



Fiscal Notes

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This goal of this publication is to provide background information on fiscal notes and their role in the legislative budget process. Included is information on how to request and review fiscal notes.

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What Is a Fiscal Note?

Fiscal notes put a price tag on proposed legislation, and are very important in the legislative process. A fiscal note should be an objective opinion on the change in expenditures and revenues that will result from a bill. Legislators need this information to make informed decisions on proposed legislation. A fiscal note may influence if a bill passes, if it fails, or if changes need to be made to the bill to adjust the cost or revenue.

Minnesota Statutes, Section 3.98 addresses fiscal notes. This legislation states that the head or chief administrative officer of each department or agency of the state government, including the Supreme Court, shall prepare a fiscal note at the request of the chair of the standing committee to which the bill has been referred, or the chair of the House Ways and Means Committee, or the chair of the Senate Committee on Finance.

MS 3.98 requires fiscal notes to include the following:

- Cite the effect in dollar amounts
- Cite the statutory provisions affected
- Estimate the increase or decrease in revenues or expenditures
- Include the costs which may be absorbed by the agency or program without additional funds
- Include the assumptions used in determining the cost estimates
- Specify any long-range implications
- The fiscal note may comment on technical or mechanical defects in the bill but shall not express opinions concerning the merits of the proposal

How to Request a Fiscal Note

In the House of Representatives, committee administrators request fiscal notes through the fiscal note coordinator, who is the committee administrator for the Ways and Means Committee or the fiscal analyst. The committee administrators of both the policy and finance committees should work with the appropriate fiscal analyst to determine how requests will be made to the fiscal note coordinator.

Ideally, the policy committee should have a copy of the fiscal note while the bill is being heard. If this is not possible because of time constraints, the fiscal note should be completed by the time the finance committee hears the bill.

Fiscal Estimates and Informal Fiscal Notes

At times the author of a bill may want to know the fiscal impact of a proposal before it is introduced as a bill. That member should discuss the proposal with the appropriate fiscal analyst. The fiscal analyst may be able to estimate the fiscal impact or discuss the proposal with agency staff in order to make a rough estimate of the fiscal impact.

It is also possible to obtain an informal fiscal note on the draft of a bill. The author of the bill should provide the fiscal analyst with the proposed legislation. This will be sent to the Department of Finance and then forwarded to the appropriate agencies for their input. The author and fiscal analyst will be notified of the estimated fiscal impact.

The Fiscal Note Process

The Department of Finance manages the fiscal note process. Once the Department of Finance receives a legislative request for a fiscal note, the bill will be reviewed and assigned to the appropriate state agency or agencies. Agency staff then prepares the fiscal note using the Department's guidelines. When the fiscal note is completed, the Executive Budget Officer (EBO) reviews the note for completeness, accuracy and objectivity. Once the EBO signs off on the fiscal note, the note is forwarded by e-mail to the chief author, the committee chair, the person who requested the note (in most cases this will be the committee administrator of the Ways and Means Committee), and the fiscal analyst for the area. Agencies usually have five working days to complete a fiscal note. This time frame can be much shorter if the note is requested as an emergency or when committee deadlines are approaching.

Fiscal notes will be posted to the Department of Finance web site (http://www.finance.state.mn.us/cgi-bin/fnts_session.pl). The posting will be done two days after the individuals listed above have received their e-mail copies, giving the author time to review the note before it is widely released. Fiscal notes from the past four legislative sessions will also be on the web site.

Does the Legislature have to abide by the numbers that the agencies use in fiscal notes?

The Legislature is not obligated by either law or rule to use the estimates in a fiscal note. The fiscal note is considered *advice* to the Legislature on what the Executive Branch thinks are the costs associated with a new program.

Many of the cost estimates contained in fiscal notes are straight-forward (for example, a bill may appropriate a specified amount for a grant program). However, a fiscal note may state that the agency administering a program will incur additional costs. The finance committee considering the agency's budget may decide that the agency already has enough resources to administer the program, and choose not to appropriate additional funds for program administration.

Fiscal Notes Format

A fiscal note can be very simple or it can be very complicated. For example, a fiscal note can be as short as two pages and involve only one agency, or the fiscal note may involve many agencies and run several pages. A good example of the latter is a fiscal note on the 2003 driving while intoxicated bill that was 21 pages, involved seven agencies, had an impact on local units of government and involved six different state funds.

A fiscal note is structured to include both a summary page and additional narrative pages. The narrative pages describe the bill, detail the assumptions that are used to develop cost and revenue estimates, address any local impact, and include any formulas that are utilized, and document references and sources that were used.

Single Agency Fiscal Note

If only a single agency is involved, the fiscal note starts with a summary page that shows the net impact to the state. This first page consists of a table listing net expenditures and revenues by fund, and showing the net cost or savings to the state (expenditures minus revenues). The summary page also includes a box that shows if there is a fiscal impact to the state, local units of government, fees or departmental earnings, and tax revenue. Finally, the summary page also shows the number of full time equivalents that will be needed to administer the proposal. The fiscal note displays this for both the current biennium and for the next biennium. Following this first page, narrative pages describe in further detail how the cost and revenue estimates were derived by listing the assumptions and formulas used.

Consolidated Fiscal Note

If the fiscal note involves more than one agency, it is called a consolidated fiscal note, and the first page will provide summary information for all agencies involved. Following the overall summary page, each agency will also have its own summary page and page(s) that will list the assumptions and formulas that it used to determine the agency figures. During the 2005 session the average number of agencies per fiscal note was 1.89.

The following tables give a more detailed look at the components of a fiscal note.

| Summary Sheet | |
|--|---|
| Headings | Description |
| The heading will read either fiscal note or consolidated fiscal note . | A fiscal note involves only one agency while a consolidated fiscal note means the note involves more than one agency. |
| Bill Number | Shows the bill number and version. |
| Completion Date | The date the fiscal note was signed off as completed by the Finance Department. |
| Agencies | A list of the agency or agencies impacted by the legislation. |
| Fiscal Impact | A table in the upper right corner of the fiscal note. The table indicates at a glance if the bill has a fiscal impact at either the state or local level, if the bill involves fees or departmental earnings, and if the bill involves tax revenue. If any of these factors are met, a box will be checked. |
| Expenditures | Estimated cost of the bill, presented by fund and agency |
| Amount Agency is Able to Absorb | Identifies costs the agency is able to absorb within its |

| Summary Sheet | |
|---|---|
| Headings | Description |
| | existing funding level. |
| Net Expenditures¹ | Expenditures less the amount the agency can absorb. |
| Revenues | Any revenue that the bill may bring in, listed by fund and by agency. |
| Net Cost or Savings to the State | Revenues are subtracted from the expenditures to determine the net cost or savings to the state. This is done by agency and by fund. |
| Total Cost or Savings to the State | The “bottom line” showing the net impact to the state. If more than one agency is listed, this combines them by fund. The fiscal implications will be for five years during the first year of a legislative session (FY07-11), and for four years during the second year of a legislative session (FY08-11). |
| Full Time Equivalents | The number of full time equivalent staff positions. A full-time equivalent position is 2,080 working hours per year. This does not include any consultant time. |

| Supporting and Narrative Pages | |
|---|---|
| Bill Description | A brief description of the part of the bill that will create a fiscal impact. |
| Assumptions | A list of the assumptions used to determine the impact of the bill. |
| Expenditure and/or Revenue Formula | Any formulas that are used to come up with the numbers in the fiscal note. |
| Long-term Fiscal Considerations | Addresses whether the fiscal impact will continue beyond the initial forecast period. |
| Local Government Costs | Local government’s costs, if any, should be identified and explained. |
| References/Sources | The person who had input into the fiscal note. |

¹ Remember all numbers in the fiscal note are in thousands (10=10,000)

| Supporting and Narrative Pages | |
|--|--|
| | Also includes any studies and references that were used to determine the fiscal implications of the bill. |
| Agency Sign-off | The name and phone number of the agency contact and the agency fiscal note coordinator. These are the appropriate agency staff to answer questions about the content of the fiscal note. |
| Executive Budget Officer (EBO) Comments | The EBO from the Department of Finance approves the fiscal note and may make comments on its contents. |

Local Impact

Often a piece of legislation will impact local units of government. The fiscal note manual requires any local government costs to be included in fiscal notes. However, many agencies simply check the box on the summary page showing that there is a local impact, but do not actually calculate the local costs.

Determining local costs is perhaps one of the more difficult areas in the fiscal note process. Local costs, if included, tend to be less accurate because they are much more difficult to estimate. A good example of a local impact is a bill that involves harsher criminal penalties. These penalties may have an impact on the local corrections system (more jail beds, county attorney time, etc.).

A separate process was established by the legislature to request a formal local impact note. Even though this statute for local impact notes (see M.S. 3.987-3.989 for the local impact note statute) is separate from the fiscal note legislation, the Department of Finance still views local impact statements as part of the fiscal note process. The chair or the ranking minority member of either legislative tax committee can request a local impact note. The Department of Finance has worked with local units of government to improve the collection of local fiscal impact information. The Department has established two committees to deal with the local impact; a county local mandate advisory committee and a city local mandate advisory committee.

The same individuals that receive fiscal notes will receive the local impact statements. The Department of Finance believes that many of the local impact statements will take longer to complete than fiscal notes and experience so far is proving this to be true.

Revenue Estimates for Tax Bills

Fiscal notes are not generally requested for tax bills unless the tax changes proposed in the bill are likely to have significant administrative costs. The revenue impact of a tax bill is summarized on a Revenue Analysis prepared by the Research Division at the Department of Revenue. A revenue analysis shows how a bill would change total tax collections; it does not include an estimate of the administrative costs of implementing the changes. To request either a revenue analysis or a fiscal note for a tax bill, contact one of the fiscal analysts assigned to the House Tax Committee. Completed revenue estimates can be found on the Department of Revenue web site http://www.taxes.state.mn.us/taxes/legal_policy/revenue_analysis/revenue_analyses.shtml.

How to Review a Fiscal Note

Fiscal notes are difficult to do because they project into the future. The person reviewing the fiscal note should be critical. Agencies are often under pressure to complete fiscal notes in a very short time frame and mistakes are made. Some agency staff may not be adequately trained in preparing fiscal notes. Many times the agency is providing its best guess. Other times agency staff may come up with a range, but since a range can not be used in the fiscal note, a number in that range will be used in the fiscal note.

There is a perceived tendency that agency personnel who do not like the legislation will project very high costs. On the other hand, if staff does like the bill, there may be a tendency to lowball the numbers for the fiscal note. If this is the case, the agency often comes back later to ask the Legislature for more funding for the project.

Agency cost estimates may vary greatly depending on the assumptions used. This problem is not unique to state government. For example, note the difference in how the Exxon-Mobil deal was valued by the national press.

How Much Was the Exxon-Mobil Deal really worth?

What's a few billion between friends? Major media outlets came up with different price tags for the largest merger in history that dominated business news headlines. Whether to include the value of assumed debt was one variable, along with the number of shares used in calculating the total. Here's a sampling:

| | |
|----------------------|----------------|
| Wall Street Journal: | \$75.3 billion |
| New York Times: | \$80.0 billion |
| Washington Post: | \$81.0 billion |
| Reuters: | \$76.0 billion |
| Associated Press: | \$73.7 billion |
| Newsday: | \$82.9 billion |

Source: Saint Paul Pioneer Press

Fiscal notes should be reviewed for accuracy, completeness and objectivity. When reviewing a fiscal note, consider several key points:

- Do the parties that are completing the fiscal note understand the author's intent? Agencies may have a different interpretation of the author's meaning, and this can affect the accuracy of the numbers.
- Are the assumptions clearly stated? If several agencies are involved in the fiscal note, are the assumptions the same for all agencies involved? The connection between the assumptions and the fiscal impact must be clear and logical.
- Does the fiscal note assume that the provisions of the bill will be carried out in the most efficient manner?
- Do the numbers look reasonable and realistic? Are the formulas correct?

- Do the assumptions take into account relevant budgetary, economic, social and demographic factors, and do agency staff take into account the latest research in the area? These factors are important because they could change the assumptions.² Agencies are encouraged to make assumptions and estimate costs even when uncertainty exists. The assumptions should be carefully reviewed to determine if the most likely scenario is selected.
- Does the fiscal note address future spending outside the current biennium (called tails)? At times, costs will be minimal the first year but will accelerate in future years.
- Is a local impact included? The local impact is an important part of the fiscal note and should be included whenever needed.
- If agencies are requesting new staff positions, the first year costs could be less than future costs because not all positions will be filled the day the bill takes effect. Also, are agencies using the appropriate step of the salary range for positions.
- If the legislation is creating a grant program and the agency is claiming administrative expenses, are these reasonable or even needed? Past experience shows a big difference for administration expenses in fiscal notes.
- Are all agencies included that may be impacted? The Department of Finance will send the fiscal note request only to the agencies it thinks are impacted, and may have missed an agency.
- Is the agency working on the latest amended copy of the bill, and is the fiscal note for the amended bill? This can be easily determined by looking at the summary page that includes the bill number and version (for example, HF200-3E is the third engrossment of House File 200).
- Any questions or concerns on fiscal notes should be directed to the appropriate fiscal analyst for further research on the issue.

Helpful Hints

For complicated fiscal notes, start with the agency pages, and then review the summary page.

It may also be helpful to set up a meeting of the major agencies involved in the fiscal note and

² A good example of this was the 3-Strikes legislation (if an individual has a third conviction for a violent felony he or she will go to prison for life). Several members felt the bed impact numbers were too high. House fiscal staff supplied the Sentencing Guidelines Commission with recent research on several states that had enacted this type of legislation. Because of this, Sentencing Guidelines cut their estimated bed impact in half.

Statistics on Fiscal Notes³

During the 2005 Legislative Session, there were 1,053 fiscal notes requested (during the 2003 session 639 fiscal notes were requested and during the 2001 session 1,327 were requested). Of the 2005 fiscal notes, 517 were requested by the House and 536 were requested by the Senate.

Of the 1,053 fiscal notes requested, 923 (88 percent) were completed, 60 (6 percent) were inactive, and 70 (6 percent) were incomplete.

The average number of agencies per fiscal note for the 2005 session was 1.89.

The average days to complete a fiscal note were 9 days (during the 2003 session it was 13 days).

How Can The Process Be Improved?

Fiscal notes can put a strain on agency resources, since it takes staff time to complete a fiscal note. Legislators and legislative staff can help the process by requesting fiscal notes only on those bills that have a fiscal impact. If a bill has no fiscal impact and a fiscal note is still requested, the agency must complete a fiscal note and explain in the assumptions why there is no fiscal impact.

§ If it is unclear if a bill has a fiscal implication and needs a fiscal note, contact the fiscal analyst of the committee. The fiscal analyst can determine if there is a fiscal impact and if a fiscal note is needed.

§ Request fiscal notes only on bills that are actually moving through the committee process.

§ If a fiscal note is needed, request it as soon as possible, preferably as soon as it is known that the bill will receive a hearing.

Further References

1. *The Fiscal Note Policy and Tracking System Manual*, Department of Finance (each fiscal analyst has a copy).
2. Money Matters, *A Glossary of Fiscal Terms and Acronyms*, November 2006 (also at www.house.leg.state.mn.us/fiscal/fahome.htm).

³ Fiscal note statistics from the Department of Finance.