

FISCAL NOTE TRAINING MANUAL

OFFICE OF BUDGET AND PROGRAM PLANNING
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INTRODUCTION

This manual is prepared by the Office of Budget and Program Planning to serve as a guide and instructional manual for those involved in the preparation of Fiscal Notes. Part I describes the requesting, routing, and handling of fiscal notes. Part II describes the preparation of the fiscal note. Part III is the fiscal note template which gives detail regarding fiscal note formats.

The most notable addition to the fiscal note process is the Family Impact Statement. The Family Impact Statement was created by HB 625 in the 1999 legislative session. When requested, the note will be in the form of an addendum to the standard fiscal note. The note is intended to show both the financial and any other type of impact that a bill might have on an average Montana family.

Statutory provisions regarding fiscal notes may be found in 5-4-201 through 5-4-210, MCA.

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PART I

ADMINISTRATIVE PROCEDURES

(Routing and handling)

According to 5-4-201, MCA, fiscal notes are required on all bills reported out of committee having an effect on the revenues, expenditures or fiscal liability of the state or of a county or municipality, except appropriation measures carrying specific dollar amounts. The process is designed to provide an objective fiscal analysis of bills for use in public hearings and legislative deliberations. Appendix A lists the applicable statutes governing the fiscal note process.

Work flow and time limits: Fiscal notes follow a statutory six-day processing loop and 24 hour period for sponsor review. The loop consists of:

- DAY 1
 - Senate/House staff decide whether a fiscal note is required.
 - The Speaker or President sends a fiscal note request to the OBPP

- DAY 1-2
 - OBPP fiscal note coordinator logs in the request, determines agencies affected by the bill, and notifies these agencies of the request and due date.

- DAYS 2-4
 - Agencies review the request, draft a fiscal note and complete any internal review process. Drafts are returned to OBPP as soon as possible.

- DAY 4-5
 - OBPP fiscal note coordinator logs receipt from each agency and notifies the appropriate budget analyst.
 - Budget analyst reviews the draft, rewrites if necessary, and compiles information on multiple agency notes.
 - Draft is reviewed and edited

- DAY 6
 - Budget Director completes final review and signs
 - The completed fiscal note is transmitted to the originating house.

The bill sponsor has 24 hours to review the completed fiscal note and sign. During this time the sponsor may:

- Review and sign the note, which is then sent to be printed;

- Disagree with the note and/or seek explanation. At this point a meeting may be arranged to discuss the note with OBPP and sometimes the agency or agencies. As a result of this meeting, the note may be resubmitted or deemed not to need changes;
- Sponsor can elect to prepare as "Sponsor's Fiscal Note", which will be printed as a companion to the official OBPP fiscal note.
- If not signed within 24 hours, the note is printed without a signature.

After this process is completed a printed fiscal note will be distributed. This printed note, complete with the necessary signatures, provides the official version of the fiscal impact of the bill (and version) on which it was prepared.

This process can begin anew if at any point significant amendments are adopted.

Requests for fiscal notes: Fiscal notes must be requested by the presiding officer of either house, who determines the need for the note at the time of introduction, based on the Legislative Services Division staff recommendation, or later based on changes to the bill.

The Standing Committee to which any bill requiring a fiscal note is referred may hold the bill until the fiscal note has been prepared and submitted. If the presiding officer of either house does not request a fiscal note on a bill or resolution having a fiscal impact or amendments have been adopted to change the likely fiscal impact, the committee considering the bill may notify the presiding officer, who would then request a fiscal note for the bill as originally introduced or amended.

Either the sponsor or a majority of the members of the house in which a bill is to be considered may request, through the presiding officer, a fiscal note at the time of the second reading.

A fiscal note request from the presiding officer and accompanied by a copy of the bill requiring a fiscal note, is sent to the budget director.

When it is determined that a fiscal note which has been prepared previously is in need of revision because of amendments or other changes to the original bill, a revised fiscal note may be requested by the presiding officer on another request. Agencies may advise that a revised fiscal note is needed through either the OBPP fiscal note coordinator or the chair of the committee hearing the bill. OBPP will be reviewing amendments to bills to determine if a revised fiscal note is required. If a revised

request is necessary, a letter is sent to the appropriate house advising them. A new request is sent to the OBPP.

Assigning, completing, and reviewing fiscal notes: The budget director and OBPP staff determine the state agency or agencies likely to be affected by each legislative proposal that requires a fiscal note.

The Department of Revenue will be assigned most estimates of the impact of proposed taxation legislation on state revenue from any source. In a case where proposed legislation would have an impact on both revenue and expenditures, the agency or agencies affected by the expenditure change will prepare expenditure estimates, and the agency most knowledgeable will prepare the revenue impact statement. In such a case, the separate expenditure and revenue estimates will be returned to the budget director, who will prepare a single fiscal note on the basis of the estimates provided.

Once the assigned agencies are determined, an OBPP fiscal note coordinator will telephone (or e-mail) the primary contact of the assigned agency or agencies regarding the request. If the primary contact is not available, the secondary contact person will be contacted. If both are unavailable, a message will be left by voice mail, e-mail, or with a receptionist, and a return call or e-mail will be requested to confirm receipt of the original request. If the request is received after 5 PM or on Saturday, fiscal note contacts may be called at home.

Fiscal note requests frequently will be routed to more than one agency for response. Each agency must respond to the fiscal note request by completing a draft note to reflect the anticipated effects on its agency.

Electronic copies of bills will be available on the Internet using the LAWS system. Make sure the version of the bill you use is the same as the version for which the fiscal note is requested. The fiscal note templates will be maintained on the OBPP guest directory at (Gov_Adm_001/sys/guest/session/template/template.doc) and be available for agency use for fiscal note preparation. The agency will complete the electronic fiscal note templates and return the completed version to OBPP within 2-4 days from the day of assignment. (Directions for accessing these directories can be obtained by contacting an OBPP fiscal note coordinator.) If you have problems connecting to the OBPP guest directory contact Mike Walsh at x4915.

Upon receipt of the worksheet and the fiscal note from the agency, and preparation of the fiscal note by OBPP staff, the budget director will review all the information, make appropriate revisions, complete and sign. The final fiscal note, signed by the budget

director, will be prepared in three copies – original and a copy going to the presiding officer requesting the fiscal note, and a copy remaining with the budget director.

Sponsor review of fiscal note: Upon receipt of the completed fiscal note, the presiding officer notifies the sponsor of the bill that the fiscal note has been completed and is available for review. Within 24 hours following notification, the sponsor must: 1) sign the fiscal note; 2) request additional time, not to exceed 24 hours, to consult with the budget director or OBPP staff on the fiscal note; or 3) elect to prepare a sponsor's fiscal note.

Sponsors who disagree with a fiscal note are invited to review the derivation of the estimates with OBPP staff within the available 24-hour period. In these cases, sponsors have been advised to contact OBPP staff. The OBPP staff person responsible for the note may arrange a meeting with appropriate agency personnel to review the draft fiscal note. Revisions to the note resulting from this meeting, if any, will be incorporated into a revised draft that will be presented to the requesting body for printing.

If the sponsor concurs with the completed fiscal note prepared by the budget director, the presiding officer refers the completed fiscal note prepared by the budget director to the committee considering the bill. If the bill is printed, the note is reproduced and distributed to the members.

If the sponsor requests additional time to consult with the budget director, the presiding officer notifies the sponsor and the budget director of the additional allotted time, not to extend beyond 24 hours. As a result of discussions with the sponsor, the budget director may submit a revised fiscal note to the presiding officer, or the sponsor may notify the presiding officer that he concurs with the original fiscal note, or the sponsor may elect to prepare a sponsor's fiscal note.

At the time specified, the presiding officer must refer the original or, if revised, the revised fiscal note to the committee considering the bill. If the bill is printed, the note is reproduced and distributed to the members.

A sponsor may elect to prepare a sponsor's fiscal note. Such notes must be prepared through the presiding officer and returned to the presiding officer within 4 days of the election to prepare a sponsor's fiscal note. The presiding officer may grant additional time to the sponsor to prepare the sponsor's fiscal note. Upon receipt of the completed sponsor's fiscal note, the presiding officer refers it to the committee hearing the bill. If the bill is printed, the note must be identified as a sponsor's fiscal note, reproduced, and distributed to the members.

Coordination of fiscal impact: Please remember that while the fiscal note is intended to identify financial impact, it **does not** automatically provide appropriation authority or FTE authorizations. It is each agency's responsibility to track requests for the spending authority, which usually are coordinated through OBPP spreadsheets and amendments to the general appropriations act in the free conference committee. Upon passage and approval of a bill, spending authority is sometimes amended into HB 2 by the Senate.

PART II

PREPARATION OF FISCAL NOTES

Contents of fiscal notes: Fiscal notes must be factual in nature. They should estimate increase or decrease in revenues or expenditures for each of the next two fiscal years, costs which may be absorbed without additional funds, source of funding for increased costs, and the fund into which additional revenues will be deposited. Fiscal notes can also show the effect on county or other local government revenues or expenditures, and, so far as possible, the long-range financial implications. Comments or opinions relative to merits of the bill are prohibited and will not be tolerated. However, technical or mechanical defects should be noted, but these must cite specific problems or conflicts.

Estimates contained in fiscal notes should be fully explained. These explanations should be made as concise as possible without eliminating essential information. Assumptions used to prepare the estimates must be clearly stated. Computation of estimates should be shown through the attachment to the note or through notes on the final trailing page of the completed note. It should be possible for the budget director to verify the estimates presented given this documentation.

Where it is impossible to arrive at a dollar estimate, a statement to that effect should be included. Such statements must include the reason it is not possible to arrive at a dollar estimate and some indication of the potential magnitude (e.g. insignificant, minor, or major impact that cannot be estimated from available data).

A complete file of all worksheets and supporting data on proposals which have been analyzed should be maintained. This information will be valuable for the agency's current use and will serve as a basis for making revised estimates on similar proposals in future legislative sessions.

The fiscal note prepared by OBPP and signed by the budget director is the official statement about the bill. The budget director reserves the right to change agency drafts as appropriate prior to signing the note. Agency personnel, therefore, should not distribute inconsistent estimates and/or agency fiscal note drafts.

Finally, if a bill is vague in its intent and the resulting lack of clarity makes it difficult or impossible to prepare a fiscal note, the budget director should be contacted for clarification or possible options should be written in the technical notes. This will facilitate rapid and comprehensive preparation of fiscal notes. Under no circumstances may correcting the bill or any proposed amendments to the bill be incorporated into a fiscal note prior to their official adoption. The note should reflect the exact wording of the version of the bill for which the note was requested.

Required format of a fiscal note: The most important step for the completion of a fiscal note is the development of a clear understanding of the bill. The bill should be thoroughly understood before one begins a fiscal note. Read, reread and discuss the bill until the changes from current law are clear. Equipped with this knowledge, and possibly some notes, drafting can begin.

The standard fiscal note form or template consists of eight sections. Each of these sections is to be completed if applicable. Fiscal notes will be prepared in Microsoft Word97 or Word 2000.

- 1) **Fiscal Summary** - The fiscal summary is designed to provide all essential information contained in the fiscal note at a glance. Fill in the bill number, and bill status in the spaces provided. Bill numbers should use all four numerical digits (e.g. the introduced version of HB2 should be entered as HB0002). The status or version will typically be "as introduced", but revised/amended notes will reflect second, third or conference committee reading versions. The sponsor's name should be entered in the appropriate space.

Next is a table listing the expenditures and revenues by fund and the net impact to the general fund. This is a summary of the more detailed table or tables presented later. Finally, six check boxes which indicate whether the note contains comments relative to local government impacts, technical concerns, long-range impacts, if the fiscal impacts have been included in the executive budget, if a dedicated revenue, or if the bill needs an appropriation in HB 2 in order to implement the bill. Items should be checked YES if there

is discussion of the item under the appropriate heading later in the note for local government impact, technical concerns, or long-range impacts.

- 2) **Assumptions** - Each item that is necessary to compute a fiscal impact should be listed as a separate assumption. Each assumption should be limited to one idea and be written as a concise sentence. Assumptions should be structured to follow the steps used to prepare the estimates. Parenthetically note derivation of numbers and/or the source of the assumptions at the end of the assumption. For present law, use the Martz Executive Budget Recommendation for expenditures and the Revenue and Taxation Committee assumptions for revenues.

If the bill imposes a new requirement on an agency, please cite workload measures that are implicit in the expenditure estimates (e.g., an FTE can process 1000 applications per year, 2000 applications will result from passage of the bill, therefore 2.00 FTE are required). This information provides credibility and will be required by the appropriation committees.

1. Assumptions explain how to calculate the numbers in the tables. All statements must be important to the calculation.
2. Assumptions can summarize key features of the bill when those features are important to the calculation.
3. Assumptions are not facts of the bill unrelated to the costs or other non-fiscal information.

- 3) **Fiscal Impact** - Separate estimates are required for expenditures and revenues and should be presented as separate fiscal impact subsections. These subsections should be organized to present expenditure impacts first, to be followed by revenue impacts, and finally the net effect section.

Expenditure detail should be presented at first level and properly funded by program. Revenues should be presented by revenue source and provide fund detail. The net effect of the revenue and expenditure changes should be noted in the summary. Net impacts should be computed by subtracting expenditure impacts from revenue impacts; hence, a positive number will indicate an increase in fund balance.

Paragraph explanations are unacceptable except in those cases where numerical estimates are not possible. If the bill has no fiscal impact it may be so stated in the assumptions and the table deleted.

These tables should be easily computed from the listed assumptions. Recognizing this requirement will eliminate questions and possibly your involvement in sponsor meetings on fiscal notes or amended versions of the bill.

- 4) **Effect on local government expenditures and revenues** – If a bill has a fiscal impact on local governments, it should be noted in this section. However, time constraints and difficulties estimating these impacts make this section less formal than the state fiscal impact section. Short paragraphs indicating an impact are acceptable in this section. To the extent defensible estimates are possible, include them. If the impact is significant and the bill does not provide a specific means to finance the requirement the following statement should be included in this section of the note:

"This bill may require local governments to spend additional sums for which no specific means of financing are provided. Section 1-2-114, MCA, provides that bills that have such an impact may not be introduced,"

Trigger this warning only when the impact is material or substantial.

1. Local government impact explains the fiscal impact of the bill to local government units. The impacts can be expenditures or revenue impacts.
2. Impact to local taxpayers should be included here.

- 5) **Long-range Impacts** – This section must be completed when fiscal impact is markedly different in future biennia than current (e.g., phased-in revenues or expenditures, sunseting). The long-range financial implications should attempt to estimate the fiscal impact for a period of five fiscal years after the effective date of the proposed measure. Estimates should be made in terms of dollars per fiscal year. If, after careful investigation and analysis, you find it impossible to arrive at a dollar estimate, the fiscal note should contain a statement setting forth why dollar estimates cannot be provided. If the proposed legislation could have significant long-range effects that might not be ordinarily anticipated, these should be mentioned in the fiscal note and quantified whenever possible.
- 6) **A technical and/or mechanical defect notes** – The technical note section provides an opportunity to point out defects in the bill. Generally items included in this section should be limited to bill drafting errors such as internal reference conflicts, conflicts with unamended statutes, undefined

terms, etc. Care must be taken to avoid using this section to lobby for or against the bill.

1. Use sparingly.
2. Point out inconsistencies in the bill.
3. Explain that "X" is not accomplished in the bill when it apparent that "X" was intended.
4. Point out technical problems with implementation.
5. When it seems that the drafter intended to give revenue to an agency but there is no appropriation in the bill, note that if the bill intends to give the additional revenue to the agency an appropriation is needed.
- 6.

7) Dedication of state revenue review – A fiscal note for any bill that proposes to dedicate revenue or create a new state special revenue account must contain an analysis of the proposed account. A series of questions contained in law must be answered to complete this requirement. A separate template is included which, if applicable, must be attached as the last part of the fiscal note template.

8) Family Impact Note – In accordance with Title 5, Chapter 4, part 5, MCA, these new notes also may be requested. A series of questions contained in law must be answered, if possible. A separate template is included and must be attached if requested by the sponsor through the presiding officer to the committee considering the bill.

9) Fiscal note naming convention – The standard naming convention must be followed on all electronic fiscal note drafts. All draft fiscal notes sent to OBPP should be named using the following convention:

Senate Bills – Sxxxaaaa.vv

House Bills – Hxxxaaaa.vv

Where Sxxx or Hxxx is the bill number, "aaaa" is the agency number of the agency completing the draft, and vv is the version of the bill to which the fiscal note applies. This version number is printed on the bill as an extension to the bill number in the upper right hand corner of the bill. When completing the dedicated revenue attachment, add a -dr after the "aaaa". When completing the family impact attachment, add a -fam after the "aaaa".

Legislation imposing new local government duties: Senate Bill 135 of the 1995 session created a requirement that a bill could not be introduced if it requires a local government to expend additional funds without a specific means to finance the

requirement. The current procedure for identification of these bills is the bill sponsor's judgment and recommendations of the legislative council bill drafters. Since OBPP does not see most bills until they have been introduced we cannot give notice if a bill might be covered under this provision. However we have primary responsibility for the development of fiscal notes and must be ready to prepare a fiscal note in cooperation with a local government unit affected by the bill. The budget director has ten days to prepare the estimate.

The Legislative Services Division notifies sponsors of bills that may have an impact on local governments when the bill draft is returned to the sponsor for review. The sponsor may request a fiscal note on local government impacts at that time by submitting a copy of the applicable draft with a written request for the note. These requests will be logged and processed by OBPP in a manner similar to fiscal notes on introduced bills except only local government impacts will be analyzed.

A special template is available in the OBPP guest directory for LCs on which a local government impact fiscal note will be prepared. A check box on the front of the template states whether the bill would place a significant burden on local governments for which no specific means of financing have been provided. The following paragraphs provide guidance concerning when a burden is "substantial" and when a "specific means of financing" has been provided.

Section 1-2-112, MCA defines as insubstantial and impact of less than approximately 1/10 mill. For counties on a statewide basis this is approximately \$220,000. For a major city this is approximately \$10,000.

Section 1-2-112, MCA allows a specific means of financing may be provided by:

- an increase in existing authorized mill levies, all-purpose mill levy or, special mill levy.
- payment of state money

PART III

FISCAL NOTE TEMPLATES

Copies of the templates are available on the OBPP Guest server for the preparation of fiscal notes. These include the Fiscal Note Template, the Local Government Fiscal Impact Template, the Dedication of Revenue Template, and the Family Impact Statement Template.