_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING INCOME TAX RATES TO LOWER INCOME TAXES; PROVIDING FOR A FLAT RATE OF TAX ON NONQUALIFIED TAXABLE INCOME; AMENDING SECTIONS 15-30-2103, 15-30-2522, 15-30-2538, 15-30-3312, 15-30-3313, 15-30-3326, 15-30-3404, 15-31-1003, 15-62-208, 17-1-405, AND 53-25-118, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-2103, MCA, is amended to read:

"**15-30-2103. Rate of tax -- net long-term capital gains -- definitions.** (1) Except as provided in subsections (2) and (3), there must be levied, collected, and paid for each tax year on the Montana taxable income of each taxpayer subject to this chapter a tax on ~~the brackets of~~ taxable income of 4.7% ~~as follows:~~

~~(a) for every married individual who files a joint return and for every surviving spouse:~~

~~(i) on the first $130,000 of Montana taxable income or any part of that income, 4.7%;~~

~~(ii) on any Montana taxable income in excess of $130,000 or any part of that income, 5.4%;~~

~~(b) for every head of household:~~

~~(i) on the first $97,500 of Montana taxable income or any part of that income, 4.7%;~~

~~(ii) on any Montana taxable income in excess of $97,500 or any part of that income, 5.4%;~~

~~(c) for every individual other than a surviving spouse or head of household who is not a married individual:~~

~~(i) on the first $65,000 of Montana taxable income or any part of that income, 4.7%;~~

~~(ii) on any Montana taxable income in excess of $65,000 or any part of that income, 5.4%;~~

~~(d) for every married individual who does not make a joint return and for every estate or trust not exempt from taxation under the Internal Revenue Code:~~

~~(i) on the first $65,000 of Montana taxable income or any part of that income, 4.7%;~~

~~(ii) on any Montana taxable income in excess of $65,000 or any part of that income, 5.4%.~~

(2) Except as provided in 15-30-3704 and subsection (3) of this section, that portion of a taxpayer's Montana taxable income that consists of net long-term capital gains after accounting for amounts included in taxable income that is not net long-term capital gains is subject to a tax on the brackets of net long-term capital gains as follows:

(a) for every married individual who files a joint return and for every surviving spouse:

(i) on the first $130,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on net long-term capital gains that exceed $130,000 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $130,000 or greater, all of the net long-term capital gains are taxed at 4.1%;

(b) for every head of household:

(i) on the first $97,500 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $97,500 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $97,500 or greater, all of the net long-term capital gains are taxed at 4.1%;

(c) for every individual other than a surviving spouse or head of household who is not a married individual:

(i) on the first $65,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $65,000 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $65,000 or greater, all of the net long-term capital gains are taxed at 4.1%;

(d) for every married individual who does not make a joint return and for every estate or trust that is not exempt from taxation under the Internal Revenue Code:

(i) on the first $65,000 less nonqualified taxable income of net long-term capital gains, 3.0%;

(ii) on any net long-term capital gains that exceed $65,000 less nonqualified taxable income or any part of that income, 4.1%, except that if the total nonqualified taxable income is $65,000 or greater, all of the net long-term capital gains are taxed at 4.1%.

(3) By November 1 of each year, the department shall multiply the bracket amounts contained in

~~subsections (1) and~~ subsection (2) by the modified inflation factor for the following tax year and round the cumulative brackets to the nearest $100. The resulting adjusted brackets are effective for that following tax year and must be used as the basis for imposition of the tax in ~~subsections (1) and~~ subsection (2).

(4) For the purposes of this section, the following definitions apply:

(a) "Modified inflation factor" has the same meaning as "inflation factor" as defined in 15-30-2101, except that the consumer price index for June 2026 is substituted for the consumer price index for June 2023.

(b) "Net long-term capital gains" means net long-term capital gains as that term is defined in section 1222 of the Internal Revenue Code, 26 U.S.C. 1222.

(c) "Nonqualified taxable income" means Montana taxable income that is not considered net long-term capital gains."

Section 2. Section 15-30-2522, MCA, is amended to read:

"**15-30-2522. Withholding of lottery winnings.** (1) When making any payment of winnings that are subject to withholding, the state lottery and sports wagering commission, created under Title 23, chapter 7, part 2, shall deduct and withhold from the payment a tax in an amount equal to the ~~highest marginal rate~~ tax rate ~~in effect~~ under 15-30-2103(1).

(2) For the purposes of this section, the phrase "winnings that are subject to withholding" means the proceeds in excess of $5,000 won from a lottery game operated pursuant to Title 23, chapter 7.

(3) Every person who receives a payment of winnings that are subject to withholding shall furnish the state lottery and sports wagering commission with a signed statement containing the name, address, and taxpayer identification number of the recipient and of every person entitled to any portion of the payment. The signed statement must be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

Section 3. Section 15-30-2538, MCA, is amended to read:

"**15-30-2538. Withholding required on mineral royalty payments.** Except as provided in 15-30-2539, each remitter shall withhold from each royalty payment made to a royalty owner an amount equal to the ~~highest marginal~~ tax rate ~~in effect~~ under 15-30-2103(1) of the net amount payable to the royalty owner."

Section 4. Section 15-30-3312, MCA, is amended to read:

"**15-30-3312. Composite returns and tax.** (1) A partnership or S. corporation may elect to file a composite return and pay a composite tax on behalf of participants. A participant is a partner, shareholder, member, or other owner who:

(a) is a nonresident individual, a nonresident estate, a nonresident trust, a foreign C. corporation, or a pass-through entity whose only Montana source income for the tax year is from the entity and other partnerships or S. corporations electing to file the composite return and pay the composite tax on behalf of that partner, shareholder, member, or other owner; and

(b) consents to be included in the filing.

(2) (a) Each participant's composite tax liability is the product obtained by:

(i) determining the tax that would be imposed, using the rate specified in 15-30-2103(1)~~(d)~~, on the sum obtained by subtracting the basic standard deduction of an individual who is not married and who is not a surviving spouse or head of household, as determined under section 63(c)(2)(C) of the Internal Revenue Code, 26 U.S.C. 63(c)(2)(C), as adjusted under section 63(c)(4) of the Internal Revenue Code, from the participant's share of the entity's income from all sources as determined for Montana income tax purposes; and

(ii) multiplying that amount by the ratio of the entity's Montana source income to the entity's income from all sources for Montana income tax purposes.

(b) A participant's share of the entity's income is the aggregate of the participant's share of the entity's income, gain, loss, or deduction or item of income, gain, loss, or deduction.

(3) The composite tax is the sum of each participant's composite tax liability.

(4) The electing entity:

(a) shall remit the composite tax to the department;

(b) must be responsible for any assessments of additional tax, penalties, and interest, which additional assessments must be based on the total liability reflected in the composite return;

(c) shall represent the participants in any appeals, claims for refund, hearing, or court proceeding in any matters relating to the filing of the composite return;

(d) shall make quarterly estimated tax payments and be subject to the underpayment interest as

prescribed by 15-30-2512(5)(a) computed on the composite tax liability included in the filing of a composite return; and

(e) shall retain powers of attorney executed by each participant included in the composite return, authorizing the entity to file the composite return and to act on behalf of each participant.

(5) The composite return must be made on forms the department prescribes and filed on or before the due date, including extensions, for filing the entity information return. The composite return is in lieu of an individual income tax return required under 15-30-2602 and 15-30-2604, a corporate income tax return required under 15-31-111, and an alternative corporate income tax return required under 15-31-403.

(6) The composite tax is in lieu of the taxes imposed under:

(a) 15-30-2103 and 15-30-2104;

(b) 15-31-101 and 15-31-121; and

(c) 15-31-403.

(7) The department may adopt rules that are necessary to implement and administer this section."

Section 5. Section 15-30-3313, MCA, is amended to read:

"**15-30-3313. Consent or withholding -- rulemaking.** (1) A pass-through entity that is required to file an information return as provided in 15-30-3302 and that reports a distributive share of income of $1,000 or more of Montana source income during the tax year to a partner, shareholder, member, or other owner who is a nonresident individual, a foreign C. corporation, or any other entity, organization, or account whose principal place of business or administration is outside the state of Montana or that is itself a pass-through entity shall, on or before the due date, including extensions, for the information return:

(a) with respect to any partner, shareholder, member, or other owner who is a nonresident individual:

(i) file a composite return;

(ii) file an agreement of the individual nonresident to:

(A) file a return in accordance with the provisions of 15-30-2602;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes and related

interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the ~~highest marginal~~ tax rate ~~in effect~~ under 15-30-2103(1) multiplied by the nonresident individual's share of Montana source income reflected on the pass-through entity's information return;

(b) with respect to any partner, shareholder, member, or other owner that is a foreign C. corporation:

(i) file a composite return;

(ii) file the foreign C. corporation's agreement to:

(A) file a return in accordance with the provisions of 15-31-111;

(B) timely pay all taxes imposed with respect to income of the pass-through entity; and

(C) be subject to the personal jurisdiction of the state for the collection of income taxes, corporate income taxes, and alternative corporate income taxes and related interest, penalties, and fees imposed with respect to the income of the pass-through entity; or

(iii) remit an amount equal to the tax rate in effect under 15-31-121 multiplied by the foreign C. corporation's share of Montana source income reflected on the pass-through entity's information return; and

(c) with respect to any partner, shareholder, member, or other owner that is a pass-through entity, also referred to in this section as a "second-tier pass-through entity":

(i) file a composite return; or

(ii) remit an amount equal to the ~~highest marginal~~ tax rate ~~in effect~~ under 15-30-2103(1) multiplied by its share of Montana source income reflected on the pass-through entity's information return.

(2) Any amount paid by a pass-through entity with respect to a nonresident individual pursuant to subsection (1)(a)(iii) must be considered as a payment on the account of the nonresident individual for the income tax imposed on the nonresident individual for the tax year pursuant to 15-30-2104. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the nonresident individual a record of the amount of tax paid on the taxpayer's behalf.

(3) Any amount paid by a pass-through entity with respect to a foreign C. corporation pursuant to subsection (1)(b)(iii) must be considered as a payment on the account of the foreign C. corporation for the

corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-101 or the alternative corporate income tax imposed on the foreign C. corporation for the tax year pursuant to 15-31-403. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the foreign C. corporation a record of the amount of tax paid on its behalf.

(4) Any amount paid by a pass-through entity with respect to a second-tier pass-through entity pursuant to subsection (1)(c)(ii) must be considered as payment on the account of the individual, trust, estate, or C. corporation to which Montana source income is directly or indirectly passed through and must be claimed as the distributable share of a refundable credit of the pass-through entity partner, shareholder, member, or other owner on behalf of which the amount was paid. On or before the due date, including extensions, of the pass-through entity's information return provided in 15-30-3302, the pass-through entity shall furnish to the second-tier pass-through entity a record of the refundable credit that may be claimed for the amount paid on its behalf.

(5) A pass-through entity is entitled to recover a payment made pursuant to subsection (1)(a)(iii), (1)(b)(iii), or (1)(c)(ii) from the partner, shareholder, member, or other owner on whose behalf the payment was made.

(6) Following the department's notice to a pass-through entity that a nonresident individual or foreign C. corporation did not file a return or timely pay all taxes as provided in subsection (1), the pass-through entity must, with respect to any tax year thereafter for which the nonresident individual or foreign C. corporation is not included in the pass-through entity's composite return, remit the amount described in subsection (1)(a)(iii) for the nonresident individual and the amount described in subsection (1)(b)(iii) for the foreign C. corporation.

(7) (a) A publicly traded partnership described in 15-30-3302(4) that agrees to file an annual information return reporting the name, address, and taxpayer identification number for each person or entity that has an interest in the partnership that results in Montana source income or that has sold its interest in the partnership during the tax year is exempt from the composite return and withholding requirements of Title 15, chapter 30. A publicly traded partnership shall provide the department with the information in an electronic form that is capable of being sorted and exported. Compliance with this subsection (7)(a) does not relieve a person or entity from its obligation to pay Montana income taxes.

(b) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) if one or more publicly traded partnerships has a direct or indirect majority interest in the income distributed by the pass-through entity. The pass-through entity shall apply to the department in writing for the waiver of the withholding requirements set forth in subsection (1)(c).

(c) Waivers issued by the department prior to January 1, 2016, to pass-through entities in which a publicly traded partnership has a direct or indirect majority interest will remain in effect in accordance with the law and rules in effect at the time the waiver was granted.

(d) The department shall adopt rules outlining the requirements for the waiver request.

(8) (a) A pass-through entity may be allowed a waiver of the provisions of subsection (1)(c) for any partner, shareholder, member, or other owner that is a domestic second-tier pass-through entity if:

(i) the pass-through entity files a statement setting forth the name, address, and social security number or federal identification number of each of the domestic second-tier pass-through entity's partners, shareholders, members, or other owners; and

(ii) the information establishes that the domestic second-tier pass-through entity's share of Montana source income should be fully accounted for in an income tax return required under Title 15, chapter 30 or 31.

(b) For purposes of this subsection (8), the following definitions apply:

(i) "Domestic C. corporation" is a corporation that is engaged in or doing business in the state, as provided in 15-31-101.

(ii) "Domestic second-tier pass-through entity" is a pass-through entity whose interest is entirely held, either directly or indirectly, by one or more resident individuals, domestic C. corporations, or any other entities, organizations, or accounts whose principal place of business or administration is located in the state of Montana or any combination of interests held by resident individuals, domestic C. corporations, or any other entities, organizations, or accounts whose principal place of business or administration is located in the state of Montana.

(c) Subsequent to the initial approval of a waiver, the department may revoke the waiver if it determines that the partner, shareholder, member, or other owner no longer qualifies.

(9) Nothing in this section may be construed as modifying the provisions of Article IV, subsection

(13), of 15-1-601 and 15-31-312 allowing a taxpayer to petition for and the department to require methods to fairly represent the extent of the taxpayer's business activity in the state.

(10) The department may adopt rules to administer and enforce the provisions of this section."

Section 6. Section 15-30-3326, MCA, is amended to read:

"**15-30-3326. Pass-through entity tax.** (1) Each electing pass-through entity shall, on or before the due date of the pass-through entity's tax return, pay an entity tax. The entity tax is equal to the ~~highest marginal~~ tax rate ~~in effect~~ under 15-30-2103(1) for the tax year the election is made multiplied by the distributive share of Montana source income calculated under 15-30-3302 for all owners taxed under this chapter. Electing entities may substitute the distributive share of Montana source income allocated to owners who are residents as defined in 15-30-2101 for the distributive share of Montana source income calculated under 15-30-3302 for all resident owners taxed under this chapter for the computation of the tax.

(2) An electing pass-through entity shall allocate the entity tax to its owners based on their distributive share of Montana source income used to calculate the entity tax in subsection (1).

(3) The entity tax is in lieu of the tax paid under 15-30-3312 and 15-30-3313. If the owner of an electing pass-through entity is a partnership or S. corporation that does not elect to pay the entity tax, any amount of Montana source income in addition to the income subject to the entity tax is subject to the tax paid under 15-30-3313. When the provisions under 15-30-3313 apply, the withholding threshold under 15-30-3313(1) must be determined without regard to the entity tax.

(4) The electing entity shall make quarterly estimated tax payments and be subject to the underpayment interest as prescribed by 15-30-2512(5)(a) computed on the entity tax liability included on the pass-through entity return.

(5) The entity tax under this section is subject to penalties and interest under 15-1-216.

(6) A nonresident owner is not required to file an income tax return under the provisions of 15-30-2602 for a tax year if, for the tax year, all of the nonresident owner's Montana source income is subject to the entity tax.

(7) The department may adopt rules and prescribe forms necessary to administer and enforce the provisions of 15-30-3325 through 15-30-3328."

Section 7. Section 15-30-3404, MCA, is amended to read:

"**15-30-3404. Election -- partnership pays -- rulemaking.** (1) Subject to the limitations in subsection (2), an audited partnership making an election under this section shall:

(a) no later than 90 days after the final determination date, file a completed federal adjustments report, including information required by the department, and notify the department that it is making the election under this section. A partnership that fails to file a timely completed federal adjustments report must be assessed a late file penalty as provided for in 15-30-3302(5)(d).

(b) no later than 180 days after the final determination date, pay an amount, determined as follows, in lieu of taxes owed by its direct and indirect partners:

(i) exclude from final federal adjustments the distributive share of these adjustments reported to a direct exempt partner not subject to tax under 15-31-102(3);

(ii) for the total distributive shares of the remaining final federal adjustments reported to direct corporate partners subject to tax under 15-31-101 and to direct exempt partners subject to tax under 15-31-102(3), apportion and allocate the adjustments as provided in 15-31-301 and multiply the resulting amount by the appropriate tax rate under 15-31-121;

(iii) for the total distributive shares of the remaining final federal adjustments reported to nonresident direct partners subject to tax under 15-30-3311 or 15-30-2151, determine the amount of the adjustments that are Montana source income under 15-30-3311 and multiply the resulting amount by the ~~highest~~ tax rate under 15-30-2103(1); and

(iv) for the total distributive shares of the remaining final federal adjustments reported to tiered partners:

(A) determine the amount of the adjustments that would be subject to sourcing to Montana under 15-30-3302(6) and attributable to nonresident partners;

(B) determine the amount of the adjustments not attributable to nonresident partners; and

(C) determine the portion of the amount determined in subsection (1)(b)(iv)(B) that can be established, under regulations issued by the department, to be properly allocable to direct or indirect partners not subject to tax on the adjustments or that can be excluded under procedures for modified reporting and

payment methods allowed under 15-30-3405;

(v) multiply the total of the amounts determined in subsections (1)(b)(iv)(A) and (1)(b)(iv)(B) and reduce by the amount determined in subsection (1)(b)(iv)(C) by the ~~highest~~ tax rate under 15-30-2103(1) or the appropriate tax rate in 15-31-121;

(vi) for the total distributive shares of the remaining final federal adjustments reported to resident direct partners subject to tax under 15-30-3311, multiply that amount by the ~~highest~~ tax rate under 15-30-2103(1); and

(vii) add the amounts determined in subsections (1)(b)(ii) through (1)(b)(vi), including penalty and interest as provided in 15-1-216.

(2) Final federal adjustments subject to the election under this section exclude:

(a) the distributive share of final audit adjustments that under 15-31-301 must be included in the unitary business income of any direct or indirect corporate partner, provided that the audited partnership can reasonably determine this; and

(b) any final federal adjustments resulting from an administrative adjustment request.

(3) The direct and indirect partners of an audited partnership that are tiered partners, and all of the partners of those tiered partners that are subject to tax under chapter 30 or 31, are subject to the reporting and payment requirements of 15-30-3403 and the tiered partners are entitled to make the election provided for in this section. The tiered partners or their partners shall make required reports and payments no later than 90 days after the time for filing and furnishing statements to tiered partners and their partners as established under 26 U.S.C. 6226 and the regulations thereunder. The department may promulgate regulations to establish procedures and interim time periods for the reports and payments required by tiered partners and their partners and for making the election under this section."

Section 8. Section 15-31-1003, MCA, is amended to read:

"**15-31-1003. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Affiliate" means a subsidiary of which more than 50% of the voting stock is owned directly by the parent corporation or another member of the Montana combined group.

(2) "Base investment" means the amount expended by a production company as production expenditures and compensation incurred in this state that are directly used in a state-certified production.

(3) (a) "Compensation" means Montana wages, salaries, commissions, payments to a loan-out company subject to the provisions of subsection (3)(c), union benefits, fringe benefits, and any other form of remuneration paid to employees for personal services performed in this state.

(b) The term does not include compensation paid that is less than the minimum wage described in 39-3-409.

(c) The term includes payments to a loan-out company by a production company if the production company withheld and remitted Montana income tax at the ~~highest marginal~~ tax rate in effect under 15-30-2103(1) on all payments to the loan-out company for services performed in this state. The amount withheld is considered to have been withheld by the loan-out company on wages paid to its employees for services performed in this state. The amounts withheld must be allocated to the loan-out company's employees based on the payments made to the loan-out company's employees for services performed in Montana. For purposes of this chapter, loan-out company nonresident employees performing services in this state must be considered taxable nonresidents and the loan-out company is subject to income taxation in the tax year in which the loan-out company's employees perform services in this state, notwithstanding any other provisions of Title 15. The withholding liability is subject to penalties and interest as provided in 15-1-216.

(d) With respect to a single crew member or production staff member, excluding an actor, director, producer, or writer, the portion of any compensation that exceeds $500,000 for a single production is not included when calculating the base investment.

(e) All payments to a single employee and any legal entity in which the employee has any direct or indirect ownership interest are considered as having been paid to the employee and must be aggregated regardless of the means of payment or distribution.

(4) "Domiciled company" means a corporation incorporated in the state or a partnership, limited liability company, or other business entity subject to tax under Title 15, chapter 30 or 31:

(a) domiciled and headquartered in the state for a minimum of 1 year for the purpose of performing qualified production activities or qualified postproduction activities; and

(b) that maintains a minimum of 15 resident full-time equivalent jobs that pay wages above the

state average median income and for which Montana income tax is withheld.

(5) "Game platform" means the electronic delivery system used to launch or play an interactive game.

(6) "Game sequel" means an interactive game that builds on the theme of a previously released interactive game, is distinguished by a new title, and features objectives or characters that are recognizably different from those in the original game.

(7) "Independent film production" means a state-certified production with a production budget approved by the department of commerce of $3 million or less.

(8) (a) "Loan-out company" means a personal service company contracted with and retained by a production company to provide individual personnel who are not employees of the production company, including actors, directors, producers, writers, production designers, production managers, costume designers, directors of photography, editors, casting directors, first assistant directors, second unit directors, stunt coordinators, and similar personnel, for performance of services used directly in a qualified production activity.

(b) The term does not include persons retained by a production company to provide tangible property or outside independent contractor services, such as catering, construction, trailers, equipment, and transportation.

(9) "Multimarket commercial distribution" means paid commercial distribution that extends to markets outside the state.

(10) (a) "Postproduction company" means a company that:

(i) maintains a business location physically located in this state;

(ii) is engaged in qualified postproduction activities;

(iii) meets the requirements of 15-31-1005(4); and

(iv) has been approved by the department of commerce to claim the credit provided for in 15-31-1009.

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(11) "Prereleased interactive game" means a new game, the offering of an existing game on a new

game platform, or a game sequel that is in the developmental stages of production and that may be available to individuals for testing purposes but is not generally made available or distributed to consumers or to the general public.

(12) (a) "Production company" means a company primarily engaged in qualified production activities that have been approved by the department of commerce.

(b) The term does not include any form of business owned, affiliated, or controlled, in whole or in part, by a company or person that is in default on a tax obligation of the state, a loan made by the state, or a loan guaranteed by the state.

(13) (a) "Production expenditure" means a preproduction or production expenditure incurred in Montana that is directly used for a qualified production activity including:

(i) set construction and operation;

(ii) wardrobes, makeup, accessories, and related services;

(iii) costs associated with photography and sound synchronization expenditures, excluding license fees, incurred with Montana companies for sound recordings and musical compositions, lighting, or related services and materials;

(iv) editing and related services;

(v) rental of facilities and equipment;

(vi) leasing of vehicles, whether to be photographed or to transport people, equipment, or materials;

(vii) lodging costs, including hotel rooms and private housing rentals paid for by the production company;

(viii) per diem and living allowance paid to staff, cast, and crew members;

(ix) digital, film, or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, visual effects services, and animation services;

(x) airfare, if purchased through a Montana travel agency or travel company;

(xi) insurance costs and bonding, if purchased through a Montana insurance agency; and

(xii) other direct costs of producing the project in accordance with generally accepted entertainment industry practices and generally accepted accounting principles.

(b) The term does not include:

(i) compensation, which qualifies for the credit provided for in 15-31-1007(3)(b)(i) through (3)(b)(v);

(ii) production expenditures for footage shot outside the state;

(iii) marketing;

(iv) story rights;

(v) distribution; or

(vi) postproduction expenditures.

(14) "Qualified Montana facility" means a media manufacturing facility of 10,000 or more square feet and measuring at least 25 feet from floor to truss that was constructed or renovated in the state on or after January 1, 2025, at a minimum capital expenditure of $10 million for the primary purpose of engaging in the development of qualified production or postproduction activities and for which the owner is subject to tax under Title 15, chapter 30 or 31.

(15) "Qualified Montana promotion" means a promotion of this state approved by the department of commerce and consisting of:

(a) a qualified movie production that includes a 5-second static or animated logo that promotes Montana in the end credits for the life of the project and that includes a link to the official state of Montana website on the project's website;

(b) a qualified television production that includes an embedded 5-second Montana promotion during each broadcast worldwide for the life of the project and that includes a link to the official state of Montana website on the project's website;

(c) a qualified music video that includes the Montana logo at the end of each video and within online promotions;

(d) a qualified interactive game that includes a 15-second Montana advertisement in units sold and embedded in online promotions; or

(e) a qualified television special or sports event for which the network provides complimentary placement of two 30-second spots per 30 minutes of qualifying television special or sports event programming promoting Montana destinations and provided by the department of commerce as provided for in 15-31-

1004(7).

(16) "Qualified postproduction activity" means an activity performed in this state on a qualified production employing traditional, emerging, and new workflow techniques used in postproduction for picture, sound, and music editing, rerecording and mixing, visual effects, graphic design, original scoring, animation, musical composition, and other activities performed after initial production and including activities performed on previously produced and edited content.

(17) "Qualified postproduction wage" means wages incurred in this state directly in qualified postproduction activities for footage shot inside or outside this state.

(18) (a) "Qualified production" means a production, for which a minimum of 60% of principal photography time was completed in the state or the base investment exceeded $5 million, that is a new film, video, or digital project including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, nonscripted television programs, documentaries, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.

(b) The term includes projects shot, recorded, or originally created in short or long form, animation, and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, feature films consisting primarily of stock footage not originally recorded in Montana, or projects containing obscenity as defined in 45-8-201(2).

(19) (a) "Qualified production activity" means a production, for which a minimum of 60% of principal photography time was completed in the state or the base investment exceeded $5 million, that is a new film,

video, or digital project in this state and approved by the department of commerce, including only feature films, series for theaters, television, or streaming, pilots, movies and scripted shows made for television or streaming, nonscripted television programs, documentaries, televised commercial advertisements, music videos, corporate videos, industrial films, production for website creation, television specials, sports events, video games, interactive entertainment, prereleased interactive games, and sound recording projects used in a feature film, series, pilot, or movie for television.

(b) The term includes the production of projects filmed or recorded in this state, in whole or in part and in short or long form, animation and music, fixed on a delivery system, including film, videotape, computer disc, laser disc, and any element of the digital domain, from which the program is viewed or reproduced and which is intended for multimarket commercial distribution via a theater, video on demand, digital or fiber optic distribution platforms, digital video recording, a digital platform designed for distribution of interactive games, licensing for exhibition by individual television stations, groups of stations, networks, advertiser-supported sites, cable television stations, streaming services, or public broadcasting stations.

(c) The term does not include the coverage of news, local interest programming, instructional videos, commercials distributed only on the internet, infomercials, solicitation-based productions, or feature films consisting primarily of stock footage not originally recorded in Montana, projects containing obscenity as defined in 45-8-201(2), or projects not shot, recorded, or originally created in Montana.

(20) "Resident" has the meaning provided in 15-30-2101.

(21) "State-certified production" means a production engaged in qualified production activities and certified by the department of commerce as provided in 15-31-1004.

(22) "Underserved area" means a county in this state in which 14% or more people of all ages are in poverty as determined by the U.S. bureau of the census estimates for the most current year available."

Section 9. Section 15-62-208, MCA, is amended to read:

"**15-62-208. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at a rate equal to the ~~highest~~ rate of tax provided in 15-30-2103(1) on the recapturable withdrawal of amounts that were deducted from income in calculating Montana individual income taxes.

(2) For purposes of determining the portion of a recapturable withdrawal that reduced Montana

individual income taxes, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529 of the Internal Revenue Code of 1986, 26 U.S.C. 529. The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from contributions, if any, that did not reduce Montana individual income taxes, to the extent of those contributions, and then to contributions that reduced Montana individual income taxes. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced Montana individual income taxes, to the extent of the contributions, and then to contributions that did not reduce Montana individual income taxes.

(3) (a) The recapture tax imposed by this section is payable by the owner of the account from which the withdrawal or contribution was made. The tax liability must be reported on the income tax return of the account owner and is payable with the income tax payment for the year of the withdrawal or at the time that an income tax payment would be due for the year of the withdrawal. The account owner is liable for the tax even if the account owner is not a Montana resident at the time of the withdrawal.

(b) The department may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the account owner is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana are presumed to have reduced the contributor's Montana individual income taxes unless the contributor can demonstrate that all or a portion of the contributions did not reduce Montana individual income taxes.

(5) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal or a withdrawal or distribution from an account that was opened after the date that is 1 year prior to the date of the withdrawal or distribution.

(6) The department shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section."

Section 10. Section 17-1-405, MCA, is amended to read:

"**17-1-405. Volatile revenue -- transfer to Montana growth and opportunity trust.** (1) Except as

provided in subsection (6), in the fiscal year beginning July 1, 2027, and in each subsequent fiscal year until June 30, 2035, by November 1, the state treasurer shall calculate the amount of volatile revenue from the general fund for that fiscal year. The state treasurer shall transfer 17.5% of the amount of volatile revenue by November 1 and 17.5% of the amount of volatile revenue by May 1 to the Montana growth and opportunity trust established in 17-1-401.

(2) Except as provided in subsection (6), starting in the fiscal year beginning July 1, 2035, the state treasurer shall transfer 10% of the amount of volatile revenue by November 1 and 10% of the amount of volatile revenue by May 1 to the Montana growth and opportunity trust established in 17-1-401.

(3) The amount of volatile revenue is an amount equal to:

(a) the sum of capital gains volatile revenue and partnership volatile revenue; and

(b) a portion of interest earnings from the treasury cash account in 17-6-202 as defined pursuant to subsection (4).

(4) The amount of interest earnings from the treasury cash account in 17-6-202 defined as volatile revenue pursuant to subsection (3) is the difference between:

(a) the estimate of interest earnings on the treasury cash account in 17-6-202 as provided in the most recent official revenue estimate provided for in 5-5-227; and

(b) the lowest actual amount of interest earnings on the treasury cash account in 17-6-202 within the most recent 7 years of available data as certified to the legislative fiscal analyst and the budget director by the department of administration and adjusted for inflation pursuant to subsection (7).

(5) For the purposes of this section, the following calculations apply:

(a) "Capital gains increment" is the difference between:

(i) the current calendar year's capital gains estimate as described in the most recent official revenue estimate provided for in 5-5-227; and

(ii) the lowest reported capital gains income from any year within the most recent 7 years of available data, as published in the department of revenue's biennial report provided for in 15-1-205 and adjusted for inflation pursuant to subsection (7).

(b) "Capital gains volatile revenue" is calculated by multiplying the capital gains increment by the rate of tax established in 15-30-2103(2)(a)(ii).

(c) "Partnership increment" is the difference between:

(i) the current calendar year's rents, royalty, and partnership estimate as described in the most recent official revenue estimate provided for in 5-5-227; and

(ii) the lowest reported rents, royalty, and partnership income from any year within the most recent 7 years of available data, as published in the department of revenue's biennial report provided for in 15-1-205 and adjusted for inflation pursuant to subsection (7).

(d) "Partnership volatile revenue" is calculated by multiplying the partnership increment by the rate of tax established in 15-30-2103(1)~~(a)(ii)~~.

(6) (a) By August 1 of each year, the department of administration shall certify to the legislative fiscal analyst and the budget director the unaudited, unassigned ending fund balances for the most recently completed fiscal year of:

(i) the general fund; and

(ii) the budget stabilization reserve fund provided for in 17-7-130.

(b) If the sum of the ending fund balances for the general fund and budget stabilization reserve fund equal an amount less than 20% of all general revenue appropriations in the second year of the biennium, then the amount of the transfers in subsection (1) is reduced by 50% for the fiscal year.

(7) For the purpose of adjusting for inflation, inflation is based on the consumer price index as defined in 20-9-326, and as published by the bureau of labor statistics of the United States department of labor for the most recently completed calendar year."

Section 11. Section 53-25-118, MCA, is amended to read:

"**53-25-118. Tax on certain withdrawals of deductible contributions.** (1) There is a recapture tax at a rate equal to the ~~highest~~ rate of tax provided in 15-30-2103(1) on the recapturable withdrawal of amounts that were deducted from income in calculating Montana individual income taxes.

(2) For purposes of determining the portion of a recapturable withdrawal that reduced Montana individual income taxes, all withdrawals must be allocated between income and contributions in accordance with the principles applicable under section 529A(c)(3) of the Internal Revenue Code, 26 U.S.C. 529A(c)(3). The portion of a recapturable withdrawal that is allocated to contributions must be treated as derived first from

contributions, if any, that did not reduce Montana individual income taxes, to the extent of those contributions, and then to contributions that reduced Montana individual income taxes. The portion of any other withdrawal that is allocated to contributions must be treated as first derived from contributions that reduced Montana individual income taxes, to the extent of those contributions, and then to contributions that did not reduce Montana individual income taxes.

(3) (a) The recapture tax imposed by this section is payable by the designated beneficiary of the account from which the withdrawal or contribution was made. The tax liability must be reported on the designated beneficiary's income tax return and is payable with the income tax payment for the year of the withdrawal or at the time that an income tax payment would be due for the year of the withdrawal. The designated beneficiary is liable for the tax even if the designated beneficiary is not a Montana resident at the time of the withdrawal.

(b) The department of revenue may require withholding on recapturable withdrawals from an account that was at one time owned by a Montana resident if the designated beneficiary is not a Montana resident at the time of the withdrawal. For the purposes of this subsection (3)(b), amounts rolled over from an account that was at one time owned by a Montana resident must be treated as if the account is owned by a resident of Montana.

(4) For the purposes of this section, all contributions made to accounts by residents of Montana who are eligible for the deduction allowed under 53-25-117 are presumed to have reduced the contributor's Montana individual income taxes in the amount of the contribution, up to the maximum allowed by law, unless the contributor can demonstrate that all or a portion of the contributions did not reduce Montana individual income taxes. Contributors who claim deductions for contributions shall report on their Montana income tax returns the amount of deductible contributions made to accounts for each designated beneficiary and the social security number of each designated beneficiary.

(5) The department of revenue shall use all means available for the administration and enforcement of income tax laws in the administration and enforcement of this section.

(6) As used in this section, "recapturable withdrawal" means a withdrawal or distribution that is a nonqualified withdrawal."

NEW SECTION. **Section 12. Effective date.** [This act] is effective January 1, 2028.

NEW SECTION. **Section 13. Applicability.** [This act] applies to income tax years beginning after December 31, 2027.

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