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M E M O R A N D U M

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TO: Agency Fiscal Note Coordinators

FROM: Chris Ward, Fiscal Note Manager, 303-866-3521

SUBJECT: 2015 Common Policies for Fiscal Note Responses

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 in 2015. This document is also available on-line at: *http://colorado.gov/fiscalnotes.*

Purpose. The fiscal note is a decision-making tool for members of the General Assembly. It shows the estimated impact of a bill based on information 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. 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. 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. Since these deadlines often limit the time available to review the work of executive branch agencies and complete our own analysis, 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.

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 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 10 items:

- ❑ a plain language summary and analysis of the proposed bill and its impact on the agency, including any larger implications, if known;
- ❑ an explanation of the sections of the bill driving the fiscal impact;
- ❑ an estimate of the least cost alternative to implement the bill;
- ❑ justification for the use of any non-standardized costs;
- ❑ base resources for existing programs;
- ❑ the statutory name of all fund(s) affected;
- ❑ a complete job description of any new full time equivalent (FTE) and the functions each new FTE will perform;
- ❑ copies of relevant attachments such as contracts, bids, or studies;
- ❑ the assumptions made to arrive at your estimate including the reasons for using those assumptions, if applicable; and
- ❑ a separate Excel-based worksheet showing all calculations.

It is important that each estimate of cost be fully justified in a narrative accompanying your 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. Please submit your narrative as a Word or .pdf document <u>and</u> a separate Excel-based spreadsheet showing your calculations. If a bill has no fiscal impact, please include the basis for such assessment.

Departmental differences. The fiscal note provides 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.

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.

Common Policies for Fiscal Note Responses

(Updated November 2014)

The Legislative Council Fiscal Note Staff has adopted the following common policies as the basis for estimating the fiscal impact of proposed legislative measures. 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.

FTE is an expression of the number of months of salary paid in a given fiscal year. This policy applies to salary, Public Employees' Retirement Association (PERA), Amortization Equalization Disbursement (AED) and Supplemental Amortization Equalization Disbursement (SAED), 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, 2014, by the Department of Personnel and Administration (DPA) Compensation Plan or the applicable department exempt salary schedule for FY 2014-15. 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 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.

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.

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

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.

Personnel Category	Employer Contribution Rates FY 2015-16	Employer Contribution Rates FY 2016-17
State/School Employees	10.15%	10.15%
State Troopers	12.85%	12.85%
Judges	13.66%	13.66%

Operating and Capital Outlay Expenses

Total operating and capital outlay expenses will be based upon a rate of $5,653 for each new 1.0 FTE. 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. Capital outlay costs are based on the position and, if the minimum threshold has been met, should be rounded up to the nearest whole FTE.

Cost Component	Allowable Cost	Notes
Supplies	$500	Costs are prorated based on the number of months worked in a given fiscal year and carry over annually.
Telephone	$450	Costs are prorated based on the number of months worked in a given fiscal year and carry over annually.
Computer	$900	Costs are one-time.
Standard Suite Office Software/Network	$330	Costs are one-time.
Capital Outlay for Cubicle/Workstation	$3,473	Costs are based on standard office furniture and systems from the Department of Corrections, Correctional Industries, and are one-time.
TOTAL	$5,653	

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.[2] Mileage reimbursements are rounded to the nearest cent for each mile traveled.

As of January 1, 2014, 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/pacific/osc/mileage-reimbursement-rate.*

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

Centralized administrative expenses. For legislation requiring 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.

Information Technology (IT) Expenses

Departments should coordinate with the Governor's Office of Information Technology (OIT) to develop estimates of a fiscal impact prior to responding to a request from the Legislative Council Staff. As the majority of IT expenses are addressed through statewide 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. 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 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:

- computer programming services - $103 per hour,
- project manager - $114 per hour,
- IT business analyst - $106 per hour, and
- network administrator - $93 per hour.

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 $94.51 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.

Administrative law judges. Cost estimates for administrative law judge services should be coordinated with DPA and should take into account that DPA allocates the total annual administrative law judge appropriation to each department based upon historical usage ratios.

Earnings

The investment earnings rate for funds held by the State Treasurer is estimated to be 1.2 percent for FY 2015-16.

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: *$7,927.20 per FTE*;
- short-term disability: *0.22% of salaries for FY 2015-16*;

- amortization equalization disbursements (AED) and supplemental amortization equalization disbursements (SAED): *8.65% of salaries for FY 2015-16 and 9.55% of salaries for FY 2016-17*;
- leased space: *estimated by department*; and
- indirect costs: *estimated by department.*

Although not appropriated separately, these items will be included in calculating the "per applicant" cost or fee where appropriate. Indirect costs should not be used to cover the other expenditures listed above. Agencies should include a narrative description of the indirect rate 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 Bills)

Bills that continue a program that is set to repeal will be assessed as having a fiscal impact beginning immediately after the program would have otherwise ended. 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.[3] For these programs, the fiscal impact will be shown as beginning one year after the repeal date.

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.

[3]Section 24-34-104 (5)(b), C.R.S.