

# PROPOSED AMENDMENT

## SB 172 # 4

### DIGEST

Administrative rules review. Establishes the administrative rules oversight committee (oversight committee) with oversight review of rules of any agency if the implementation and compliance costs of the proposed rule of the agency is expected to exceed a specified threshold. Sets forth the membership of the oversight committee. Amends provisions for the adoption of administrative rules that require budget committee review under current law to instead require oversight committee review under those provisions.

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- 1       Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3       "SECTION 1. IC 4-12-2.5 IS ADDED TO THE INDIANA CODE  
4 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
5 UPON PASSAGE]:  
6       **Chapter 2.5. Administrative Rules Oversight Committee**  
7       **Sec. 1. As used in this chapter, "agency" has the meaning set**  
8 **forth in IC 4-22-2-3.**  
9       **Sec. 2. As used in this chapter, "committee" refers to the**  
10 **administrative rules oversight committee established by section 4**  
11 **of this chapter.**  
12       **Sec. 3. As used in this chapter, "rule" has the meaning set forth**  
13 **in IC 4-22-2-3.**  
14       **Sec. 4. The administrative rules oversight committee is**  
15 **established.**  
16       **Sec. 5. (a) The committee consists of the following twelve (12)**  
17 **members of the general assembly:**  
18       **(1) The chairperson of the senate appropriations committee.**  
19       **(2) The ranking majority member of the senate**  
20 **appropriations committee.**  
21       **(3) The chairperson of the senate tax and fiscal policy**  
22 **committee.**  
23       **(4) The ranking majority member of the senate tax and fiscal**  
24 **policy committee.**  
25       **(5) The chairperson of the house ways and means committee.**

(6) The ranking majority member of the house ways and means committee.

(7) The chairperson of the house government and regulatory reform committee.

(8) The ranking majority member of the house government and regulatory reform committee.

(9) Two (2) minority members of the house of representatives appointed by the speaker of the house of representatives as follows:

(A) The ranking minority member of the house ways and means committee.

(B) One (1) other minority member of the house ways and means committee.

(10) Two (2) minority members of the senate appointed by the president pro tempore of the senate as follows:

(A) The ranking minority member of the senate appropriations committee.

(B) The ranking minority member of the senate tax and fiscal policy committee.

(b) Legislative appointments to the committee under subsection (a)(9) and (a)(10) shall be made within fifteen (15) days after the official selection of the president pro tempore of the senate and the speaker of the house of representatives. However, in the case of 2026, the legislative appointments to the committee under subsection (a)(9) and (a)(10) shall be made after the adjournment sine die of the second regular session of the one hundred twenty-fourth general assembly and before July 1, 2026. Each member appointed under subsection (a)(9) and (a)(10) shall serve at the will and pleasure of the member's respective appointing leadership or until the member's term as a member of the general assembly expires, whichever is shorter.

(c) Any vacancy occurring on the committee must be filled by the appointing authority for the unexpired term.

Sec. 6. (a) The chairperson of the committee shall be:

(1) the chairperson of the senate appropriations committee, in those years that the chairperson of the house ways and means committee is serving as the chair of the budget committee; and

(2) the chairperson of the house ways and means committee, in those years that the chairperson of the senate

1           appropriations committee is serving as the chair of the budget  
2           committee.

3           (b) Unless the committee has no agenda, the committee shall  
4           meet on those same days of the year and at the same location that  
5           the budget committee has fixed to meet. The committee shall fix the  
6           time for its meetings.

7           Sec. 7. (a) The rule of any agency shall be subject to committee  
8           review if the implementation and compliance costs of the proposed  
9           rule are expected to exceed the threshold set forth in  
10          IC 4-22-2-22.7(c)(6).

11          (b) However, this section does not apply to a rule described in  
12          IC 4-22-2-22.7(f).

13          (c) For purposes of any statute that requires committee review  
14          before an action may be taken by a state agency or other entity,  
15          committee review is considered to have taken place when the action  
16          requiring review has been included on an approved agenda of the  
17          committee in the part of the agenda concerning review items.

18          Sec. 8. (a) Seven (7) members of the committee constitute a  
19          quorum.

20          (b) The affirmative vote of seven (7) members of the committee  
21          is required for the committee to take any action.

22          Sec. 9. (a) Each member of the committee is entitled to receive  
23          the same per diem, mileage, and travel allowances paid to members  
24          of the general assembly serving on interim study committees  
25          established by the legislative council. These expenses shall be paid  
26          from funds appropriated to the legislative council.

27          (b) Members of the committee shall not receive a salary per  
28          diem under this section if the member receives any salary per diem  
29          for the member's services at a budget committee meeting on the  
30          same day under IC 4-12-1-11(b).

31          Sec. 10. Staff for the committee shall be provided by the  
32          legislative services agency.

33          SECTION 2. IC 4-22-2-19.6, AS AMENDED BY P.L.128-2024,  
34          SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35          JULY 1, 2026]: Sec. 19.6. (a) A rule adopted under this article or  
36          IC 13-14-9 that includes a fee, fine, or civil penalty must comply with  
37          this section. Subsections (b), (c), and (d) do not apply to a rule that  
38          must be adopted in a certain form to comply with federal law.

39          (b) For each fee, fine, or civil penalty imposed by an agency that is  
40          not set as a specific amount in a state law, a rule must describe the

circumstances for which the agency will assess a fee, fine, or civil penalty and set forth the amount of the fee, fine, or civil penalty:

- (1) as a specific dollar amount;
- (2) under a formula by which a specific dollar amount can be reasonably calculated by persons regulated or otherwise affected by the rule; or
- (3) as a range of potential dollar amounts, stating the factors that the agency will utilize to set a specific dollar amount in an individual case with sufficient certainty that a review of an agency action under IC 4-21.5 or comparable process can evaluate whether the amount was reasonable.

A rule concerning fines or civil penalties does not prohibit an agency to enter into a settlement agreement with a person against whom a fine or civil penalty is being assessed to determine the fine or civil penalty to be paid for a violation.

(c) The amount of a fee must be reasonably based on the amount necessary to carry out the purposes for which the fee is imposed.

(d) An agency setting a fine or civil penalty shall consider the following:

- (1) Whether the violation has a major or minor impact on the health, safety, or welfare of a person, the health or safety of animals or natural resources, or other facts set forth in the agency's rule.
- (2) The number of previous violations committed by the offender of laws, rules, or programs administered by the agency.
- (3) The need for deterrence of future violations.
- (4) Whether the conduct, if proved beyond a reasonable doubt, would constitute a criminal offense, and the level of penalty set by law for the criminal offense.

(e) An agency is not liable for a fee, fine, or civil penalty that is not in conformity with this section if

(1) the fee, fine, or civil penalty was included in a rule that became effective before January 1, 2023, and that otherwise complies with subsection (b).

(2) the fee, fine, or civil penalty was:

(A) set by an agency before January 1, 2023;

(B) reviewed by the budget committee:

(i) in the case of the department of environmental management, the boards listed in IC 13-14-9-1, the natural resources commission, the department of natural resources,

the Indiana gaming commission; and the Indiana horse racing commission; before December 31, 2023; and  
(ii) in the case of an agency not described in item (i); before July 1, 2024; and

(C) included in a rule that complies with this section and becomes effective before:

(i) in the case of the department of environmental management; the boards listed in IC 13-14-9-1; the natural resources commission; the department of natural resources; the Indiana gaming commission; and the Indiana horse racing commission; December 31, 2024; and

(ii) in the case of an agency not described in item (i); July 1, 2025; or

(3) the agency withdraws or otherwise ceases to enforce or apply the fee, fine, or civil penalty before:

(A) in the case of the department of environmental management; the boards listed in IC 13-14-9-1; the natural resources commission; the department of natural resources; the Indiana gaming commission; and the Indiana horse racing commission; December 31, 2023; and

(B) in the case of an agency not described in clause (A); July 1, 2024.

Readoption without changes under IC 4-22-2.6 of a nonconforming fee, fine, or civil penalty that meets the requirements of subdivision (1) or (2) does not invalidate the nonconforming fee, fine, or civil penalty.

(f) Beginning January 1, 2024, an agency shall post on its website a schedule of fines and civil penalties that apply to violations of laws, rules, and requirements of federal programs administered by the agency."

Page 2, delete lines 10 through 14, begin a new line block indented and insert:

"(6) A determination whether the combined implementation and compliance costs of a proposed rule are at least ~~one million dollars (\$1,000,000)~~ **one hundred thousand dollars (\$100,000)** for businesses, units, and individuals over any ~~two (2)~~ **one (1)** year period."

Page 2, line 30, strike "budget committee" and insert **"administrative rules oversight committee"**.

Page 5, line 5, strike "budget committee" and insert **"administrative rules oversight committee"**.

- 1 Page 5, line 12, strike "budget committee" and insert
- 2 **"administrative rules oversight committee"**.
- 3 Page 5, line 15, strike "budget".
- 4 Page 5, line 16, strike "committee." and insert **"administrative**
- 5 **rules oversight committee."**.
- 6 Page 6, line 19, strike "budget".
- 7 Page 6, line 20, strike "committee" and insert **"administrative rules**
- 8 **oversight committee"**.
- 9 Page 6, line 23, strike "budget committee" and insert
- 10 **"administrative rules oversight committee"**.
- 11 Page 9, line 1, strike "budget committee's" and insert
- 12 **"administrative rules oversight committee's"**.
- 13 Page 9, line 25, strike "budget committee" and insert
- 14 **"administrative rules oversight committee"**.
- 15 Page 9, line 29, strike "budget committee" and insert
- 16 **"administrative rules oversight committee"**.
- 17 Page 13, line 3, strike "budget committee's" and insert
- 18 **"administrative rules oversight committee's"**.
- 19 Page 13, line 20, strike "budget".
- 20 Page 13, line 21, strike "committee" and insert **"administrative**
- 21 **rules oversight committee"**.
- 22 Page 13, line 25, strike "budget committee" and insert
- 23 **"administrative rules oversight committee"**.
- 24 Page 17, line 20, after "(a)" insert **"IC 4-22-2-19.6,"**.
- 25 Page 17, after line 24, begin a new paragraph and insert:
- 26 **"SECTION 9. An emergency is declared for this act."**.
- 27 Renumber all SECTIONS consecutively.  
(Reference is to SB 172 as introduced.)