

REVISED
FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: _____ Amendment to: HB 1388

Requested by Legislative Council Date of Request: 2-18-97

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative:

See attachment

2. State fiscal effect in dollar amounts:

<u>1995-97</u> <u>Biennium</u>		<u>1997-99</u> <u>Biennium</u>		<u>1999-2001</u> <u>Biennium</u>	
<u>General</u> <u>Fund</u>	<u>Special</u> <u>Funds</u>	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Funds</u>	<u>General</u> <u>Fund</u>	<u>Special</u> <u>Funds</u>

Revenues: (\$418,606) Attorney General's Office

Expenditures: \$165,000 \$357,764

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1995-97 biennium: 0
Additional costs to Industrial Commission
- b. For the 1997-99 biennium: agencies would be \$522,764 (see narrative for breakdown)
- c. For the 1999-2001 biennium: N/A

4. County, City, and School District fiscal effect in dollar amounts:

<u>1995-97</u> <u>Biennium</u>			<u>1997-99</u> <u>Biennium</u>			<u>1999-2001</u> <u>Biennium</u>		
<u>Counties</u>	<u>Cities</u>	<u>School</u> <u>Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School</u> <u>Districts</u>	<u>Counties</u>	<u>Cities</u>	<u>School</u> <u>Districts</u>
0	0	0	0	0	0	0	0	0

If additional space is needed, attach a supplemental sheet.

Signed Karlene Fine

Typed Name Karlene Fine

Department Industrial Commission

Phone Number 328-3722

Date Prepared: 3/6/97



INDUSTRIAL COMMISSION OF NORTH DAKOTA

Edward T. Schafer
Governor

Heidi Heitkamp
Attorney General

Roger Johnson
Commissioner of Agriculture

Narrative on Revised Fiscal Note for HB 1388
Karlene Fine, Executive Director and Secretary
March 6, 1997
Senate Government & Veterans Affairs Committee

At the time this bill was originally heard in committee there was no fiscal note requested. When the bill was amended by the House during the week of crossover, a request from Legislative Council was received on Tuesday afternoon with a response needed the next morning. Thus the fiscal note was prepared in a very short time period and delivered at approximately 1:00 p.m. with no opportunity to explain the process utilized in developing the fiscal note. Since February 19 I have gone back over my calculations and visited with the Industrial Commission agencies regarding their legal costs.

As you know, the work of the Industrial Commission covers a number of areas—oil and gas regulation, obtaining money from the capital markets through bonding; making of loans through the Bank of North Dakota; litigation; etc. Thus there is a great deal of legal work that is needed to properly protect the State's interests. This fiscal note reflects the additional legal costs required in obtaining independent counsel for all the Commission agencies whether special fund or General Fund. Special funds also include legal costs currently paid from bond issues.

I have obtained the actual number of hours used by Industrial Commission agencies during a 3½ year period (July 1, 1993 - December 31, 1996). I have taken an average and projected that for a biennium (9,400 hours). The Attorney General's Office has projected their hourly fee to be \$45 an hour during the 97-99 biennium.

In order to determine an hourly rate for independent counsel I used the following:

- OMB recently contracted for outside counsel for their risk management program at \$90.00 an hour, so I have used that rate for general counsel work;
- A local oil and gas attorney has quoted an hourly rate of \$125.00 for oil and gas legal expertise;
- Bond counsel within the state have rates ranging from \$120 to \$145 an hour.

Using the above rates, the total additional cost to the Industrial Commission agencies over the \$45 rate quoted by the Attorney General's Office would be \$520,000. Of this amount \$165,000 would be General Fund and the remainder would be special funds.

Of the total hours of legal work done by the Attorney General's Office, approximately 18% (1700 hours) is for bond counsel work. At the lower bond counsel rate of \$120 an hour the additional cost to the Commission over what is currently charged by the Attorney General's Office is \$127,500.

Of the total hours of legal work done by the Attorney General's Office approximately 14% (1320 hours) is for oil and gas legal work. At the rate of \$125 an hour there would be a cost of \$165,000. This cost would be a General Fund expense.

This fiscal note was prepared with the assumption that the same number of hours would be utilized and independent counsel would be retained rather than having an attorney on staff. It is very difficult to project over the next two years exactly how many hours of legal services would be required for the Industrial Commission agencies. Each Industrial Commission agency would be requested to seek the best legal service available at the lowest cost possible and, hopefully, could reduce this additional expense.

The breakdown by agency of their legal costs is as follows:

LEGAL COSTS

	Attorney General's Office	Additional Costs		Total
		Special Funds	General Fund	
Bank of North Dakota	\$229,814	\$169,786		\$399,600*
Housing Finance Agency	49,396	56,354		105,750
Municipal Bond Bank	23,861	31,219		55,080
State Mill	9,628	6,932		16,560
Industrial Commission	105,907	93,473		199,380
Oil & Gas/ Geo. Survey	0		\$165,000	165,000
Totals	\$418,606	\$357,764	\$165,000	\$941,370

*The Bank of North Dakota has indicated they receive direct reimbursement for 20% of the legal costs they incur which could be up to \$80,000 of their total legal costs.

As noted above the Attorney General's Office has projected revenues of \$418,606 in their 1997-1999 budget from special funds which, under this bill, would no longer be received. Thus, there would no longer be the related expenditures in the Attorney General's Office. This fiscal note reflects the additional costs of \$357,764 (SF) and \$165,000 (GF) for a total of \$522,764.