent excluded from federal taxable income:

1104 1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on
1105 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 comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or

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

b. A corporation required to add to its federal taxable income intangible 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 intangible 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 intangible 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, 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. 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 intangible 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 8 shall be construed to limit or negate the Department's authority under § 58.1-446;

9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest 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 interest expenses and costs, if:

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

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

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

(4) One of the following applies:

(i) 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;

(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). For purposes of this subdivision, a REIT is a Captive REIT if:

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

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

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

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

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

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

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

(4) Any Qualified Foreign Entity.

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

d. For purposes of subdivision B 10:

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

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

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

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

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

1290 interest;

1291 (4) The shares or certificates of beneficial interest of such entity are regularly traded on an
1292 established securities market or, if not so traded, not more than 10 percent of the voting power or value
1293 in such entity is held directly, indirectly, or constructively by a single entity or individual; and

1294 (5) The entity is organized in a country that has a tax treaty with the United States.

1295 e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any
1296 voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset
1297 account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be
1298 taken into consideration when determining if such REIT is a Captive REIT.

1299 11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed
1300 for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax
1301 deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

1302 C. There shall be subtracted to the extent included in and not otherwise subtracted from federal
1303 taxable income:

1304 1. Income derived from obligations, or on the sale or exchange of obligations, of the United States
1305 and on obligations or securities of any authority, commission or instrumentality of the United States to
1306 the extent exempt from state income taxes under the laws of the United States including, but not limited
1307 to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes,
1308 interest on equipment purchase contracts, or interest on other normal business transactions.

1309 2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth
1310 or of any political subdivision or instrumentality of this Commonwealth.

1311 3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the
1312 Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding
1313 year, or the last year in which such corporation has income, under the provisions of the income tax laws
1314 of the Commonwealth.

1315 4. The amount of any refund or credit for overpayment of income taxes imposed by this
1316 Commonwealth or any other taxing jurisdiction.

1317 5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue
1318 Code (foreign dividend gross-up).

1319 6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not
1320 deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

1321 7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F
1322 income) or, for taxable years beginning on and after January 1, 2018, § 951A of the Internal Revenue
1323 Code (Global Intangible Low-Taxed Income).

1324 8. Any amount included therein which is foreign source income as defined in § 58.1-302.

1325 9. [Repealed.]

1326 10. The amount of any dividends received from corporations in which the taxpaying corporation
1327 owns 50 percent or more of the voting stock.

1328 11. [Repealed.]

1329 12, 13. [Expired.]

1330 14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research
1331 expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not
1332 deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.

1333 15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in
1334 funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1
1335 (§ 22.1-175.1 et seq.) of Title 22.1.

1336 16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain
1337 derived from the sale or exchange of real property or the sale or exchange of an easement to real
1338 property which results in the real property or the easement thereto being devoted to open-space use, as
1339 that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a
1340 subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating
1341 land for its preservation shall be allowed for three years following the year in which the subtraction is
1342 taken.

1343 17. For taxable years beginning on and after January 1, 2001, any amount included therein with
1344 respect to § 58.1-440.1.

1345 18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the
1346 "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower
1347 Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a
1348 tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of
1349 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.

1350 19, 20. [Repealed.]

1351 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.

1413 "Virginia real estate investment trust" means a real estate investment trust, as defined in 26 U.S.C.
1414 § 856, that has been certified by the Department as a Virginia real estate investment trust. In order to be
1415 certified as a Virginia real estate investment trust, the trustee shall register the trust with the Department
1416 prior to December 31, 2024, indicating that it intends to invest at least 90 percent of trust funds in
1417 Virginia and at least 40 percent of trust funds in real estate in localities that are distressed or double
1418 distressed. If the Department determines that the trust satisfies the preceding criteria, the Department
1419 shall certify the trust as a Virginia real estate investment trust at such time as the trust actually invests
1420 at least 90 percent of trust funds in Virginia and at least 40 percent of trust funds in real estate in
1421 localities that are distressed or double distressed.

1422 27. For taxable years beginning on and after January 1, 2019, any gain recognized from the taking of
1423 real property by condemnation proceedings.

1424 28. For taxable years beginning before January 1, 2021, up to \$100,000 of all grant funds received
1425 by the taxpayer under the Rebuild Virginia program established by the Governor and administered by
1426 the Department of Small Business and Supplier Diversity.

1427 D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal
1428 taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided
1429 under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1430 1. If the payment is received in installment payments, then the recognized gain, including any gain
1431 recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year
1432 in which the installment payment is received.

1433 2. If the payment is received in a single payment, then 10 percent of the recognized gain may be
1434 subtracted in the taxable year immediately following the year in which the single payment is received.
1435 The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

1436 E. Adjustments to federal taxable income shall be made to reflect the transitional modifications
1437 provided in § 58.1-315.

1438 F. Notwithstanding any other provision of law, the income from any disposition of real property
1439 which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or
1440 business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after
1441 January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method
1442 described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer
1443 disposition of the property has been made on or before the due date prescribed by law (including
1444 extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in
1445 which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or
1446 conditions established by the Department, which shall be set forth in guidelines developed by the
1447 Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of
1448 such income under certain circumstances. The development of the guidelines shall be exempt from the
1449 Administrative Process Act (§ 2.2-4000 et seq.).

1450 G. There shall be deducted to the extent included in and not otherwise subtracted from federal
1451 taxable income a percentage of the business interest disallowed as a deduction pursuant to § 163(j) of
1452 the Internal Revenue Code in the amount of:

1453 1. 20 percent for taxable years beginning on and after January 1, 2018, but before January 1, 2022;

1454 2. 30 percent for taxable years beginning on and after January 1, 2022, but before January 1, 2024;
1455 and

1456 3. 50 percent for taxable years beginning on and after January 1, 2024.

1457 For purposes of subsection G, "business interest" means the same as that term is defined under
1458 § 163(j) of the Internal Revenue Code.

1459 H. For taxable years beginning before January 1, 2021, there shall be deducted to the extent not
1460 otherwise subtracted from federal taxable income up to \$100,000 of the amount that is not deductible
1461 when computing federal taxable income solely on account of the portion of subdivision B 10 of
1462 § 58.1-301 related to Paycheck Protection Program loans.

1463 1. For taxable years beginning on and after January 1, 2024, there shall be deducted to the extent
1464 not otherwise subtracted from federal taxable income any amount donated to the Virginia College
1465 Opportunity Fund established in § 23.1-717.