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MEMORANDUM

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TO: Agency Fiscal Note Coordinators
FROM: Chris Ward, Fiscal Note Manager
SUBJECT: 2012 Common Policies for Fiscal Note Responses

This memorandum describes the common policies for submitting a response to Legislative Council, and the standard costs to be used in estimating the fiscal impact of legislation considered in 2012. For additional information about the fiscal note process, please refer to the Fiscal Note Guidelines (Attachment A).

Fiscal Note Response Expectations

The fiscal note response should:

- include a plain language summary and analysis of the proposed bill and its impact on your department;
- estimate the least cost alternative to implement the bill;
- identify base resources for existing programs;
- identify the statutory name of all fund(s) affected;
- provide a complete job description of any new FTE;
- include copies of relevant attachments, e.g., contracts, bids, studies, etc;
- include the assumptions made to arrive at your estimate; and,
- show all calculations in an Excel spreadsheet.

It is important that each estimate of cost be fully justified in a narrative accompanying your worksheet, including the data and evidence used. In many circumstances, estimates of future costs are dependent on assumptions you make about the implementation of the bill, but for which you may not have collected data.

Common Policies for Fiscal Note Responses
2012 Legislative Session
(Revised November 2011)

The Legislative Council Fiscal Note staff has adopted the following common policies to provide a basis for estimating a bill's fiscal impact.

**These policies should be considered guidelines for estimating fiscal impacts.
An agency may always provide justification for any costs to support a
particular program that differ from these policies.**

Personal Services

Wages. Wages should be identified for each new full time equivalent (FTE) based on the state personnel system or as contract personal services in accordance with the Internal Revenue Service 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.**

Personal services cost estimates will be based upon entry level wages for positions effective July 1, 2011, by the Department of Personnel and Administration (DPA) Compensation Plan or the applicable department exempt salary schedule for FY 2011-12. If your agency does not use the DPA compensation plan, please provide the applicable department exempt salary schedule along with your fiscal note worksheet. Any costs above entry level will require sufficient justification¹. 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 pay-date 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.)
- 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 (Section 24-50-104 (8), C.R.S.)
- 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**.

¹Section 24-50-104 (1) (f), C.R.S.

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.

Public Employees' Retirement Association (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.

Personnel Category	PERA Contribution Rates FY 2012-13	PERA Contribution Rates FY 2013-14
State/School Employees	10.15%	10.15%
State Troopers	12.85%	12.85%

Operating Expenses

Total operating expenses will be based upon a rate of \$5,653 for each new 1.0 FTE, except as noted below. A minimum of 0.5 FTE is required to qualify for a pro-rated portion of annual operating and one-time capital outlay expenses, shown in the table below.

- **Computer and Software.** The average state cost for one personal computer equipped with a network adapter and standard suite of office software totals \$1,230 per 1.0 FTE. Department of Law staff require specialized equipment and software, which totals \$3,013 per 1.0 FTE.
- **Capital Outlay for Cubicle and Workstation.** Under certain conditions, agencies are required to purchase office furniture and systems from the Department of Corrections, Correctional Industries. The average state cost for a full cubicle setup and workstation is \$3,473 per 1.0 FTE.

Cost Component	Allowable Cost
Supplies*	\$500
Telephone*	\$450
Computer	\$900
Standard Suite Office Software	\$330
Capital Outlay for Cubicle/Workstation	\$3,473
TOTAL	\$5,653

* Carry over annually as allowable cost.

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 Internal Revenue Service (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 50 cents per nautical mile for privately-owned aircraft. Mileage reimbursement are rounded to the nearest cent for each mile traveled.

As of July 1, 2011, the reimbursement rate is \$0.50 per mile for standard vehicles and \$0.53 per mile for four-wheel-drive vehicles. Changes to these rates will be posted online at <http://www.colorado.gov/dpa/dfp/sco/FiscalRules/mileage.htm>.

Information Technology (IT) Expenses

As the majority of IT expenses are addressed through statewide common policies or direct billings by the Governor's Office of Information Technology (OIT), most fiscal notes will only show annual telephone service, one-time computer and software purchases, and contract staff costs. IT expenditures will be shown as requiring a direct appropriation to the impacted department, with funds reappropriated to the OIT. Any new FTE will be directly allocated to the OIT. Unless otherwise specified in a department's current contract or proposal, the following rates will apply for contracted personnel:

- computer programming services - \$74 per hour,
- project manager - \$100 per hour,
- IT business analyst - \$86 per hour, and
- network administrator - \$65 per hour.

Legal Expenses

Administrative Law Judges. DPA allocates the total annual administrative law judge appropriation to each department based upon historical usage ratios. The department then conducts a mid-year review of actual usage compared to departmental allocations and submits a statewide supplemental to adjust departmental appropriations.

Legal Services. Department of Law legal services rates will be based upon a blended rate of \$75.71 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.

Earnings

The investment earnings rate for funds held by the State Treasurer is estimated to be 1.50 percent for FY 2012-13.

Expenditures Not Included

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. Using the rates identified below, please calculate these expenses for any new FTE. If your fiscal note response uses different rates, provide 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: ***\$6,050 per FTE*** ;
- short-term disability: ***0.177% of salaries***;
- amortization equalization disbursements (AED) and supplemental amortization equalization disbursements (SAED): ***5.95% of salaries for FY 2012-13 and 6.85% of salaries for FY 2013-14***;
- leased space: ***estimated by department***; and
- indirect costs: ***estimated by department*** — although not identified in the expenditures section of the fiscal note, indirect costs will be calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a cash-funded program. Include an indirect cost rate only if this is in addition to the other expenditures listed above. Please include a narrative description of your indirect rate amount and how it was 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. For other bills where these costs may apply, agencies should identify the estimated cost of each item and provide a justification for the estimate.

Continuing programs set to repeal (Sunset Bill)

In a change from previous years, bills that continue a program that is set to repeal will be assessed as having a fiscal impact for the one-year period *after* the program would have otherwise ended. According to Section 24-34-104 (5) (b), C.R.S., agencies may be appropriated funds to wind up the affairs of an expiring program for 12 months following the repeal date. Thus, the fiscal impact of extending an expiring program will be shown as beginning one year after the repeal date.

Unchanged from previous years is our policy of showing no need for 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.

A copy of this document is available on the internet at: <http://colorado.gov/fiscalnotes>

Attachment A

Fiscal Note Guidelines

Purpose. The fiscal note is a decision-making tool for members of the General Assembly. It serves to inform, but is NOT a legally-binding document. It shows the estimated impact of a bill based on responses received from affected agencies and an independent analysis by the Legislative Council Staff. As such, it represents an official estimate of the legislature, not the executive branch.

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 the agency, and in-house review should be limited to people working on the estimated fiscal impact.

Deadlines. To be useful, fiscal notes must be available before a bill is heard in committee. Ideally, a fiscal note is provided to the sponsor at least 48 hours before the hearing and to the committee at least 24 hours before the hearing. Since these deadlines often limit the time available to review the work of executive branch agencies and complete our own, agencies are asked to send whatever information they have when it becomes available, even if it reflects only a partial response. Agency staff are also asked to notify fiscal note staff when original deadlines cannot be met. Likewise, fiscal note staff should notify affected agencies when deadlines change as soon as that information becomes known.

Formatting Responses. A standard format for agency responses is prepared each legislative session. Agencies are strongly encouraged to use the standard format for any estimate of fiscal impact. At a minimum, agencies are asked to include the following with any response:

- an analysis of the bill's impact on the agency, including any larger implications, if known;
- detail on the assumptions used to develop the fiscal estimate, including the basis for any assessment of no fiscal impact;
- sufficient justification for use of any non-standardized costs;
- any available supporting materials, such as bids, contracts or studies;
- the full names of any impacted cash funds; and
- an Excel-based worksheet for data or calculations.

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. Agency staff that were not canvassed on a bill are welcome to provide information anyway.

Technical Errors and Omissions. Generally speaking, fiscal notes do not describe any potential technical errors or omissions related to a bill. Information related to such issues that is provided in a fiscal note response is welcome, but agency staff may find it more useful to share that information with the agency's legislative liaison, especially if it implies a need to seek changes to the bill.

Departmental Differences. The fiscal analyst's role is to provide an objective analysis of the bill's fiscal impact, which may at times differ from the information submitted by one or more affected agencies. Fiscal note 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.

Information Technology Expenses. Departments should coordinate with the Governor's Office of Information Technology (OIT) as needed to develop estimates of a fiscal impact prior to responding to the Legislative Council's request.

Legal Expenses. Agencies should coordinate with the Department of Law in developing cost estimates for legal expenses.

Centralized Administrative Expenses. For legislation requiring administrative law judge services, central services, human resources, and/or finance and procurement, departments are requested to coordinate with the Department of Personnel and Administration (DPA) to estimate the fiscal impact and to determine whether an appropriation is needed.