



Fiscal Notes

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This publication provides information on fiscal notes and their role in the legislative budget process, including 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 if a bill is enacted. 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 costs or revenues. Not all bills need a fiscal note. Generally, in order to have the fiscal note process work best and to ensure that they have the proper fiscal notes or revenue estimates when they need them, legislators should remember:

- If it is unclear if a bill has a fiscal implication and needs a fiscal note, contact the fiscal analyst for 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.

Minnesota Statutes, Chapters 3.8853 and 3.98 deal with fiscal notes and the fiscal note process. These chapters state 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.

M.S. 3.98 requires fiscal notes “where possible” to do 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

In addition, Chapter 3.98 specifies that the fiscal note may comment on technical or mechanical defects in the bill but cannot express any opinions concerning the merits of the proposal

Chapter 3.98 also directs that agency heads must prepare fiscal notes consistent with the standards and procedures adopted by the Legislative Budget Office (LBO), authorized under Chapter 3.8853 (see below). It further requires that the LBO adopt standards and procedures for fiscal notes.

The statute goes on to require the distribution of fiscal notes to the chairs of the Ways and Means Committee of the House of Representatives, the Finance Committee of the Senate, the standing committee to which the bill has been referred, the chief author and to the Commissioner of Minnesota Management and Budget (MMB).

Fiscal Note Statutory Changes – 2012 & 2017

The 2012 legislature, in response to recommendations made by the Legislative Auditor in a program evaluation of the fiscal note system, enacted a new section in the state data practices act providing for, in addition to regular fiscal notes, both unofficial and confidential notes. Minnesota Statutes, Section 13.64 was amended to add a section which defines an “unofficial fiscal note” as one requested on behalf of a legislator for draft language for a bill which has not been introduced. The new section specifies that if the request for an unofficial fiscal note is accompanied by a directive from the requester that the data in the unofficial note be classified, that the data on the request, the bill draft and the unofficial fiscal note are private data on individuals or nonpublic data. The information is available to the requester and may be released publicly by them. However, the information in the confidential fiscal note also becomes public if the language on which the fiscal note is based is used subsequently for an introduced bill or made public as an amendment or provided for consideration in committee by any legislator.

In the 2017 legislative session, substantial changes were enacted affecting the fiscal note process. Legislation to establish the Legislative Budget Office (LBO) was enacted and a timeline established for that office to take over the process of producing and signing off on fiscal notes. On September 1, 2019 the LBO assumed responsibility for fiscal notes (see M.S. Ch. 3.8853). In most respects fiscal notes remain the same after the establishment of the LBO as they had been previously. They provide the same basic information in the same basic format and the information in the fiscal note is still provided by the agencies the notes are referred out to. However, the LBO is now in the responsible entity in law and performs the functions that were formerly the role of Minnesota Management & Budget. These duties include adopting uniform standards and procedures for completing fiscal notes, referring fiscal note requests out to the appropriate agencies, reviewing and signing off on agency submissions, and working with legislative and agency staff to ensure that completed fiscal notes are accurate and timely.

How to Request a Fiscal Note

In the House of Representatives, fiscal notes are requested through the relevant fiscal analyst or the committee administrator for the Ways and Means Committee. These are the only people authorized to initiate requests in the Fiscal Note Tracking System (FNTS). Legislators and Committee Administrators for both policy and finance committees should work with the appropriate fiscal analyst to determine when fiscal notes are needed and how requests will be made. This includes determining what type of request is being made, regular (for introduced legislation and amendments) or unofficial or classified (for language that has not been introduced).

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 informally 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. As mentioned above, 2012 statutory changes allow authors to request that these fiscal notes remain confidential prior to introduction of the language as a bill. The author of the bill should provide the fiscal analyst with the proposed legislation for the unofficial fiscal note. The unofficial fiscal note request is then referred to the appropriate agency or agencies for their input. In the case of a confidential note, only the fiscal analyst will receive notifications and completed notes.

The Fiscal Note Process

As mentioned, as of September 2019 the LBO manages the fiscal note process. Once they receive a legislative request through the FNTS system for a fiscal note, the bill is reviewed and assigned to the appropriate state agency or agencies. Agency staff then completes the fiscal note using program rules, formulas, assumptions about how the proposed legislation will be used or implemented, etc. When the fiscal note is completed, the appropriate LBO analysts reviews the note for completeness, accuracy and objectivity. Once the LBO signs off on the fiscal note, the note is forwarded by e-mail to the chief author, the committee chair, and the fiscal analyst for the area. In the case of a confidential note the completed fiscal note goes only to the requesting Fiscal Analyst who then sends it to the requesting member. The default time line for fiscal note requests gives agencies eight business days to complete fiscal notes. This time frame can be accelerated when the request is made if the note is an emergency or when committee deadlines are approaching. It may also be much longer for complicated or multi-agency fiscal notes. Authors should request a fiscal note as soon as legislation is in a final or near final form. However, some bills will go to multiple committees with substantive changes at each stop. In these cases it may be better to wait to request a fiscal note until most changes have occurred to avoid using agency staff time preparing multiple fiscal notes that will not be relevant to the final bill. In addition, fiscal notes involving forecasted programs usually should be completed after the last state budget forecast prior to possible enactment. Legislative fiscal analysts can help authors determine the need for, and best timing of, fiscal note requests.

Completed regular and unofficial fiscal notes are posted to the LBO web site (<https://www.lbo.leg.mn/fn/fiscalnotes.html>). The posting is available 24 hours 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 past legislative sessions are also available 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 the estimated costs and revenues associated with legislation.

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.

Similarly, there may be assumptions on program usage, rollout timelines, or formulas that assign costs to parts of a program that may be subject to discussion by the Legislature. The Legislature may choose to change or disregard fiscal estimates in some cases, however, this will usually be a source of close scrutiny and debate.

Effective dates are another area that affect fiscal notes and can cause debate between the Legislature and the Executive Branch agencies. The Department of Human Services in particular has sometimes incorporated lengthy delays in the assumed effective dates of legislation because they are not able to implement information technology system changes within the effective date proposed in the legislation. Delaying effective dates causes fiscal impacts to be realized later and push cost estimates further out in the planning horizon or even beyond it. Disagreement on when a policy will take effect creates uncertainty in cost and revenue projections.

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 to many pages. An example of the latter is the 2013 session fiscal note for HF 5, the enacting legislation for MNsure. The note was 47 pages long, included nine agencies, went through five separate versions and involved multiple state funds.

Fiscal notes are structured to include both a summary page and additional narrative pages. The narrative pages describe what the agency or agencies think the language of the bill does, detail the assumptions that are used to develop cost and revenue estimates, and quantify any additional personnel needs for implementation of the legislation, They may also address any local impacts,

include any formulas that are used to develop estimates, and document references and data sources used in the note.

Single Agency Fiscal Note

If only a single agency is involved, the fiscal note starts with a summary page that shows the net fiscal impact to the state. This first page consists of a table listing expenditures and revenues by fund, and shows 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. For consolidated fiscal notes, the first page will provide summary information for all agencies involved. Following the main 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.

The following table gives a more detailed look at the components included in 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. How to determine what version of a bill the fiscal note was prepared for: HF 0000 – 0 Bill as introduced HF 0000 – 1E First Engrossment HF 0000 – 1CE First Committee Engrossment HF 0000 – 1UE First Unofficial Engrossment HF 0000 – 1A First Amendment
Completion Date	The date the fiscal note was signed off by the LBO

Summary Sheet	
Headings	Description
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 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	Shows 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, and for four years during the second year of a legislative session.
Full Time Equivalents	The number of full time equivalent staff positions. A full-time equivalent position is 2,080 hours per year

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

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	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.
Legislative Budget Office (LBO) Analyst Comments	An analyst from the LBO approves the fiscal note and may make comments on its contents.

Local Impact Notes

Often legislation will impact local units of government. The fiscal note manual requires any local government costs to be included in fiscal notes. However, agencies usually 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. The increased penalties may have an impact on the local public safety costs (more jail beds, county attorney time, etc.).

A separate process was established by the legislature to request a formal local impact note. Even though there is a separate section of statute for local impact notes (M.S. Ch. 3.986-3.989) they are still part of the fiscal note process and under the duties of the LBO. The chair or the ranking minority member of either legislative Tax Committee, or the Committees on Ways & Means/Finance can request a local impact note.

The same individuals that receive fiscal notes will receive the local impact statements. Local impact notes are more complicated to produce and take longer to complete than fiscal notes.

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 in a Revenue Analysis prepared by the Department of Revenue as authorized in Minnesota Statutes, Chapter 270C.11, Subd. 5. 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 at <https://www.revenue.state.mn.us/revenue-analyses>.

How to Review a Fiscal Note

Because fiscal notes are estimates of costs, revenues, staffing, and implementation procedures and timelines going into future budget periods, the results include some amount of uncertainty. This, and the advisory nature of fiscal notes, means there can be differing opinions or debate on the accuracy of the stated budget impacts. There has often been a perception by legislators that cost estimates are influenced by whether the agency supports or opposes the particular proposal. This view has not been clearly shown to be the case with specific fiscal notes. The fiscal note process is designed with multiple inputs and reviews by fiscal analysts, agency staff and LBO analysts. Also, the finished product is used by multiple parties in the legislative process including legislators and non-governmental entities and interest groups. This helps to ensure that completed fiscal notes represent the best available conclusions. However, occasionally errors, new data, language clarifications or other additional information may affect the accuracy of fiscal notes. In these cases, sign off on the fiscal note by agencies or the LBO maybe removed and the fiscal note revised to correct the issue.

In general, users should review fiscal notes for accuracy, completeness and objectivity. When reviewing a fiscal note, readers should 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 if possible? The local impact is an important part of the fiscal note and should be included whenever needed.
- Are staffing costs reflected accurately? 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 wide range of estimates among agencies and programs for administrative expenses in fiscal notes.
- Are all agencies that may be impacted included? The LBO will send the fiscal note request only to the agencies they think are effected and may have missed an agency.
- Is the fiscal note for the correct version of the 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.

² A good historical example of this was three-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 91st Legislature (2019-20 sessions) there were 1,591 fiscal notes requested by legislative staff. Of these 984 were requested by the House and 607 were requested by the Senate. This is the total number of individual requests, many of these were assigned to more than one agency.

Of the 1,591 requests, 1,123 (70.6%) were completed. The remaining 468 requests (29.4%) were either inactivated by fiscal analysts or not completed by one or more agencies and not signed off by the LBO.

Fiscal Note Requests

In the 2019 and 2020 sessions, 10 agencies had more than 100 fiscal note requests during the two year period. Requests for these high volume agencies is shown in the table below.

Agency	2019-20 Fiscal Notes Assigned
Human Services	433
Public Safety	257
Health	215
Supreme Court	196
Minnesota Management & Budget	175
Education	150
Commerce	148
Corrections	116
Transportation	112
Natural Resources	100

References

1. Fiscal Note Uniform Standards and Procedures, Legislative Budget Office, October, 2020
<https://www.lbo.leg.mn/fn/documentation/LBOUSP.pdf>
2. Money Matters, *A Glossary of Fiscal Terms and Acronyms*, December 2014,
<https://www.house.leg.state.mn.us/Fiscal/Home/MoneyMatters>
3. *Fiscal Notes Evaluation Report*, Office of the Legislative Auditor, February 2012,
<http://www.auditor.leg.state.mn.us/ped/2012/fiscal.htm>

³ Fiscal note statistics are from FNTS and do not include confidential notes.

