

Chapter 2 Preparing a Fiscal Note

A. Why is an Agency assigned to a Fiscal Note?

Agencies are generally assigned to a fiscal note for the following reasons: (1) receiving an appropriation in the bill, (2) collecting money in the bill, (3) administering a program or grant in the bill, (4) changing agency statutes in the bill, or (5) having the most knowledge on the subject of the bill.

If you are aware of an agency that could be affected by proposed legislation other than those assigned to the fiscal note, please contact Mary Crosson at 651-201-8042 or mary.crosson@state.mn.us as soon as possible so the agency may be contacted to prepare a fiscal note.

B. Role of Agency Fiscal Note Coordinator

Primary responsibility for preparation of prompt, accurate fiscal notes rests with the agency fiscal note coordinator. The fiscal note coordinator acts on behalf of the commissioner or agency head.

Specifically, a fiscal note coordinator is expected to manage their agency's fiscal note process by:

- Training appropriate agency staff on the fiscal note process and requirements;
- Monitoring the Fiscal Note Tracking System (FNTS);
- Obtaining a copy of the bill for which a fiscal note has been requested;
- Working with knowledgeable agency program and fiscal staff to obtain information as required for preparation of quality fiscal notes, which may include contacting fiscal staff or legislators to seek clarification on bill language and possible fiscal note assumptions;
- Ensuring that fiscal notes are completed within specified time lines;
- Supervising entry of fiscal note data into FNTS;
- Reviewing fiscal notes for accuracy, objectivity, reasonableness, completeness (including clear explanations and justifications for assumptions), and format;
- Coordinating preparation of a fiscal note with other agencies when a consolidated fiscal note has been requested and leading the coordination when the agency is designated as the lead agency; and
- Contacting local government organizations for fiscal impact estimates, where feasible, when proposed legislation affects local government units.

C. Copies of Bills

Agencies are responsible for obtaining a copy of the bill for which a fiscal note has been requested. Bill language is typically available in the FNTS, but can also be obtained from the House Index, Senate Index, or the Legislature's Internet Homepage (<http://www.leg.state.mn.us/>). If a fiscal note is requested on an amendment or a bill not readily available, Minnesota Management & Budget will provide agencies with the amendment or bill needed to prepare the fiscal note. The message on the fiscal note request will indicate when and how an amendment will be provided. The message may also indicate what has changed from a prior version of the bill, when the request is similar to another bill from the current or a previous session, and when the request is limited to specific sections of the bill.

D. Fiscal Note Due Dates

Legislative staff assigns a due date to each fiscal note at the time of request. "Due date" is defined as the date a completed fiscal note is to be returned to the Legislature, not the date that an agency should be

finished preparing their note. Generally, a completed fiscal note is due to the legislature within eight (8) working days, but individual deadlines may vary. Requests designated as urgent will be due to the legislature within four (4) working days. Occasionally, fiscal note turnaround time may be as little as one working day. Shorter turnaround times on fiscal note requests can be expected around committee deadlines. Coordinators should routinely check due dates and committee hearing schedules and communicate with EBOs and fiscal analysts to help manage priorities and adjust internal agency procedures as necessary to comply with compressed timelines. Legislative committees may delay hearing a bill until a completed fiscal note has been delivered. On fiscal notes due within 24 hours, each agency coordinator will be contacted by telephone, in addition to the FNTS email notification.

E. Fiscal Note Basics

- The primary objective of a fiscal note is to provide the best possible estimate of expenditure, revenue, and staffing impacts of proposed legislation given a short turn-around time. It should be factual, informative, and concise, with fiscal estimates that are transparent, adequately explained, justified, and documented. Fiscal notes are to be objective and not used to influence the outcome of a bill. A fiscal note should help the Legislature make an intelligent, informed decision on the potential costs of a bill based on the best facts available.
- Read the bill carefully and compare to existing statutory language. Look carefully for repealer clauses at the end of the bill.
- A fiscal note should focus on the fiscal implications of only the bill in which the fiscal note is requested, without consideration of other proposed legislation or speculation beyond the language actually contained in the bill.
- Clearly specify ALL agency assumptions because it is possible for more than one set of assumptions to be made from the same bill particularly when the provisions in the bill are either uncertain or permissive. Assumptions should be clearly and adequately explained and justified.
- Do not use an inflation factor to increase costs in future years for FY 2016-17. Fiscal estimates are to be stated in known costs for the FY 2014-15 biennium.
- Be as clear as possible and avoid the use of jargon and acronyms. The fiscal note narrative is intended to communicate to a general audience.
- The fiscal note may comment on mechanical or technical defects of the bill, but comments or opinions relative to the bill's value are not appropriate. The fiscal note should not be biased by the agency's position on the legislation. Agency concerns or positions on the bill should be made through other means, such as testimony, meetings, or letters to legislators.
- Information entered into the Fiscal Note Tracking System can be viewed by all system users regardless of the status of the fiscal note.
- Fiscal notes are not official until they are distributed by Minnesota Management & Budget. Agencies should not distribute fiscal notes directly. However, agencies may share preliminary fiscal notes with legislative staff to facilitate communication. These fiscal notes should clearly be marked "Preliminary."
- Work papers utilized in the preparation of fiscal notes should be maintained for at least two years following the applicable legislative session.
- An agency's ability to prepare objective, accurate, and factual fiscal notes affects its credibility with the legislature.

F. Special Circumstances in Fiscal Note Preparation

1. Bill Intent Clarification

In cases where an agency is not familiar with a particular bill, the wording of a bill may necessitate contact with the chief author to clarify intent. An agency should contact the requesting committee fiscal analyst as soon as possible, citing the bill language that needs clarification or the chief author. The committee fiscal analyst or the chief author should be able to provide sufficient information about

the intent to allow the agency to make assumptions. All assumptions used to develop the fiscal note should be stated clearly, transparently, adequately explained, and justified in the supporting narrative section of the fiscal note. A list of Legislative Members and Committee Fiscal Analysts with their telephone number and e-mail address is available on-line in the FNTS.

2. **Fiscal Impact Cannot Be Determined**

Agencies are encouraged to make assumptions and estimate costs even when uncertainty exists. The Fiscal Implications table of the fiscal note should identify the single fiscal estimate that reflects the most likely scenario or, if the agency is unable to identify the most likely scenario, a likely scenario. In the supporting narrative section, an agency can identify a range of possible expenditures or revenues linked to alternative scenarios. An agency should respond with a statement that “The fiscal impact cannot be determined” only in those rare cases when no data exists to support a reasonable set of assumptions. For example, it may be difficult to obtain relevant information from other states, studies or pilot programs with some large-scale, complex, or unprecedented proposals. Before making the determination that the fiscal impact is undeterminable; however, an agency should attempt to obtain the information necessary to develop estimates by calling the chief author or committee fiscal analyst. If the agency is still unable to obtain sufficient information to prepare an accurate fiscal note, they should prepare the fiscal note in the following method:

- a. Check “Yes” for state fiscal impact in the Fiscal Impact Indicators section if it is understood that there will be a cost, but the cost cannot be quantified.
- b. Identify the fund for the expenditures or revenues in the Fiscal Implications section (if possible).
- c. Explain “The fiscal impact cannot be determined because . . . ” in the supporting narrative section. The agency should specify the factors that prevent them from preparing an accurate fiscal note. The agency also should explain relevant information about the fiscal impact that may assist policymakers in considering costs and benefits.

3. **Bills Containing an Appropriation or Blank Appropriation Amount**

If a fiscal note is requested on a bill containing an appropriation or the appropriation amount is blank, the agency should estimate revenues and expenditures without regard to the amount of the appropriation. An agency should make its own evaluation of what would be required if the bill is enacted into law and becomes a responsibility of the agency.

When an appropriation is contained within the bill, do not simply assume that the dollar amount in the bill equals the program’s cost; even though the dollar amount stated may very well be the funding level at which the Legislature will expect the agency to operate the activity. In the supporting narrative, the agency should indicate the operational level that can be performed with the appropriation amount stated in the bill.

Your agency’s estimate of expenditures and revenues should appear in the Fiscal Implications section of the fiscal note even if it is different than the appropriation amount stated in the bill. If your estimate and the bill appropriation are different include an explanation of the difference between the two amounts in the supporting narrative section.

If the bill appropriation amount is blank and the bill language is vague, contact the chief author or the requesting committee fiscal analyst for more information. See Bill Intent Clarification and Fiscal Impact Cannot Be Determined paragraphs above.

4. **Funding Provided in a Budget Bill**

If a fiscal note is requested on a bill where funding is provided in a budget bill, estimate expenditures and revenues without regard to the amount of funding provided in the budget bill. The budget bill amount should be referenced in the supporting narrative along with an explanation of any differences.

5. No Fiscal Impact

If the proposed legislation has no fiscal impact on your agency or local government unit, check “No” for all the Fiscal Impact Indicators. The explanation and assumptions leading to a “No fiscal impact” response should be adequately documented in the supporting narrative section.

6. Bills Involving More Than One Agency (Consolidated Fiscal Notes)

When a bill involves more than one agency, each agency is requested to prepare a fiscal note detailing the fiscal impact related to its own operations. To present a comprehensive picture of the fiscal implications, the completed notes are sent to the legislature as one package referred to as a “consolidated” fiscal note. Consolidated fiscal notes contain a system generated fiscal implications summary identifying the expenditure, FTE, and revenue impact to each fund and agency affected by the legislation.

Fiscal notes involving multiple agencies should be developed using the same set of assumptions for all agencies (e.g., caseload, duration of impact, meaning of bill language). The agency with the greatest perceived impact by the bill will be designated as the “lead agency.” **In addition to preparing a fiscal note, the lead agency (through its fiscal note coordinator) is responsible for coordinating the fiscal note with the other assigned agencies.** When appropriate, the EBO for the lead agency will contact the agency to discuss the approach and relevant assumptions. The lead EBO will communicate the lead agency’s approach and relevant assumptions to other EBOs, as needed.

Communication and coordination is necessary to avoid contradictory assumptions, double counting, or omissions. Common consolidated fiscal note errors include the following: (1) overlap of information; (2) no coverage of the cost of a new commission or advisory council; (3) different workload numbers or assumptions; and (4) conflicting assumptions on staffing, rates, or revenues.

The EBO assigned to the designated lead agency is responsible for reviewing the “consolidated” fiscal note. **Conflicting assumptions among individual fiscal notes will delay the distribution of the consolidated fiscal note to the Legislature.**

7. Fiscal Notes Involving Capital Projects and Bonding

Fiscal notes involving capital projects and bonding will be assigned both to Minnesota Management & Budget and to the agency that will have responsibility for operating the proposed capital project. Minnesota Management & Budget through its fiscal note coordinator, Dennis Munkwitz, is responsible for preparing the portion of the fiscal note relating to bonding and debt service costs. The other assigned agency is responsible for preparing a fiscal note for ongoing operating costs (e.g., utilities, custodial) that would be incurred if the proposed capital project were approved.

Agencies should not include the capital appropriation amount in the fiscal implications section, but should identify the amount in the supporting narrative of the fiscal note. If there is a difference between the capital appropriation amount in the bill and the amount needed to complete the project, this difference needs to be stated in the supporting narrative. Capital projects include construction or major remodeling of state buildings and other state facilities, purchase of land or a building, park development, etc.

8. Bills Involving Local Government Units or Political Subdivisions

Fiscal notes on bills with possible local impact are to be prepared by the designated state agency in cooperation, where feasible, with one or more of the following local government contacts:

Association of Minnesota Counties

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| Jim Mulder | (651) 224-3344 | jmulder@mncounties.org |
| Scott Simmons | (651) 224-3344 | ssimmons@mncounties.org |

League of Minnesota Cities

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|-------------------|----------------|--|
| Rachel Walker | (651) 281-1236 | rwalker@lmc.org |
| Jennifer O'Rourke | (651) 281-1261 | jorourke@lmc.org |

Association of Townships

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|----------------|----------------|--|
| Dave Fricke | (763) 497-2330 | dfricke@mntownships.org |
| Eric Hedtke | (763) 497-2330 | ehedtke@mntownships.org |
| Dan Greensweig | (763) 497-2330 | dgreensweig@mntownships.org |
| Kent Sulem | (763) 497-2330 | ksulem@mntownships.org |

Minnesota School Boards Association

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| Bob Meeks | (507) 934-2450 1-800-324-4459 | bmeeks@mnmsba.org |
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Minnesota Inter-County Association

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| Keith Carlson | (651) 222-8737 Cell: (612) 759-9442 | keithc@mica.org |
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Information provided by local government organizations should be included under Local Government Costs in the supporting narrative section. State agencies are expected to cooperate with local government organizations in estimating the local fiscal impact of proposed state legislation, but fiscal notes should not be delayed when local government organizations do not respond within the time allotted for preparation of a fiscal note. Also see **Local Impact Notes** section on page 14.

9. Bills Involving Pensions

Fiscal notes on pension bills should be completed using the standard fiscal note format. The front table should only be a reflection of the bill's direct impact on the state budget. Narratives should discuss the long-term implications of the bill, particularly how the bill affects unfunded liabilities. The narrative should also discuss the effect on actuarial required contributions. This information should be presented in tabular format within the narrative under the Expenditure and/or Revenue Formula section. Impacts to local governments should be discussed in the Local Impact section and should include actual estimates if they are available.

10. Bills with Technology Impacts

If a bill clearly has a technology impact, MMB will assign the fiscal note to the impacted agency as the lead and the Office of Enterprise Technology for response. In certain cases, it may not be apparent in the bill language that there is a technology impact; however, when an agency is putting together their response they may determine costs related to technology. In all cases, fiscal notes with a technology related impact must be reviewed and approved by the agency's chief information officer (CIO) prior to submission to MMB. Fiscal note coordinators should work with their agency CIO to ensure this review occurs.

During the EBO review process, EBOs will ask agencies if the CIO has approved the fiscal note. If the agency CIO has not reviewed the note, agencies will be instructed to take that step.

11. Constitutional Amendments

MMB will assign these fiscal notes to the Secretary of State as the lead agency and to any agencies impacted by the amendment. Only the costs of adding the question to the ballot should be included in the table on the cover of the fiscal note. Potential impacts, if the amendment were to pass, should be presented in a table within the narrative under the Expenditure and/or Revenue Formula section.

12. Contingency Bills

Bills that provide funding to continue operations in the event legislation is not enacted by July 1 of an odd number year should be handled as follows:

- a. The table should not reflect costs unless there are NEW costs to the state.
- b. Existing costs should be discussed in the narrative of the fiscal note, but not reflected on the table.
- c. Cost estimates should be reflected in bi-weekly amounts.
- d. Agencies should consult their 2012 shutdown plans as a resource.
- e. If the bill does not include appropriation language, agencies should work with the bill author to ensure legal authority exists for funds to be available to support the activities of the bill.
- f. Agencies should consider central service agency work that may be necessary to support the bill (ex: payroll, accounting, technology support). If an impacted central service agency is not on the bill, please contact Mary Crosson at mary.crosson@state.mn.us to have them added.

13. Fiscal Notes That Cannot Be Completed by the Due Date

Occasionally, a bill is so lengthy or detailed that a reasonable estimate cannot be completed by the due date. If, after reviewing the legislation, an agency finds that it cannot prepare a fiscal note by the due date, they should contact the fiscal note requester. Indicate to the requester why additional time is needed and when the fiscal note will be completed. If the requester agrees to a later due date, it is the responsibility of the requester to change the due date in the system. Agencies are also encouraged to use the FNTS message feature to explain a delay so that other FNTS users interested in the note will be notified of the delay. Agencies are expected to make every effort to complete these fiscal notes by the agreed upon due date.

14. Central Service Agency Responses of Behalf of Multiple Agencies

In certain cases, central service agencies such as the Department of Administration, Office of Enterprise Technology and Minnesota Management & Budget, may be asked to respond to a fiscal note on behalf of multiple agencies. In these cases, whenever possible, the central service agencies should work with impacted agencies to develop and review the assumptions and expenditure formulas used in the fiscal note. In cases where a cost impact to state agencies is apparent, but is not able to be estimated, agencies should follow the instructions found in the "Costs Cannot Be Estimated" section of this chapter.

15. Fiscal Notes on Amended Bills

Agencies should prepare fiscal notes on the latest version of a bill for which a fiscal note has been requested, unless specifically instructed to do otherwise. When a fiscal note request is placed in FNTS, the legislative requester will indicate whether the bill is an original, amendment, engrossment, or unofficial engrossment. Because the legislative process often moves rapidly (particularly during the latter part of a session), the version or status of any given bill may change between the time of the request and the point at which the actual bill analysis is made. Since agency personnel usually learn of bill changes before Minnesota Management & Budget, agencies are to take the initiative in preparing fiscal notes on the latest version of a bill. In all instances, agency fiscal note coordinators are responsible for indicating in the system the particular bill version for which a fiscal note is being prepared.

16. Legislation That Did Not Make Committee Deadlines

If a fiscal note is requested on a bill that subsequently does not make it past a particular committee deadline, Minnesota Management & Budget will not cancel a fiscal note request made by a legislator or legislative staff member. The agency should contact the requester of the fiscal note for information related to the need to complete the note and prioritize the completion of that fiscal note with other requests. Until the individual who requested the fiscal note makes the request “inactive,” Minnesota Management & Budget expects the fiscal note to be completed.

17. Agencies with No System Access

An agency with no access to the Fiscal Note Tracking System (FNTS) is designated as a manual agency and will prepare a fiscal note using a Fiscal Note Worksheet. FNTS will automatically e-mail a Fiscal Note Worksheet to a manual agency, notifying them of a fiscal note request. The agency will prepare the fiscal note and transmit the completed worksheet to Minnesota Management & Budget unless another agency does entry for the agency. If Minnesota Management & Budget is entering the fiscal note for a manual agency, the completed worksheet should be e-mailed to Mary.Crosson@state.mn.us. Once the fiscal note is entered into the system, Minnesota Management & Budget will email the manual agency a copy of their fiscal note.

18. Agency Not Responding to a Fiscal Note Request

If an agency does not respond to a fiscal note request by the specified due date, Minnesota Management & Budget, at its discretion, may sign off for the agency. This scenario will most likely happen on a consolidated fiscal note where the agency has been repeatedly notified and the bill is being heard in committee shortly. Minnesota Management & Budget will sign off for the agency with the following comment in the narrative: *"The agency did not respond to the fiscal note request by the specified due date."* After the assigned EBO has signed off on the fiscal note, it will be transmitted to the legislature.

19. Common Fiscal Note Errors

- Indicating “No State Fiscal Impact” when there are estimated costs associated with the bill that the agency is willing to absorb within existing appropriations. The “Agency Can Absorb” section below discusses how to reflect these costs in the note.
- Expenditures for salaries and benefits without an associated FTE impact.
- Expenditures for salaries without expenditures for benefits.
- Not including indirect costs for non-general funded programs or activities.
- Revenue displayed by the agency spending it rather than the agency collecting it.
- Agencies preparing fiscal notes on the same bill (consolidated fiscal note) failing to communicate and coordinate with each other, resulting in different assumptions, double counting, or omissions.
- Highly technical narrative not appropriate for a general audience.
- Agencies not completing fiscal notes before the due date, allowing time for EBO review and comment. Whenever possible, agencies should allow 24-48 hours for EBO review prior to the due date.

20. Local Impact Notes

Minnesota Statutes, sections 3.986 through 3.989, govern preparation of local impact notes. The 1997 Omnibus Tax Act contained “local mandates” provisions intended to improve the quality of information available to legislative committees. By identifying the local fiscal impact, the provisions also help the tax committees consider the property tax implications of new state actions. The law makes Minnesota Management & Budget responsible for coordinating the production of local impact notes.

Similar to its role in administering state fiscal notes, Minnesota Management & Budget serves a coordination and review function for local impact notes. At the request of the chair or ranking minority member of the legislative committees on taxes, the House Ways and Means Committee and the Senate Finance Committee, Minnesota Management & Budget must coordinate the development of

reasonable and timely estimates of the fiscal impact of proposed legislation and rules on political subdivisions. The statute spells out which types of mandates are covered and which are exempt from the impact estimation process.

After Minnesota Management & Budget receives a local impact note request from a tax committee chair or ranking minority member, a letter is sent out confirming the receipt of the request. Local governments and their representative associations are then contacted for necessary data or cost estimates. Minnesota Management & Budget examines the information provided by local governments and creates a statewide cost estimate. The cost estimate is prepared on a modified fiscal note template. It includes an analysis summary, an explanation of the proposed legislation, a detailed analysis of the cost estimate, and a listing of the entities that contributed information for the estimate.

The local impact note contact at Minnesota Management & Budget is Bryan Dahl, Executive Budget Officer. Phone: 651-201-8031.

21. Fiscal Notes on Language Not Yet Introduced

A fiscal note can be requested on proposed bill language before it is introduced. The requester or MMB will assign a “generic” bill number to the request and enter it into FNTS. The requester will send a copy of the proposed language which MMB will attach in FNTS and email a copy to the agencies assigned if necessary. The note should be prepared and signed off just like any other fiscal note.

22. Fiscal Notes on Language Marked “Private”

This is a unique circumstance in which a requester would like a note prepared but would like it to remain private. These particular notes will **not** be entered into the fiscal notes system, but will be prepared offline. The procedure for requesting and completing such a note is as follows:

- 1) Legislative staff will request a fiscal note via email to MMB. All pertinent information such as committee, author (if known), due date, etc., will be conveyed in the request email. A copy of the bill language will be attached to the email.
- 2) MMB will read the language and determine which agencies are affected. A fiscal note worksheet and the bill language will be sent to the assigned agencies and their respective executive budget officer. All pertinent information regarding the note, including messages from the requester, will be included in the email notification.
- 3) Agencies will prepare the note within the time allotted using the worksheet. When the worksheet is completed, agencies will email it to their executive budget officer for sign off.

All information regarding the fiscal note is classified as private until the author makes a determination to have it become public or the legislation is considered for legislative action.

In the case of a consolidated note, the lead EBO should coordinate with everyone to incorporate the individual notes into one completed note. The lead EBO should email the completed note back to the requester.