

# Without fiscal notes, lawmakers still shopping without price tags

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## Introduction

If your personal finances were a mess and your bank account empty, would you shop without looking at price tags? Probably not. But that’s exactly what Illinois’ 97<sup>th</sup> General Assembly continued to do in 2012 when it passed 494 new laws – and just 3 percent included a fiscal note.

Fiscal notes are like price tags for legislative bills; they estimate the costs, savings, and revenue gain or loss resulting from the implementation of proposed legislation. Crafted properly, fiscal notes can provide a wealth of information elected officials need to make fully informed votes.

## Fiscal notes MIA

Official fiscal notes rarely are available to Illinois lawmakers to help guide their decision-making. Unfortunately, in a year when lawmakers once again pledged fiscal restraint and a new era of financial responsibility, only 16 out of the 494 laws passed and signed in 2012 had fiscal notes. This is a slight improvement compared with 2011, when just 10 out of 650 laws had fiscal notes. Altogether, the 97<sup>th</sup> General Assembly received fiscal notes for just 2.3 percent of bills that became law.

**Graphic 1. No price tags: Illinois bills became law without basic cost information**

Year	Laws	Included fiscal notes	Percent with fiscal notes
2011	650	10	1.5%
2012	494	16	3.2%

Beyond the sheer lack of fiscal notes, another major concern is that the fiscal notes that have been crafted often are inadequate. Many of them lack background information and underlying calculations, come from biased sources, fail to provide a way to follow up with the note’s author and do not account for a law’s wider economic impact outside of government.

An example of an inadequate fiscal note from Illinois can be found in Appendix A, while an example of a thorough fiscal note from Minnesota can be found in Appendix B. Specific recommendations to improve Illinois’ fiscal note process are outlined in Appendix C.

## Reform efforts in 2011 and 2012

Following a July 2010 survey by the Illinois Policy Institute highlighting the stunning lack of fiscal notes, state Sen. Pamela Althoff, R-McHenry, introduced legislation to fix the problem. Senate Bill 31, dubbed the Fiscal Note Act, would strengthen existing fiscal note rules.

More than one-third of Illinois' state senators sponsored the Fiscal Note Act, including members of both parties. Although the bill unanimously passed committee in March 2011, it was subsequently held on the Senate floor and did not receive a floor vote.

Building off of the bipartisan support for reform in 2011, Althoff introduced the Medicaid Impact Note Act, or Senate Bill 3680, in 2012. This act would require a brief explanatory statement or note for legislation that amends the Illinois Public Aid Code, affects eligibility for or enrollment in Medicaid, or has a financial impact on the operation of the Department of Healthcare and Family Services. The note would include a reliable estimate of the expected impact of the bill on the annual budget of the Department of Healthcare and Family Services and the state of Illinois, as well as the projected costs and benefits associated with the implementation of each provision in the bill.

SB 3680 passed the Senate on a near-unanimous 52-1 vote in March 2012, and although it received bipartisan co-sponsorship in the House it was not voted on in committee.

### Graphic 2. Bipartisan support in 2012 for the Medicaid Impact Note Act

Senate sponsors
Sen. Pamela J. Althoff (R)
Sen. Wm. Sam McCann (R)
Sen. Kirk W. Dillard (R)

  

House sponsors
Rep. Patricia R. Bellock (R)
Rep. Jack D. Franks (D)
Rep. Michael W. Tryon (R)
Rep. Keith Farnham (D)
Rep. Sandy Cole (R)
Rep. Jerry F. Costello, II (D)
Rep. Lawrence M. Walsh, Jr. (D)

## Objections to fiscal notes fall flat

Opponents of fiscal note reform argue that implementing improvements would slow down bills, be too expensive and increase bureaucracy. None of these arguments hold water.

First, these reforms require that fiscal notes be furnished within seven business days after the bill is approved by its assigned committee. Many bills wait weeks or months after receiving committee approval before being heard on the floor. Fiscal note creation can run concurrent with this timeframe. High-priority bills will be the focus of timely departmental attention and can be submitted more promptly. Further, complex bills that obligate the state to millions and even billions in new expenditures should receive thoughtful and extended consideration.

Next, opponents of fiscal notes often say it is too expensive to find out how much a bill will cost. This is a myth. Many states incorporate fiscal note duties into existing legislative liaison and budget agency staff duties. In Illinois, informal cost estimates are created by a number of staff resources, but they're often never formalized for public distribution. Using existing talent to formalize what they're already often doing on an informal basis shouldn't bust the budget. Additionally, if fiscal notes help the General Assembly and departments allocate resources more wisely – or avoid taking on unmanageable program costs – then they will have more than paid for themselves.

The bottom line is that taxpayers deserve a professional, comprehensive and transparent system for estimating the cost of the new laws that will govern their lives. The current system of practically no “price tag” information has served us poorly, as evidenced by a sprawling state government that is billions of dollars in the red.

## **Looking ahead**

Fiscal note reform legislation deserves a closer look in 2013. Lawmakers in a state that carries a more than \$9 billion backlog of unpaid bills in the billions of dollars cannot continue approving new laws without fully understanding their fiscal and budgetary impact.

One area ripe for immediate change is the improved dissemination of existing notes for bills regarding pensions and revenue. Currently, the Commission on Government Forecasting and Accountability, or COGFA, prepares notes for pension bills and revenue bills. The pension impact notes are posted online at the COGFA home page, but not on the bill's status landing page on ILGA.gov. These notes should be cross-posted for easier access to the public. Though COGFA creates notes for revenue bills, they are not posted online. The public must request these notes to see their contents. Revenue notes should also be posted online and cross-referenced with the bill's landing page on ILGA.gov.

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## Appendix A: Example of an inadequate fiscal note from Illinois

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Senate Bill 3367, which became Public Act 97-1025.

*Example fiscal note for legislation regulating student driver education programs:*

Fiscal Note (Illinois State Board of Education): The State Board of Education is unable to provide a reasonable estimate of the cost of SB 3367. While the requirements of this bill will create some additional duties for agency personnel; the impact is expected to be minimal.

*Source: Illinois General Assembly, [ilga.gov](http://ilga.gov)*

## Appendix B: Example of a thorough fiscal note from Minnesota

House Bill 230, which was referred to committee.

*Example fiscal note for legislation changing the calculation of alternative teacher compensation revenue for intermediate school districts:*

### Fiscal Note – 2011-12 Session

**Bill #:** H0230-0 **Complete Date:** 03/18/11

**Chief Author:** MCFARLANE, CAROL

**Title:** ALT TEACHER PAY CALC MODIFIED

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

**Agency Name:** Education Department

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY11	FY12	FY13	FY14	FY15
<b>Expenditures</b>					
General Fund		1,834	2,037	2,037	2,037
<b>Less Agency Can Absorb</b>					
-- No Impact --					
<b>Net Expenditures</b>					
General Fund		1,834	2,037	2,037	2,037
<b>Revenues</b>					
-- No Impact --					
<b>Net Cost &lt;Savings&gt;</b>					
General Fund		1,834	2,037	2,037	2,037
<b>Total Cost &lt;Savings&gt; to the State</b>		1,834	2,037	2,037	2,037

	FY11	FY12	FY13	FY14	FY15
<b>Full Time Equivalents</b>					
-- No Impact --					
<b>Total FTE</b>					

**Bill Description**

The bill changes the calculation of alternative teacher compensation revenue (Q comp) for intermediate school districts. Currently intermediate school districts are eligible for Q comp revenue based on an allocation per student similar to charter schools. The bill would change the calculation to an amount equal to \$3,800 per licensed teacher teaching in the school on October 1 of the previous fiscal year. This provision is effective for revenues in FY 2012.

**Assumptions**

- The number of licensed teachers teaching at the intermediate site on October 1 is equal to the total full-time equivalents reported in teaching assignments for the fiscal year. These numbers will be overstated to the extent that teachers contracted to teach at another district would be included.
- The number of licensed teaching staff at the intermediate school districts will not change from 2010-11.
- Fall enrollment at the intermediate school districts will not change from fall of 2010.
- Under current law, basic Q comp aid for intermediate school districts and charter schools is \$260 per prior year fall enrollment (prorated if the statewide average Q comp revenue per pupil for qualifying school districts is less than \$260).
- Based on February forecast data, the allowance for intermediate districts and charter schools is estimated to be approximately \$248 for each year from FY 2012 through FY 2015.
- The amount of basic Q comp aid statewide is capped at \$75.636 million each year.
- The February forecast assumes none of the intermediate districts would apply for Q comp funds during the forecast period.
- Assumes all three intermediate districts would apply for FY 2012 Q comp funds if the bill passes.
- Based on February forecast data, there is enough basic aid remaining to allow all three intermediate districts to be approved for full Q comp funding in FY 2012 through FY 2015.

**Expenditure and/or Revenue Formula**

Based on an estimated 536 teachers at the three intermediate school districts, the intermediates would receive an estimated \$2.0 million in Q comp revenue each year (see table below).

HF 230 (dollars in thousands)	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
<u>Aid Entitlement</u>				
Licensed Teachers	536	536	536	536
Basic Aid @ \$3800/teacher	2,036.8	2,036.8	2,036.8	2,036.8
<u>Appropriation Change</u>				
90% current	1,834.0	1,834.0	1,834.0	1,834.0
10% final	-	203.0	203.0	203.0
Total Approp Change	1,834.0	2,037.0	2,037.0	2,037.0

The amount that the intermediate districts would be eligible to receive is increased considerably under the bill. The following chart shows the calculation of the estimated FY 2012 Q comp revenue for districts and charter schools that are currently in the program. Under current law calculations, Q comp revenue per FTE staff is considerably less for intermediate districts than for school districts and charter schools (\$3,756 and \$3,720 for school districts and charter schools versus \$1,347 for intermediate districts). The bill increases the potential intermediate district Q comp funding by \$1.3 million from \$722,056 to \$2,037,294 (see table below).

Location	Q Comp Enroll	FTE Teachers	Estimated Q Comp Revenue	Average Revenue per FTE Staff	Proposed Revenue \$3,800 per FTE	Proposed Increase in Revenue
School District	286,350	18,925	71,087,392	3,756		
Charter	20,281	1,354	5,035,775	3,720		
Statewide	306,631	20,279	76,123,167	3,754		
Intermediate	2,908	536	722,056	1,347	2,037,294	1,315,238

**Long-Term Fiscal Considerations**

This is a continuing program.

**Local Government Costs**

None

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**EBO Comments**

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KERSTIN LARSON

Date: 03/18/11 Phone: 651-201-8045

## Appendix C: Specific recommendations to improve Illinois' fiscal note process

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Illinois must enact a stronger fiscal note statute and develop standardized guidelines that aim to increase note availability, accuracy and transparency. The statute and guidelines should address the following major points:

- **Independence:** A neutral and independent source, such as COGFA, should facilitate fiscal notes, rather than the affected agency. Agencies should be encouraged to provide information on a bill, but the primary author should be outside of the agency.
- **Accountability:** The notes should include a “references and sources” section that identifies staff and other entities supplying information. The contact information for the person responsible for answering questions regarding the fiscal note should be provided.
- **Methodology:** Fiscal notes should contain an explanation of the method used to produce the cost estimates and the reason for using the method. They should also include a description of potential alternative methods that would result in different cost estimates (for example, scoring using static and dynamic methods). The note should also include a description of assumptions used to determine the cost estimates.
- **Accessibility:** Illinois should create and operate a searchable fiscal note tracking system that is publicly available, similar to Minnesota’s fiscal note website, [www.mmb.state.mn.us/cgi-bin/fnts\\_session.pl](http://www.mmb.state.mn.us/cgi-bin/fnts_session.pl).
- **Notes required:** The current Illinois statute provides that no fiscal note is required whenever the bill sponsor is of the opinion that no fiscal note is necessary, unless any member of either house requests that a note be obtained and a majority of those present and voting in the house of which he or she is a member deems it necessary. The result is that fiscal notes are rarely requested. This provision should be changed so that a note is always required whenever the proposed legislation involves spending or taxation, unless the sponsor is of the opinion that no fiscal note is necessary and the majority of those present and voting deem that no note is necessary. Even seemingly minor bills can have an impact on the state budget and should be scored.
- **Staff levels:** The statute should require that fiscal notes provide an estimate of change in Full-time Equivalent, or FTE, positions by agency.
- **Long-term fiscal implications:** The notes should include a minimum five-year fiscal forecast rather than simply “the long-range effect of the measure” as is currently required. The note should also include a section that indicates whether the estimated fiscal impact will continue beyond the initial forecast period.
- **Impact on citizens and businesses:** Notes should consider the impact of government action on Illinois residents and businesses. For example, how would a licensing fee increase affect businesses and their ability to employ workers? How would an insurance mandate affect premium affordability?
- **Uniformity:** Implementation of Illinois’ fiscal note statute should include a uniform procedure subdivision, which would require COGFA or another body to govern the fiscal note process and ensure compliance with the statute. Some states issue manuals and guidelines on how to prepare and process fiscal notes to ensure that the notes are standardized accurate and comprehensive.

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