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# SENATE BILL No. 298

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-22-2-28; IC 13-14-9-4.2; IC 20-1-20.5-8.

**Synopsis:** Administrative rules requiring fiscal review. Makes the following changes to the administrative rulemaking statute requiring an agency to submit a rule with an estimated economic impact greater than \$500,000 to the legislative services agency (LSA) for a fiscal impact statement: (1) Requires the agency to consider the rule's annual economic impact after the rule is fully implemented. (2) Specifies that the \$500,000 threshold applies to the impact on all regulated entities. (3) Requires the agency to submit to LSA a rule meeting the threshold for a fiscal impact statement not later than 50 days before the public hearing on the rule. (4) Requires the agency to consider the rule's impact on an entity that already voluntarily complies with the rule. Makes conforming changes to the statute requiring the education roundtable to determine the fiscal impact of certain recommendations it makes. (The introduced version of this bill was prepared by the administrative rules oversight committee.)

**Effective:** July 1, 2005.

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**Young R Michael, Kenley, Young R,  
Hume**

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January 6, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

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## SENATE BILL No. 298



A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-22-2-28 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. **(a) As used in this**  
3 **section, "total estimated economic impact" means the annual**  
4 **economic impact of a rule on all regulated entities after the rule is**  
5 **fully implemented under subsection (g).**

6 ~~(a)~~ **(b)** The Indiana economic development council may review and  
7 comment on any proposed rule and may suggest alternatives to reduce  
8 any regulatory burden that the proposed rule imposes on businesses.  
9 The agency that intends to adopt the proposed rule shall respond in  
10 writing to the Indiana economic development council concerning the  
11 council's comments or suggested alternatives before adopting the  
12 proposed rule under section 29 of this chapter.

13 ~~(b)~~ **(c)** ~~The~~ **Subject to subsection (f) and not later than fifty (50)**  
14 **days before the public hearing required by section 26 of this**  
15 **chapter, an agency shall also submit a proposed rule with an to the**  
16 **legislative services agency for a review under subsection (d) if the**  
17 **agency proposing the rule determines that the rule will have a total**



1 estimated economic impact greater than five hundred thousand dollars  
 2 (\$500,000) on ~~the~~ all regulated entities. ~~to the legislative services~~  
 3 ~~agency after the preliminary adoption of the rule.~~ **In determining the**  
 4 **total estimated economic impact under this subsection, the agency**  
 5 **shall consider any applicable information submitted by the**  
 6 **regulated entities affected by the rule. To assist the legislative**  
 7 **services agency in preparing the fiscal impact statement required**  
 8 **by subsection (d), the agency shall submit, along with the proposed**  
 9 **rule, the data used and assumptions made by the agency in**  
 10 **determining the total estimated economic impact of the rule.**

11 ~~(d)~~ Except as provided in subsection ~~(c)~~; ~~(e)~~, before the adoption of  
 12 the rule ~~the legislative services agency shall prepare;~~ and not more than  
 13 forty-five (45) days after receiving a proposed rule **under subsection**  
 14 **(c), the legislative services agency shall prepare, using the data and**  
 15 **assumptions provided by the agency proposing the rule, along with**  
 16 **any other data or information available to the legislative services**  
 17 **agency, a fiscal analysis impact statement** concerning the effect that  
 18 compliance with the proposed rule will have on: ~~the:~~

- 19 (1) ~~the~~ state; and  
 20 (2) **all** entities regulated by the proposed rule.

21 The fiscal ~~analysis impact statement~~ must contain ~~an estimate of the~~  
 22 **total estimated** economic impact of the proposed rule and a  
 23 determination concerning the extent to which the proposed rule creates  
 24 an unfunded mandate on a state agency or political subdivision. The  
 25 fiscal ~~analysis impact statement~~ is a public document. The legislative  
 26 services agency shall make the fiscal ~~analysis impact statement~~  
 27 available to interested parties upon request. The agency proposing the  
 28 rule shall consider the fiscal ~~analysis impact statement~~ as part of the  
 29 rulemaking process and shall provide the legislative services agency  
 30 with the information necessary to prepare the fiscal ~~analysis:~~ **impact**  
 31 **statement.** The legislative services agency may also receive and  
 32 consider applicable information from the regulated entities affected by  
 33 the rule in preparation of the fiscal ~~analysis:~~ **impact statement.**

34 ~~(c)~~ **(e)** With respect to a proposed rule subject to IC 13-14-9:

- 35 (1) the department of environmental management shall give  
 36 written notice to the legislative services agency of the proposed  
 37 date of preliminary adoption of the proposed rule not less than  
 38 sixty-six (66) days before that date; and  
 39 (2) the legislative services agency shall prepare the fiscal ~~analysis~~  
 40 **impact statement** referred to in subsection ~~(b)~~ **(d)** not later than  
 41 twenty-one (21) days before the proposed date of preliminary  
 42 adoption of the proposed rule.

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1 (f) In determining whether a proposed rule has a total estimated  
 2 economic impact greater than five hundred thousand dollars  
 3 (\$500,000), the agency proposing the rule shall consider the impact  
 4 of the rule on any regulated entity that already complies with the  
 5 standards imposed by the rule on a voluntary basis.

6 (g) For purposes of this section, a rule is fully implemented  
 7 after:

8 (1) the conclusion of any phase-in period during which:

9 (A) the rule is gradually made to apply to certain regulated  
 10 entities; or

11 (B) the costs of the rule are gradually implemented; and

12 (2) the rule applies to all regulated entities that will be  
 13 affected by the rule.

14 In determining the total estimated economic impact of a proposed  
 15 rule under this section, the agency proposing the rule shall consider  
 16 the annual economic impact on all regulated entities beginning  
 17 with the first twelve (12) month period after the rule is fully  
 18 implemented. The agency may use actual or forecasted data and  
 19 may consider the actual and anticipated effects of inflation and  
 20 deflation. The agency shall describe any assumptions made and any  
 21 data used in determining the total estimated economic impact of a  
 22 rule under this section.

23 SECTION 2. IC 13-14-9-4.2 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.2. Not less than  
 25 fourteen (14) days before the date of preliminary adoption of a  
 26 proposed rule by a board, the department shall make available to the  
 27 board the fiscal analysis impact statement prepared by the legislative  
 28 services agency with respect to the proposed rule under  
 29 ~~IC 4-22-2-28(e)~~. IC 4-22-2-28(e).

30 SECTION 3. IC 20-1-20.5-8 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) As used in this  
 32 section, "total estimated fiscal impact" means the annual fiscal  
 33 impact of a recommendation on all affected entities after the  
 34 recommendation is fully implemented under subsection (f).

35 ~~(a)~~ (b) The roundtable shall provide recommendations on subjects  
 36 related to education to the following:

37 (1) The governor.

38 (2) The superintendent of public instruction.

39 (3) The general assembly.

40 (4) The board.

41 ~~(b)~~ (c) Subject to subsection (e), before providing a  
 42 recommendation under subsection ~~(a)~~; (b), the roundtable shall prepare

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1 an analysis of the **total estimated** fiscal impact that the  
 2 recommendation will have on the state **and all** political subdivisions  
 3 and private schools affected by the recommendation. **In preparing an**  
 4 **analysis under this subsection, the roundtable shall consider any**  
 5 **applicable information submitted by entities affected by the**  
 6 **recommendation.** The analysis **under this subsection** must be  
 7 submitted with the recommendation under subsection ~~(a)~~ **(b)**.

8 ~~(c)~~ **(d)** Whenever the roundtable provides a recommendation under  
 9 subsection ~~(a)~~ **(b)** and the **total estimated** fiscal impact prepared under  
 10 subsection ~~(b)~~ **(c)** indicates that the impact of the recommendation will  
 11 be at least five hundred thousand dollars (\$500,000), the roundtable  
 12 shall submit a copy of the recommendation and the fiscal **impact**  
 13 **analysis** prepared under subsection ~~(b)~~ **(c)** to the legislative services  
 14 agency for review. Not more than forty-five (45) days after receiving  
 15 a copy of the recommendation and fiscal analysis, the legislative  
 16 services agency shall prepare a fiscal **analysis impact statement**  
 17 concerning the effect that compliance with the recommendation will  
 18 have on:

19 (1) the state; and

20 (2) **all** political subdivisions and private schools affected by the  
 21 proposed recommendation.

22 The fiscal **analysis impact statement** must contain ~~an estimate~~ of the  
 23 direct **total estimated** fiscal impact of the recommendation and a  
 24 determination concerning the extent to which the recommendation  
 25 creates an unfunded mandate on the state, a political subdivision, or a  
 26 private school affected by the proposed recommendation. The fiscal  
 27 **analysis impact statement** is a public document. The legislative  
 28 services agency shall make the fiscal **analysis impact statement**  
 29 available to interested parties upon request. The roundtable shall  
 30 provide the legislative services agency with the information necessary  
 31 to prepare the fiscal ~~analysis:~~ **impact statement.** The legislative  
 32 services agency may also receive and consider applicable information  
 33 from the entities affected by the recommendation in preparation of the  
 34 fiscal ~~analysis:~~ **impact statement.** The legislative services agency shall  
 35 provide copies of its fiscal ~~analysis:~~ **impact statement** to each of the  
 36 persons described in subsection ~~(a)~~ **(b)**.

37 **(e) In determining whether a recommendation under this**  
 38 **section has a total estimated fiscal impact of at least five hundred**  
 39 **thousand dollars (\$500,000) on the affected entities, the roundtable**  
 40 **shall consider the impact of the recommendation on any entity that**  
 41 **already complies with the standards imposed by the**  
 42 **recommendation on a voluntary basis, if applicable.**

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1           **(f) For purposes of this section, a recommendation is fully**  
 2 **implemented after:**  
 3           **(1) the conclusion of any phase-in period during which:**  
 4               **(A) the recommendation is gradually made to apply to**  
 5               **certain affected entities; or**  
 6               **(B) the costs of the recommendation are gradually**  
 7               **implemented; and**  
 8           **(2) the recommendation applies to all affected entities that**  
 9           **will be affected by the recommendation.**  
 10 **In determining the total estimated fiscal impact of a**  
 11 **recommendation under this section, the roundtable shall consider**  
 12 **the annual fiscal impact on all affected entities beginning with the**  
 13 **first twelve (12) month period or first school year after the**  
 14 **recommendation is fully implemented, whichever applies. The**  
 15 **roundtable may use actual or forecasted data and may consider the**  
 16 **actual and anticipated effects of inflation and deflation. The**  
 17 **roundtable shall describe any assumptions made and any data used**  
 18 **in determining the total estimated fiscal impact of a**  
 19 **recommendation under this section.**  
 20           **SECTION 4. [EFFECTIVE JULY 1, 2005] (a) IC 4-22-2-28, as**  
 21 **amended by this act, applies to a rule that is published in the**  
 22 **Indiana Register under IC 4-22-2-24 or under IC 13-14-9-4(1) after**  
 23 **June 30, 2005.**  
 24           **(b) IC 20-1-20.5-8, as amended by this act, applies to a**  
 25 **recommendation by the education roundtable that is submitted to**  
 26 **the governor, the state superintendent of public instruction, the**  
 27 **general assembly, or the Indiana state board of education after**  
 28 **June 30, 2005.**  
 29           **(c) This SECTION expires January 1, 2007.**

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