

# Accounting for Oysters: The Importance of Fiscal Notes in Policymaking

As Maryland has learned, it's crucial to know the costs of proposed legislation.

[Katherine Barrett & Richard Greene](#)



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Here's a classic dilemma for agencies: When the cost of a new project is underestimated, agency managers may have to drop aspects of the program, reassess targets, slow down timetables or even ask the legislature for more money. So how do managers avoid this quandary? Fiscal notes. That is, the legislature should factor into every debate about a bill the estimated cost of

the program.

Clipping fiscal notes to bills is easier said than done. Management of that process is dicey. Some states are laggards. They do not have their legislative analysts calculate estimates for all bills. North Carolina, for example, only comes up with a cost approximation when a legislator asks for it.

Nor do many states manage their fiscal note process to gain the most pertinent information available. Three years ago, the Center on Budget and Policy Priorities found that a good number of states failed to estimate costs beyond the next year or two, did not revise estimates when legislation was amended and only produced the estimates for a narrow set of bills. Elizabeth McNichol, senior fellow with the State Fiscal Project at CBPP, tells us that very little has changed for the better since then.

One state that is known for doing a particularly good job managing its cost estimating process is Maryland. It requires that every bill have a fiscal note. David Romans, fiscal and policy coordinator with the Maryland Department of Legislative Services (DLS), tells us that the goal is to have a note in place before hearings start. Then, the department revises the fiscal note as versions of the bill change. In order to provide an optimal amount of information to legislators and citizens, the fiscal note also includes a detailed description of what the bill is supposed to accomplish.

How does this work out? By way of example, let's look at a 2018 bill on oysters. It required that any project intending to restore or replenish Maryland's oyster population had to use only native oyster shells to line the beds that would nourish new, live oysters. This appeared to be an inexpensive way to go, but DLS found otherwise. It reported that the bill may have a "negative economic impact on small businesses engaged in shellfish aquaculture" because of potentially limited availability of the now mandatory native oyster shells. What's more, DLS explored the often overlooked financial effect of environmental impact statements -- a cost of between \$250,000 and \$2 million per statement for a project of this type. The bill

didn't make it out of committee. Although the decision may not have been cost-related, the fiscal information informed the discussion.

Beyond preparing a fiscal note for all bills, the CBPP ticks off at least four management practices that states should follow in addition to cost estimates: avoid partisan pressure by getting cost estimates from a nonpartisan body; project long-term impacts, as fiscal notes that only cover the next fiscal year can be misleading if they miss increases in cost as time goes on; revise estimates as needed; and post fiscal notes online.

California, which regularly uses fiscal notes, struggles with at least one of these guidelines. The fiscal estimates come from many quarters. "A regular part of the deliberation over policy proposals is a disagreement about the estimates," says Chris Hoene, executive director of the California Budget and Policy Center. "When we have representatives from the governor's office and also the legislative analysts' office, you have two sets of numbers starting every conversation."

Not the best way to assure that fiscal notes are a manager's best friend.