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LB 664

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2019-20		**FY 2020-21**	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	$198,631	($5,532,000)	$96,000	($11,242,000)
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	$198,631	($5,532,000)	$96,000	($11,242,000)

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 664 amends the Nebraska Revenue Act of 1967 to create an income tax deduction for production activities. The deduction is available for tax years beginning on or after January 1, 2020, and is equal to 9% of the lesser of the qualified production activities of the taxpayer or taxable income. The deduction cannot exceed 50% of the W-2 wages of the taxpayer paid to employees for the taxable year.

Qualified production activities income equals the excess, if any, of domestic production gross receipts over the sum of the cost of goods sold allocable to such receipts and other expenses, losses, or deductions, other than the deduction under this section, allocable to such receipts. Domestic production receipts is also defined.

The bill contains provisions detailing applicability to partnerships and S corporations, trusts and estates, taxpayers who received payments from a specified agricultural or horticultural cooperative, and members of an expanded affiliated group. In addition, the amount allowable is reduced for taxpayers with oil related qualified production activities income.

The bill specifies the deduction is applied by only taking into account items attributable to the actual conduct of a trade or business. The Department of Revenue can adopt and promulgate rules and regulations.

Revenue:

The Department of Revenue estimates revenue to the General Fund as follows:

FY 19-20	($5,532,000)
FY 20-21	($11,242,000)
FY 21-22	($11,611,000)

Expenditures:

The Department of Revenue estimates the following administrative costs:

- A one-time programming charge of $102,831 to OCIO for mainframe and web development costs; and
- Expenditures for 1.0 FTE Auditor and 0.5 FTE Revenue Tax Specialist on an ongoing basis for a total cost of $93,800 in FY20 and $96,000 in FY21.

There is no basis to disagree with these estimates.

LB 664 Fiscal Note 2019

State Agency Estimate

State Agency Name: Department of Revenue					Date Due LFA:	2/14/19
Approved by: Tony Fulton		Date Prepared: 2/14/19			Phone: 471-5896	
	FY 2019-2020		**FY 2020-2021**		**FY 2021-2022**	
	Expenditures	Revenue	Expenditures	Revenue	Expenditures	Revenue
General Funds	$198,631	($5,532,000)	96,000	($11,242,000)	$94,000	($11,611,000)
Cash Funds						
Federal Funds						
Other Funds						
Total Funds	$198,631	($5,532,000)	$96,000	($11,242,000)	$94,000	($11,611,000)

LB 664 is a bill that reestablishes a production deduction similar to the Section 199 deduction that was eliminated under the Tax Cuts and Jobs Act. The following is a list of the subsections of the bill:

Subsection (1) For taxable years beginning or deemed to begin on or after January 1, 2020, the bill allows a reduction to federal adjusted gross income ("AGI") equal to nine percent of the lesser of the taxpayer's qualified production activities income ("Production Income") for the taxable year or taxable income, determined without regard to the new section for the taxable year.

Subsection (2). The deduction shall not exceed fifty percent of the taxpayer's W-2 wages, as defined in the Internal Revenue Code ("I.R.C.") and paid to employees, during the calendar year ending during the taxable year.

Subsection (3). Production Income for the taxable year is equal to the excess, if any of, the taxpayer's domestic production gross receipts ("Part One") over the sum of the cost of goods sold allocable to such receipts and other expenses, losses or deductions, other than deductions allowed under this new section, that are properly allocable to such receipts ("Part Two").

Domestic production gross receipts ("Production Gross Receipts") means the gross receipts of the taxpayer which are derived from any lease, rental, license, sale, exchange, or other disposition of: (1) qualifying production property manufactured, produced, grown, or extracted by the taxpayer in whole or in significant part within the United States; (2) any qualified film produced by the taxpayer; or (3) electricity, natural gas, or potable water produced by the taxpayer in the United States. It also includes certain construction of real property performed in the United States and certain engineering or architectural services performed in the United States.

Production Gross Receipts does not include the taxpayer's gross receipts derived from (1) the sale of food and beverages prepared by the taxpayer at a retail establishment; (2) the transmission or distribution of electricity, natural gas, or potable water; or (3) the lease, rental, license, sale, exchange, or other disposition of land. Production Gross Receipts also does not include any taxpayer gross receipts derived from property leased, licensed, or rented by the taxpayer for use by any related person. For purposes of the Production Gross Receipts of partnerships, if all the interests of capital profits are owned by members of a single expanded affiliated group the partnership and all members are treated as a single taxpayer during such period. Qualifying production property means tangible personal property; any computer software; and any property described in section §168 I.R.C. Qualified film is any property described in §168(f)(3) I.R.C., if not less than fifty percent of the total compensation relating to the production of such property is compensation for services performed in the United States by actors, production personnel, directors, and producers.

Subsection (4). This new section applies to partnerships and S Corporations. Each partner or shareholder will take into account their allocable share of each item described in the Production Income calculation without regard to whether the items in Part One of the Production Income calculation exceed the items in Part Two of the calculation. Partners and shareholders are treated as having W-2 wages for the taxable year equal to his or her share of the partnership or S corporation for the taxable year.

Subsection (5). For individuals under this section, adjusted gross income shall be substituted for taxable income and determined according to §§ 86,135,137, 219, 221, 222, and 469 of the I.R.C.

Subsection (6). Persons who receive a qualified payment from a specified agricultural or horticultural cooperative are allowed a deduction equal to the portion of the deduction allowed under Subsection (1) which is (1) allowed with respect to the portion of the qualified production activities income to which the payment is attributable; and (2) identified by the cooperative in a written notice mailed to the person during the payment period described in § 1382(d) I.R.C. Qualified payments are any amount which (a) is described in § 1385(a)(1) or (3) of the I.R.C.; (b) is received by such person from a specified agricultural or horticultural cooperative; and (c) is attributable to qualified production activities income with respect to which a deduction is allowed to such cooperative under Subsection (1).

Subsection (7). All members of an expanded affiliated group shall be treated as a single corporation under this section. Deductions under subsection (1) are allocated among members of the expanded affiliated group in proportion to each member's respective amount of qualified production activities income.

Subsection (8). This section is applied by only taking into account items which are attributable to the actual conduct of a trade or business.

Subsection (9). For taxpayers with oil related qualified production activities income, the amount allowable under subsection (1) shall be reduced by three percent of the least of: (i) the oil related qualified production activities income of the taxpayer for the taxable year; (ii) the qualified production activities income of the taxpayer for the taxable year; or (iii) taxable income, determined without regard to this section. Oil related qualified production activities income means qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during the taxable year.

The Department utilized the estimates provided by the Joint Committee on Taxation to estimate this bill. The estimated total reduction to the General Fund would be as follows:

FY 2019-2020	$	5,532,000
FY 2020-2021	$	11,242,000
FY 2021-2022	$	11,611,000

LB 664 would require a one-time programming charge of $102,831 paid to the OCIO for mainframe and web development changes. The Department would require 0.5 FTE Revenue Tax Specialist and 1.0 FTE Auditor to implement this bill.

Major Objects of Expenditure

Class Code	Classification Title	19-20 FTE	20-21 FTE	21-22 FTE	19-20 Expenditures	20-21 Expenditures	21-22 Expenditures
A21212	Auditor	1.0	1.0	1.0	$42,400	$44,800	$43,900
A29621	Revenue Tax Specialist	0.5	0.5	0.5	$25,900	$27,400	$26,800
Benefits					$22,500	$23,800	$23,300
Operating Costs					$102,831		
Travel							
Capital Outlay					$5,000	$0	$0
Capital Improvements							
Total					$198,631	$96,000	$94,000