Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Room 029 State Capitol, Denver, CO 80203-1784
Phone: (303) 866-3521 • Fax: (303) 866-3855
lcs.ga@state.co.us • leg.colorado.gov/lcs

Memorandum

January 1, 2020

TO: Agency Fiscal Note Coordinators

FROM: Bill Zepernick, Fiscal Notes Manager, 303-866-4777
Erin Reynolds, Principal Fiscal Analyst, 303-866-4146

SUBJECT: 2020 Fiscal Note Common Policies

Summary

This memorandum describes the common policies for submitting a response to the Legislative Council Staff, and the standard costs to be used in estimating the fiscal impact of legislation considered during the 2020 legislative session. This document and a summarized version is also available online at the General Assembly's website. For information specific to bills with a criminal justice system impact, see Fiscal Analysis of Bills with Criminal Justice System Impacts under Fiscal Note Resources.

Contents

Summary 1
Overview 1
Common Policies for Fiscal Note Responses 3

Overview

Fiscal note purpose and use. The fiscal note is a decision-making tool for members of the General Assembly. It provides an independent analysis of the estimated state and local government impact(s) of a bill based on information received from affected agencies and other sources. As such, it represents an official estimate of the legislature, not the executive branch. Fiscal notes serve to inform, but are not legally binding documents.

Confidentiality. All draft bills and amendments sent to affected agencies for fiscal review are confidential until introduced. Agency staff are expected to respect this confidentiality and review the bill only for fiscal impact. Agency staff that receive confidential bill drafts should never discuss the drafts with people outside of the agency except they may coordinate their response with the other agencies that were canvassed on the bill. In-house review should be limited to people working on the estimated fiscal impact.

Deadlines during session. To be useful, fiscal notes must be available before a bill is heard in committee. A fiscal note must be provided to the sponsor at least 48 hours before the hearing and to the committee at least 24 hours before the hearing. Legislative Council Staff will communicate deadlines for agencies to provide fiscal note responses based on the scheduled or anticipated committee date. In situations where the scheduling of bills in committees limits the time available for fiscal analysts to review the work of executive branch agencies and to complete their own analysis, agencies may be asked to send preliminary information or a partial response. Agency staff should notify fiscal note staff when original deadlines cannot be met. Likewise, fiscal note staff will notify affected agencies when deadlines change as soon as that information becomes known.

Revising fiscal notes. Fiscal notes are revised as needed in order to provide an updated estimate of a bill's impact at each stage of the process. Agency staff are asked to identify when new information substantially changes a prior response or when amendments change the fiscal impact of a bill. All adopted amendments are available online and can be found by searching for the respective bill number here. Agency staff that were not initially canvassed on a bill are welcome to provide information as well.

Agency fiscal note responses. At a minimum, an agency's fiscal note response should include the following items:

- an explanation of the sections of the bill driving the fiscal impact;
- an estimate of the least cost option to implement the bill;
- justification for the use of any non-standardized costs (include any relevant back-up materials);
- the statutory name of all fund(s) affected;
- the assumptions made to arrive at the estimate, including the reasons for using those assumptions, if applicable;
- a separate Excel-based worksheet showing all calculations;
- a description of any workload impacts not requiring an appropriation; and
- a description of the line items impacted or calculations showing the changes to any line items.

It is important that each cost estimate be fully justified in a narrative accompanying the agency's worksheet, including the data and evidence used. This is especially true for estimates of future costs to implement a bill that rely on assumptions made with limited or no data. Impacts that are not justified will not be included in the fiscal note. Please submit the agency's narrative response as a Word, PDF, or Excel document. A separate Excel spreadsheet should be used to show calculations; **please do not send calculations in PDF form**. If a bill has no fiscal impact, please include the basis for such assessment using the response form or a brief email. A standard response template and worksheet will be provided and agencies are encouraged to use these forms.

Departmental differences. The fiscal note provides an objective analysis of the bill's fiscal impact using information provided by the department and relevant outside information gathered by the fiscal analyst, which may at times differ from the information submitted by one or more affected agencies. Legislative Council Staff will attempt to resolve any significant differences with agency staff prior to publishing a fiscal note and, if necessary, include any departmental differences in the fiscal note to show the department's estimate and explain why it was not used in the fiscal note.

Technical errors and omissions. Generally speaking, fiscal notes do not describe any potential technical errors or omissions related to a bill. Agency staff may provide information related to such issues in their fiscal note response, but they may find it more useful to share that information with the agency's legislative liaison, especially if the issue implies a need to seek changes to the bill. Technical issues with a bill will be discussed in the fiscal note only to the extent they impact the fiscal estimate or assumptions used.

Common Policies for Fiscal Note Responses

Legislative Council Staff has adopted the following common policies as the basis for estimating the fiscal impact of proposed legislation considered during the 2020 session. An agency must provide justification for any costs to support a particular program that differ from these policies.

Personal Services Expenses

Wages. Wages should be identified for each new FTE based on the state personnel system or as contract personal services in accordance with the Internal Revenue Service (IRS) definition of an independent contractor. New FTE requirements should be rounded to the nearest 0.1 FTE. For example, 0.25 FTE should be shown as 0.3 FTE. As a minimum threshold, FTE for regular state employees will not be included for workload that is less than 208 hours (0.1 FTE) in a fiscal year.

FTE is an expression of the number of months of salary paid in a given fiscal year. This policy applies to salary, all Public Employees' Retirement Association (PERA) contributions, and all insurances. For positions funded with cash and/or federal funds, the number of months worked is the same as the number of months paid. As a result of the General Fund pay date shift, positions funded by the General Fund are paid one month less than the number of months actually worked in the first fiscal year only; positions that are paid bi-weekly do not experience the pay date shift.

Personal services cost estimates will be based upon entry-level wages for positions effective July 1, 2019, by the Department of Personnel and Administration (DPA) Compensation Plan or the applicable department exempt salary schedule for FY 2019-20. Agencies that do not use the DPA compensation plan should provide the applicable department exempt salary schedule along with the fiscal note worksheet. Any wage costs above entry level will require sufficient justification.[1] Salary survey increases and/or performance-based pay awards are not included, so the first fiscal year cost estimate will be used for future fiscal years.

Prorating first-year impacts. First-year revenue and expenditure impacts will be prorated to reflect a bill's effective date, taking into account the paydate shift where applicable. For example:

- Bills that take effect following a 90-day referendum period will be reflected in the first year as covering 10 months (10/12ths of the fiscal year).

[1]Section 24-50-104 (1)(f), C.R.S.

- Salary and benefit costs for bills that take effect July 1 and create a need for new FTE paid from the General Fund will reflect 11 months in the first year, in accordance with the pay date shift (11/12ths of the fiscal year).[2]

- Bills that have a 90-day clause and create a need for new FTE paid from the General Fund will be prorated to reflect 9 months (9/12ths of the fiscal year).

Temporary labor. Temporary labor may be appropriate if legislation requires either temporary services or a seasonal program. Cost estimates for temporary positions will be based upon the equivalent entry-level wages of permanent state positions and should include state costs for PERA and Medicare contributions.

Hours per 1.0 FTE. The personal services cost estimate for 1.0 FTE will be based on 2,080 hours per year, except for certain functions in the Department of Law, which will be based on 1,800 billable hours per year.

Medicare. Medicare contributions for new state employees will be calculated at 1.45 percent of the employee's annual salary.

PERA. Cost estimates for state and local contributions to PERA will be based upon the following average rates as a percentage of the employee's annual salary.

Table 1
Employer Contribution Rates to PERA

Personnel Category	FY 2020-21	FY 2021-22*
State/School Employees	10.90%	10.90%
Safety Officers	13.60%	13.60%
Judges	14.41%	14.41%
Local Government	10.50%	10.50%

** Subject to change under automatic adjustment provision of SB 18-200.*

Operating and Capital Outlay Expenses

A minimum of 0.5 FTE is required to qualify for a prorated portion of annual operating and one-time capital outlay expenses, shown in the table below. Capital outlay costs are based on the position and, if the minimum threshold has been met, should be rounded up or down to the nearest whole FTE.

[2]Section 24-50-104 (8), C.R.S.

Table 2
One-Time and Ongoing Operating and Capital Outlay Expenses per 1.0 FTE

Cost Component	Cost per 1.0 FTE	Notes
Standard Operating (Ongoing)		
Supplies	$500	Supply and telephone costs are prorated based on the number of months worked in a given fiscal year and carry over annually.
Telephone	$450	
Software	$400	Ongoing costs to subscribe/lease software should be prorated for the number of months worked.
Standard Operating Subtotal (Ongoing)	**$1,350**	
Capital Outlay (One-Time)		
Computer	$1,200	Costs are one-time and based on the average cost of a standard computer or laptop.
Cubicle/Workstation	$5,000	Costs are one-time and based on standard office furniture and associated electrical and data cabling.
Capital Outlay Subtotal (One-Time)	**$7,200**	
First Year Total	**$8,550**	
Future Years Total	**$1,350**	

Travel expenses. Reimbursement for state employees traveling in a personal vehicle while on official state business shall be calculated at 90 percent of the prevailing IRS mileage reimbursement rate. When authorized as necessary for official state business, the reimbursement for four-wheel-drive vehicles shall be calculated at 95 percent of the prevailing IRS mileage reimbursement rate, and 40 cents per nautical mile for privately owned aircraft.[3] Mileage reimbursements are rounded to the nearest cent for each mile traveled.

As of January 1, 2020, the reimbursement rate is $0.52 per mile for standard vehicles and $0.55 per mile for four-wheel-drive vehicles. Changes to these rates will be posted online here.

Centralized administrative expenses. For legislation requiring central services, human resources, fleet vehicles, and/or finance and procurement, departments are requested to coordinate with DPA to estimate the fiscal impact and to determine whether an appropriation is needed.

Information Technology (IT) Expenses

Where appropriate, departments should coordinate with the Governor's Office of Information Technology (OIT) to develop estimates for IT-related fiscal impacts prior to responding to a request from Legislative Council Staff. As the majority of IT expenses are addressed through statewide

[3] Section 24-9-104, C.R.S.

common policies or direct billings by the OIT, most fiscal notes will only show costs for telephone service, one-time computer and software purchases, and contract staff. If additional IT expenditures are determined to be required, these will be shown as requiring a direct appropriation to the impacted department, with funds reappropriated to the OIT. Any new FTE will be shown as being directly allocated to the OIT. Unless otherwise specified in a department's current contract or proposal, the following rates will apply for contracted personnel:

IT Service	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Computer Programming (Established Systems)	$108	$112	$115	$120
Computer Programming (Emerging Systems)	$170	$175	$180	$185
Project Manager	$141	$148	$152	$156
Business Systems Analyst	$120	$123	$127	$131
Network Administrator	$111	$114	$117	$120

Legal Expenses

Legal services. Where appropriate, agencies should coordinate with the Department of Law in developing cost estimates for legal services. Legal services rates for the Department of Law will be based upon a blended rate of $106.60 per hour for the purchase of services by attorneys and paralegals. FTE calculations include an administrative staff component, which is included in the billable hourly rate. Legal expenditures will be shown as requiring a direct appropriation to the impacted department, with funds and FTE reappropriated to the Department of Law. Legal services should be expressed both in terms of hours and costs. Legal services impacts of less than 100 hours are considered to be minimal and will not be included in the bill's appropriation.

Administrative law judges. Cost estimates for administrative law judge services provided by the Office of Administrative Courts should be coordinated with DPA. Estimates should take into account that DPA allocates each department's total annual administrative law judge appropriation based upon historical usage ratios.

Earnings

The investment earnings rate for funds held by the State Treasurer is estimated to be 2.0 percent for FY 2019-20, 1.75 percent for FY 2020-21, and 1.5 percent for FY 2021-22.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain expenditures are not appropriated along with other items resulting from a change to a state program, but instead are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills. The rates identified below shall be used to calculate these expenses for any new FTE. A fiscal note response that uses different rates must include a description of why those rates differ from these common policies.

The centrally appropriated items include:

- group health, life, and dental insurance for new employees: use department-specific average cost for HLD per employee, as estimated by the Department of Personnel and Administration;
- short-term disability: 0.17% of salaries for FY 2020-21;
- amortization equalization disbursements (AED) and supplemental amortization equalization disbursements (SAED): 10.0% of salaries for FY 2020-21 and beyond;
- leased space: $6,600 per FTE ($30 per square foot, 220 sq. feet per FTE based on state space standards); and
- indirect costs: estimated by department.

Although not appropriated in the bill, these items will be included in calculating the cost or fee where appropriate. Indirect costs should not be used to cover the other expenditures listed above. Agencies should provide a description of any indirect rates or costs assessments and how they are calculated.

As a general rule, funding for the items noted above will not be identified in a fiscal note as requiring a separate appropriation unless the fiscal note identifies a need for at least 20.0 new FTE to implement the bill. If an agency is affected by multiple bills that increase staff by more than 20.0 FTE, Legislative Council Staff, in consultation with Joint Budget Committee Staff, may begin indicating the need for these costs to be included in individual bills, rather as centrally appropriated costs. For any bills where these costs may be included, agencies should identify the estimated cost of each item and provide a justification for the estimate.

Continuing Programs Set to Repeal (Sunset Bills)

Bills that continue a program that is set to repeal will be assessed as having a fiscal impact once the program would have repealed and ceased operations under current law. The fiscal note will show the change from current law, even if there is no change from current practice. For regulatory agencies and functions, state law allows agencies to be appropriated funds to complete the affairs of an expiring program for 12 months following the repeal date, for the purposes of winding up affairs. For these programs, the fiscal impact will be shown as beginning one year after the repeal date. For advisory councils, statute requires a sunset review, but does not allow for a wind-up period in the budget; therefore, the impact will be shown in the year immediately following the repeal date. [4]

Fiscal notes will show no need for additional appropriations where a program's authorization has not yet expired, ongoing funding has been included in the Long Bill or an agency's base budget request, and the bill makes no changes to the program's requirements. In these instances, the fiscal note will identify the program's ongoing costs and staffing for informational purposes only.

[4] Sections 24-34-104 (5)(b) and 2-3-1203, C.R.S.