

Alberta Darling
Wisconsin State Senator
Co-Chair, Joint Committee on Finance

Sunset Clauses

Testimony on Senate Bill 295

Senate Committee on Labor and Regulatory Reform

August 29, 2017

Thank you Chair Nass and members of the Senate Committee on Labor and Regulatory Reform for hearing this bill. Senate Bill 295 increases transparency in the rulemaking process, ensures our code is up-to-date, and makes agencies more accountable to the people of Wisconsin and their elected representatives.

Wisconsinites deserve a regulatory system that works for them. This can be done by having a lean administrative code that protects the health, safety, and welfare of Wisconsinites while leaving them the maximum amount of freedom possible. Wisconsin currently has 1,967 chapters of code containing 12,182 pages of regulations. Over time, regulations become outdated and harmful to both individual freedom and economic productivity. This bill will create transparency, encourage efficiency, and help Wisconsin's economy continue to grow by reducing red tape.

The sunset process is very similar to the normal rule promulgation process. Each chapter of administrative code will sunset after seven years, meaning the code chapter is eliminated if it is not readopted. One year before the rule is scheduled to sunset the agency must submit a notice of its intent to readopt a rule to the Chief Clerk of each house of the Legislature. The notice is then conveyed to the appropriate standing committees in each house and the Joint Committee for the Review of Administrative Rules (JCRAR) under a passive review procedure. If no member objects, then the code chapter is automatically readopted. If any member of any of these committees objects, then the code chapter must go through the standard promulgation process to be readopted. Code chapters that do not make it through the promulgation process by their sunset date are eliminated. JCRAR may extend the sunset date for one year at an agency's request in order to ensure necessary rules have adequate time to be readopted.

Regularly going through the promulgation process updates the government and public on the costs of regulation and provides public input. This bill requires an agency to prepare a new economic impact analysis of how the actual costs of the rule compare with the previous economic analysis. This information is valuable for regulators and lawmakers because it is a more accurate assessment of how the rule impacts businesses and communities. Further, repromulgation provides an opportunity for the regulated community and general public to comment on how those rules have effected them in practice instead of in theory. The

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information gained from EIAs and public comments can then be used by the Legislature and agencies to make evidence based decisions on if statutes or regulations should be changed.

Reducing red tape and increasing accountability is valuable for both regulators and the regulated. Sunset clauses are a common sense reform that will reduce unnecessary regulations, increase individual freedom, and spur innovation and economic growth.

I want to thank my colleague, Representative Steineke, for his leadership on this issue and thank the committee for taking the time to hear this bill. I look forward to working with you all on it, and urge your support.



JIM STEINEKE

MAJORITY LEADER

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To: Chairman Nass and members of the Senate Committee on Labor and Regulatory Reform
From: Representative Jim Steineke, 5th Assembly District
Date: August 29, 2017
Re: 2017 Senate Bill 295

Thank you for hearing Senate Bill 295, creating an expiration date for administrative rules. This bill stems from a belief that is shared by members of this committee and by the citizens who sent us here: the state's regulatory power is given to it by the people. Therefore the people, exercising their voice on their own and through their elected officials, should have periodic oversight of our regulations.

Fourteen states around the country require either mandatory legislative review of, or automatic expiration of, their administrative rules. Administrative code carries the force and weight of statute without the accountability of it being written by elected officials. Wisconsin should join these other states and adopt a sunset clause in our rulemaking procedure that will give its citizens new opportunities for public input, legislative and executive oversight, and economic analyses. We should also have a framework in place to ensure that rules accomplish the goals they were written to accomplish, and that doing so costs what it was anticipated to cost.

Under SB 295, Wisconsin's administrative code chapters would expire seven years after their initial adoption. For existing code chapters, the Joint Committee for the Review of Administrative Rules (JCRAR), working with state agencies, would determine the effective date of adoption and expiration. Before a code chapter expires, an agency may choose to petition the legislature to readopt the sunset chapter. JCRAR and the appropriate standing committee will review the petition, and if no members of the committee object, the rule is automatically readopted for another seven years. If a committee member of either the majority or minority party objects, then the code chapter must go through the existing process in place for rule promulgation in order to be readopted. New economic impact analyses (EIAs) will be drafted and compared to any other EIAs or committee action on the rule in the past. If JCRAR so decides, they can grant limited flexibility in this timeline to allow for the agency to complete its work.

This bill was designed to re-emphasize the importance of legislative oversight in the rulemaking process without adding undue burdens onto state agencies. While this bill may require some additional work to be done for compliance, it is better to spend time removing unnecessary and burdensome regulations from Wisconsin's rulebooks than it is to keep costly, confusing, cursory, or contradictory mandates in place on our hunters and fishers, farmers, and small businesses. Allowing our regulated citizens to give feedback on the thousands of pages of administrative code will allow for better collaboration and public policy.

Based on the experience of other states with sunset clauses, I expect the overwhelming majority of administrative rules will be readopted without objection. The rules that do receive objections from either party are the ones that we should be looking at anyways – the type of code that might be a better statute, the code that was pushed through without adequate legislative or public debate. I look forward to putting a system in place that reaffirms our commitment to ensuring that our regulations achieve what we say they should achieve, and that Wisconsin's rules work for Wisconsin's citizens.



SHANNON ZIMMERMAN

STATE REPRESENTATIVE • 30th ASSEMBLY DISTRICT

To: Chairman Nass and members of the Senate Committee on Labor and Regulatory Reform

From: Representative Shannon Zimmerman, 30th Assembly District

Date: August 29, 2017

Re: 2017 Senate Bill 295

First, I thank Chairman Nass and members of the Senate Committee on Labor and Regulatory Reform for hearing Senate Bill 295 (SB 295). SB 295 intends to provide the people of Wisconsin with accountability over government regulations. In effect, SB 295 will give Wisconsinites better opportunities for public input, legislative and executive oversight, and economic analyses.

Under SB 295, Wisconsin's administrative code chapters would expire seven years after their initial adoption. For existing code chapters, the Joint Committee for the Review of Administrative Rules (JCRAR), working with state agencies, would determine the effective date of adoption and expiration. Before a code chapter expires, an agency may choose to petition the legislature to readopt the sunseting chapter. JCRAR and the appropriate standing committee will review the petition, and if no members of the committee object, the rule is automatically readopted for another seven years. If a committee member of either the majority or minority party objects, then the code chapter must go through the existing process in place for rule promulgation in order to be readopted. New economic impact analyses (EIAs) will be drafted and compared to any other EIAs or committee action on the rule in the past. If JCRAR so decides, they can grant limited flexibility in this timeline to allow for the agency to complete its work.

I believe it is critical legislators can exercise legislative accountability in the rulemaking process to ensure we are minimizing burdensome regulations that adversely impact our communities, small businesses, and hard-working Wisconsinites. SB 295 will enable legislative oversight of the administrative rules without adding unnecessary encumbrances to state agencies.

Fourteen other states in America benefit from a mandatory legislative review or automatic expiration of their administrative rules. I believe SB 295 will strengthen Wisconsin by creating a system which will ensure sound statutes and code have public input and accountability. This bill is a step in the proper direction of smaller government and higher transparency.

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**Statement of the Sierra Club John Muir Chapter, Wisconsin Wildlife Federation,
Wisconsin Lakes, Wisconsin League of Conservation Voters, Clean Wisconsin and
River Alliance of Wisconsin
in opposition to
Senate Bill 295
August 29, 2017**

Chairman Nass and members of the committee, my name is Bill Davis. I am the Chapter Director with the John Muir Chapter of the Sierra Club. I would like to thank you for the opportunity to provide comments in opposition to Senate Bill 295.

The undersigned organizations are opposed to SB 295 because it is unnecessary given the review authority the legislature already has over administrative rules, and because it retards Wisconsin's ability to carry out its duty to protect the health and well-being of Wisconsinites and the environment. This bill would affect all aspects of the Department of Natural Resources (DNR) operations from bag limits to recreational activities such as snowmobiling and boating to forestry as well as environmental regulations that protect human health such as Safe Drinking Water Act, Clean Air Act and Clean Water Act. In addition, the bill applies to entire Chapters of code, not specific provisions so if a single legislator did not like, for example, the bag limit on Walleye it this bill would repeal *all* bag limits.

The Bill is unnecessary

The legislature already has the ability to review and suspend administrative rules through the Joint Committee for Review of Administrative Rules (JCRAR). This process is designed to avoid the constitutional issues referred to below.

SB 295 Potentially would put Wisconsin in violation of federal law

Over the decades, Wisconsin has elected to implement various Federal environmental laws such as the Clean Air Act, Clean Water Act and Safe Drinking Water Act. This allows Wisconsin DNR to tailor implementation of these laws (within the limits set by U.S. E.P.A.) to fit the circumstances in Wisconsin. It also means those affected by these laws to be able to work with the Wisconsin Department of Natural Resources instead of the U.S. E.P.A. To maintain the ability to implement these laws Wisconsin must stay in compliance with the requirements EPA has set out for delegation. Compliance with federal law relies heavily on administrative rules. If some of these rules were repealed to under SB 295 Wisconsin would be out of compliance with federal law and our programs could revert back to EPA.

Will create confusion

This bill would create confusion in a number of ways. First, many chapters of the administrative code are linked. For example, NR 102 set water quality standards and NR 217 lays out the methodology of how those standards are translated into permit limits. If one of Chapters is repealed but other isn't it would create confusion over how to put legal limits in Clean Water Act permits. This potentially endangers our water resources and creates uncertainty for

permitted facilities.

Second, under the timelines in SB 295 an agency would appear to have a maximum of a 1.75 years (this assumes they are given the one year extension by JCRAR) to re-promulgate a rule that is objected to. Given the 2011 changes to Chap 227 and the passage of Act 57 this year, it now takes longer than this to promulgate a rule. This means there will be gaps when a rule is not in effect. During that time industry and individuals will have no guidance as to how Wisconsin law will be applied to them. This will cause confusion, delay and unnecessary litigation.

Administrative Rules are necessary

Administrative rules are necessary to ensure uniform application of policy in the state. This is true for many reasons. First, it is difficult and unadvisable to spell out the level of detail needed in statute; difficult because it is hard to foresee all situations that may arise and unadvisable because information changes and it would be very difficult for the legislature to keep up with current information and technology. Second, the administrative process allows those with expertise in an area to craft rules that fit Wisconsin. For example, our water law and the water chemistry in our lakes and streams is different than say, Arizona yet the Clean Water Act applies to both. Administrative rules can be tailored to the situations that exist here. Finally, the administrative process allows for direct input by those affected to make sure the rules will work as intended.

Separation of Powers

We believe SB 295 violates Wisconsin's constitution Separation of Powers provisions. Wisconsin's state government is made up of three co-equal branches; each elected by the people of Wisconsin. The Legislatures role is to pass laws. The role of the Executive branch is to enforce those laws which it does through administrative rules. By allowing a single legislator to overturn a promulgated rule SB 295 violates the Separation of Powers; to repeal a promulgated rule requires the full legislative process i.e. passage of a law as is the case in the current JCRAR process.

For all these reasons we urge the committee to oppose SB 295.

Thank you again for the opportunity to testify.

Sierra Club – John Muir Chapter
Wisconsin Wildlife Federation
Wisconsin Lakes
Wisconsin League of Conservation Voters
Clean Wisconsin
River Alliance of Wisconsin



WISCONSIN MANUFACTURERS & COMMERCE

**TESTIMONY BEFORE THE SENATE COMMITTEE ON LABOR AND
REGULATORY REFORM IN SUPPORT OF SENATE BILL 295**

Chairman Nass and Committee Members:

Thank you for the opportunity to testify today. My name is Lucas Vebber and I am the General Counsel and Director of Environmental and Energy Policy at Wisconsin Manufacturers and Commerce (WMC). WMC is the state's chamber of commerce and manufacturers' association. With approximately 3,800 members, we are the largest business trade association in Wisconsin. WMC represents members from all over Wisconsin of all sizes and in every sector of the state's economy. I am here today to testify in support of Senate Bill 295.

This legislation is the next step in what has been a multi-session effort to greatly improve Wisconsin's regulatory process. Under current law, once a regulation is promulgated it stays on the books indefinitely. This legislation changes that, and provides for the expiration of each chapter of the administrative code every seven years, while also creating an expedited promulgation and Legislative review process.

Regulations are a necessary part of government. Agencies need to be able to implement the laws that the Legislature enacts. When they promulgate regulations, they should do so in the most efficient and effective way possible. Many code chapters have been on the books for decades. This legislation would: (1) require state agencies to constantly review their administrative code chapters, (2) establish a new process to quickly re-promulgate chapters they want to keep, and (3) empower the Legislature with oversight of this process to ensure accountability. This greatly increased oversight will ultimately lead to a more efficient code and a better regulatory climate for our state.

Technology is constantly changing, the code should keep up. Earlier this year, Wisconsin was named a top-10 best state for business. Businesses throughout the country and, as we have seen recently, throughout the world, have taken notice of the improvements our state has made. An improving regulatory environment has absolutely played a role in improving our state's business climate.

Thank you for the opportunity to testify today, I would be happy to answer any questions you may have.



Testimony Regarding SB 295 – August 29, 2017

My name is John Holevoet, and I am the director of government affairs for the Dairy Business Association (DBA). DBA represents dairy farmers, dairy processors, and allied businesses throughout Wisconsin. Our farm members range in size from herds with fewer than 50 cows to those with more than 10,000. Through a deep commitment to advocacy, collaboration and open conversations, DBA seeks to empower our membership to lead Wisconsin's dairy community forward.

I want to thank Chairman Nass and the rest of the committee for the opportunity to speak in favor of SB 295. This bill and other measures to encourage regulatory reform are very much welcomed by our state's dairy community.

The regulatory climate that Wisconsin's farmers face is not a good one. This discourages investment here by Wisconsin farmers and others considering coming to our state. We estimate that in the last five years our members have invested \$162 million in new dairies elsewhere. In the short term, around another \$80 million of investment is planned by Wisconsin farmers in states other than our own. As our farmers move, processing plants are beginning to follow. Hundreds of millions of dollars have been spent on these new facilities and other facilities are already in the planning stages.

The exodus of investment is not limited to money spent on new facilities. There has also been a shift towards raising our young stock elsewhere. It is no longer cost effective to raise heifers in Wisconsin. They can be raised for about half as much in other Midwestern and Plains states. There are around 200,000 Wisconsin heifers being raised out of state now. We are missing out of hundreds of thousands of dollars in economic activity each day that these animals are elsewhere.

Like many others, I was glad to hear about Foxconn's plans to build a manufacturing facility in Wisconsin. It is exciting to think of a new industry taking root here. At the same time, it is important we do not forget our current economic powerhouse. Dairy generates tens of billions of dollars for our state's economy each year. We help to employ tens of thousands of people.

I am not proposing a three-billion-dollar tax incentive package for dairy farms, but we could use help. As a threshold matter, please do not actively encourage us to leave the state. (This is not mere rhetoric, DNR staff have actually suggested farms move parts of their operations out of state.) Even better, we should work to create an effective and efficient regulatory environment that encourages investment in dairy farms and other segments of the economy.

In the media, we read reports about the "dairy lobby" seeking less regulation, while activist groups argue for more. Our focus should not be on more or less regulation; it should be on better and more effective regulation. SB 295 will help with this effort. The seven-year review process allows for a thoughtful consideration of current rules and the systematic streamlining of existing regulations. This may only be one part of the changes we need to make as a state, but it is an important step. I urge you all to support this bill and future efforts to improve regulation in Wisconsin.

Thank you for your time and attention to this matter. I would welcome any questions you might have.



**THE LEADING VOICE
FOR WISCONSIN SMALL
AND INDEPENDENT BUSINESSES**

August 29, 2017

**TO: Members
Senate Committee on Labor and Regulatory Reform**

**FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses**

RE: 2017 Senate Bill (SB) 295 relating to: the expiration of administrative rules.

Chairman Nass and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2017 Senate Bill (SB) 295.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent business owners with a voice in the legislative and regulatory activities of state government. Today, we have more than 4,000 members – approximately 85% of which own and operate businesses that have fewer than 25 employees.

Easing the regulatory burden on small employers is an ongoing WIB public policy priority and we believe reforms to the administrative rule-making process are needed to help us achieve this important objective.

Since 2011, Wisconsin lawmakers have taken meaningful steps to improve the processes by which new administrative rules are created. There is more accountability and transparency to the rule-making process. There are additional opportunities for small businesses to provide input before new rules are put in place. Rigorous economic analysis is applied to proposed regulations to ensure that lawmakers fully understand the costs as well as the benefits.

WIB...Helping you where you need it.

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We believe these “small business-friendly” process reforms will lead to state agency regulations which are fair and reasonable. With that said, a fair and reasonable regulation put in place in 2017 may not be so in the future.

Customary business practices may change, existing technology may evolve or unforeseen innovations may occur. Small, independent businesses must adapt to these marketplace forces to remain viable and competitive. That is much harder to do when they must comply outdated, obsolete or unnecessary state government regulations.

2017 Senate Bill (SB) 295 creates a thoughtful, deliberate and systematic process for the periodic review of all administrative rules. Under this legislation, outdated, obsolete or unnecessary administrative rules can be easily culled from the Wisconsin Administrative Code.

Existing rules can be easily renewed or be subject to re-adoption through the standard rule-making process – a rigorous process that allows small employers to provide their input, requires the state agency to reassess the economic impact of the regulation and gives state lawmakers another opportunity to determine whether re-adoption of the administrative rule is warranted.

We respectfully ask for your support of SB 295.

Thank you in advance for your consideration of our request.



To: Senate Committee on Labor and Regulatory Reform

From: Tom Larson, WRA Senior Vice President of Legal and Public Affairs, and
Jim Villa, CEO, NAIOP-Wisconsin

Date: August 29, 2017

RE: SB 295 – The expiration of administrative rules

The Wisconsin REALTORS® Association (WRA) and NAIOP-WI support SB 295, legislation that seeks to establish, among other things, a seven-year process for reviewing and updating administrative rules.

Background – Wisconsin has volumes of administrative rules, many of which have not been reviewed and updated for decades. These rules are often antiquated and, in some cases, are no longer applicable or enforceable due to changes in industry standards, technology, court cases, or legislative action. Without a regular review process to ensure that administrative rules are both current and consistent with controlling statutes or case law, confusion often results for both regulators and the public who may be unaware that the administrative rules are no longer valid. Moreover, the application of incorrect standards found in outdated administrative rules may result in added and unnecessary costs, delays, or even denials of permits, credentials, or economic development projects.

Inconsistencies Between Statutes and Administrative Rules Are Common – The following are examples of administrative rules that are inconsistent with state statutes:

- **Sprinkler rules** -- The Wisconsin Statutes explicitly require sprinklers in multifamily dwellings only if the dwelling contains more than 20 units. See Wis. Stat. § 101.14(4m)(b). However, the administrative rules require sprinklers in multifamily dwellings if the dwelling contains more than 4 units. See Wis. Admin. Code SPS § 363.0903. Despite the fact that 2011 Wis. Act 21 (Act 21) prohibits state agencies from enforcing a standard, requirement or threshold that is more restrictive than the standard contained in the statutes, the Department of Safety and Professional Services (DSPS) continues to enforce the outdated administrative rule, which adds thousands of dollars per unit to the cost of multi-family dwellings. See Wis. Stat. § 227.11(2)(a)3.
- **Definition of ASNRI** -- The Wisconsin Statutes exempt certain water-related activities from the Department of Natural Resources (DNR) Ch. 30 permit requirements unless the activity is located in an "area of special natural resource interest" (ASNRI). See Wis. Stat. § 30.01(1am). However, the definition of ASNRI is narrower in the statutes (Wis. Stat. § 30.01(1am)) than in related administrative rules (see e.g., Wis. Admin. Code § NR 103.04). Thus, the application of the ASNRI definition found in the administrative rules would require projects to obtain permits despite the fact that the statutes exempt such projects from

permitting requirements. See Wis. Stat. § 30.12(1g)¹. Again, if the DNR requires a project to obtain a permit for a statutorily-exempt activity, the project would incur unnecessary delays and costs.

- Real estate brokerage -- 2015 Wis. Act 258 modernized Wis. Stat. Ch. 452 (which regulates real estate brokerage activity) by, among other things, updating terminology defining the independent contractor relationship between real estate firms and agents. In other states, the use of incorrect terminology such as “broker-employer” and “employee” when referring to the real estate company and its agents created confusion for courts and regulators as to whether agents were truly independent contractors. Recognizing the same confusion would result if the terminology in the administrative rules was different than the statutes, the DSPS immediately updated the language in the rules to be consistent with new terminology in the statutes resulting from Act 258. As demonstrated by the DSPS, it is necessary for state agencies to review their administrative rules on a regular basis to, among other things, ensure they are current and consistent with the statutes.

As highlighted by the above examples, the WRA and NAIOP-WI support SB 295 to help ensure correctness and relevancy in administrative rules by implementing a review process of each chapter of the administrative rules every seven years.

¹Exempts from permitting requirements activities such as piers, boat hoists, and deposits of sand/gravel of less than 2 cubic yards.

August 29, 2017

To: Senator Stephen L. Nass, Chair Senate Committee on Labor and Regulatory Reform
Members, Senate Committee on Labor and Regulatory Reform

From: Disability Rights Wisconsin – Mitchell Hagopian, Attorney

Re: 2017 SB 295

Disability Rights Wisconsin is the protection and advocacy agency for people with Disabilities in Wisconsin. In that capacity, we represent people whose lives are affected by, shaped by and protected by, administrative rules. We strongly oppose Senate Bill 295 because it threatens—for absolutely no reason—the regulatory framework which has developed over decades to make society accessible to, and safer for, people with disabilities.

The administrative rules, promulgated by, among other agencies, the Departments of Health Services, Public Instruction, Workforce Development and Children and Families, do a myriad of things directly impacting people with disabilities. They articulate eligibility criteria for public benefits programs, health and safety standards for the residential and foster placements in which people with disabilities live, standards for how they will receive an education, and how they will receive vocational supports. They include rules guaranteeing people with disabilities fair treatment in employment, housing, and as patients of health care providers. For people with disabilities, the regulatory apparatus is a lifeline.

These rules were carefully crafted to serve specific purposes. They flesh out the statutory skeleton upon which they are based. They were not designed to impose burdens on “the business community” and they do not impose such burdens—unless fair, safe and healthful treatment by commercial and governmental entities that service people with disabilities constitutes a burden.

The vast majority of rules which impact people with disabilities are rules that have been around a long time and need to continue to be around. Senate Bill 295 threatens the continuity of this regulatory framework. SB 295’s genesis is cynical—it assumes that all administrative agencies issue only unnecessary and temporary rules, rules which require constant review and are presumed to be obsolete every seven years regardless of their type or purpose. This bill will require already overburdened and understaffed administrative agencies to devote limited staff resources to monitoring rules and assuring that deadlines for reauthorizing them are met, even when there is no legitimate reason for reviewing them or a need to reauthorize them. The four agencies mentioned above—DHS, DPI, DWD and DCF—have 240 rules between them (96 at DHS alone). At its least harmful, this pointless exercise will drain resources from other necessary and worthy tasks.

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But this law may not be so harmless. What if an overworked DHS employee neglects to timely notify JCRAR that DHS intends to readopt DHS 132—the rule which governs all aspects of skilled nursing homes in this state? Or even more likely, what if the employee in charge of that task resigns or retires

and the task does not get timely transferred in the transition (which currently takes many months) to the person’s replacement? And that assumes, of course, that the position itself does not get eliminated when the former employee leaves. When this happens and DHS 132 sunsets, what are the people who rely on it supposed to do? Will DHS’s Division of Quality Assurance have to cease its’ regulation of health and safety issues at facilities that serve our most vulnerable and medically fragile citizens? There are 95 other, equally important rules issued and administered by DHS. This bill will require that 13 to 14 of them will have to be readopted each year. Any thought that this will go smoothly is unrealistic.

And what of the provision in SB 295 that permits any single member of JCRAR or a standing committee that has oversight jurisdiction of the expiring rule the ability to object to its automatic re-adoption? This gives one legislator the power to require an agency to pursue a full-blown notice and comment reauthorization, even though there may be no substantive reason to do so. The sum total of the objection requirement is that it be “in writing.” Given the political polarization in our state and nation, it is not out of the realm of possibility that a member of the party not occupying the Governorship will object to automatic re-adoption of noncontroversial rules for the sole purpose of disrupting the Governor’s ability to manage the state.

SB 295 serves no purpose and has the potential to cause major disruption in the smooth and efficient operation of government. Because people with disabilities rely heavily on programs managed by the government through the use of administrative rules, this law’s negative effects will be felt acutely by people with disabilities. SB 295 is a bad idea and should be rejected.

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AMERICANS FOR PROSPERITY[®]

WISCONSIN

TO: Honorable Members of the Senate Committee on Labor and Regulatory Reform

FROM: Eric Bott, State Director, Americans for Prosperity-Wisconsin

DATE: August 29, 2017

RE: Support Senate Bill 295 – Sunset Administrative Rules

On behalf of more than 130,000 Americans for Prosperity activists in Wisconsin, I would like to thank Chairman Nass and members of the committee for taking testimony on Senate Bill 295. We would also like to thank Senator Darling and Representative Steineke for their commitment to administrative rule reform and for authoring the legislation before you today.

Americans for Prosperity exists to recruit, educate, and mobilize citizens in support of the policies and goals of a free society at the local, state, and federal level, helping every American live their dream – especially the least fortunate. Sadly, the ceaseless growth of the regulatory state has made that dream increasingly unobtainable for many Americans. Burdensome regulations, sometimes without basis in statute can and do inhibit the formation and success of small businesses.

Additionally, the financial cost of the regulatory state on working families is large and growing. Compliance costs of national regulations currently equate to \$14,842 per year. That cost is greater than what a typical family spends on food, healthcare, and clothing combined. Wisconsin's administration code – one-tenth the size of the Federal Government's administrative code - is significantly more burdensome than our neighboring states of Minnesota and Michigan, according to a recent study by the Mercatus Center.

SB295 is a common sense bill that will protect Wisconsinites from undue regulatory burdens by improving legislative oversight. Overtime, regulations become outdated causing harm to economic productivity and individual freedoms. This bill offers an important commitment to both our new and existing businesses that signals to them, Wisconsin is really open for business.

SB295 requires the re-adoption of regulations every seven years and provides for substantial legislative review over the re-adoption process. This bill is a powerful complement to the REINS Act, which passed and was signed into law earlier this month.

Again, thank you for hearing SB295 today. We ask that you please consider supporting this legislation to review and eliminate burdensome, unauthorized, and unnecessary red tape in Wisconsin.

For more information, please contact Eric Bott at ebott@afphq.org

OSP

OPPORTUNITY

Solutions Project

To: Senate Committee on Labor and Regulatory Reform
From: Opportunity Solutions Project
Re: Written testimony in support of SB 295
Date: August 29, 2017

Thank you for providing a public opportunity to share our position on Senate Bill 295 related to the expiration of administrative rules. Opportunity Solutions Project supports the concept of this legislation.

Opportunity Solutions Project is a nonprofit, nonpartisan advocacy organization that seeks to improve lives by advocating for public policies based on the principles of free enterprise, individual liberty and a limited, accountable government. We support Senate Bill 295 as a public policy that will hold government accountable.

Regulations should be up to date, understandable, consistent, necessary, and not unduly burdensome and we encourage the concept that each state agency must complete a routine review of its administrative rules.

By requiring the expiration of each chapter of the Wisconsin Administrative Code after seven years, you are guaranteeing an opportunity for all regulations to be reviewed. Those that fail to meet the new standards should be repealed or reformed.

In Wisconsin, once an administrative rule is promulgated, it could remain in effect indefinitely. While we appreciate the actions of the current legislature with their continuous review of administrative rules, we prefer a statutory requirement, as we cannot assume future legislatures will continue this level of review.

We also ask you to consider one change to this legislation.

Under this bill as drafted, in the year before a code chapter is set to expire, an agency may send a readoption notice to Joint Committee on the Review of Administrative Rules (JCRAR) and the appropriate standing committees proposing to readopt the chapter. If no member of JCRAR or the standing committee objects to the notice, the chapter is considered readopted without further action.

We believe the legislature should take this policy one step further and make the review active instead of passive. We recommend that unless every member of the standing committee and JCRAR explicitly voices their approval of the rule, then the chapter goes through the chapter 227 rule promulgation process. This gives any citizen or industry the opportunity to share their opinions on the area of code impacting their lives.

While new regulations are often created to address pressing problems, it is difficult to predict if regulations will remain effective a few years later. Business environments, policy goals, and other regulations all change over time, and this can limit the effectiveness of older regulations. For these reasons, we should encourage regular reviews of regulations after a period of time

that allows their unintended effects to become clear. A comprehensive review process, such as the one outlined in SB 295, will create an effective but manageable review system that also provides the public with a greater voice in the regulatory process.

Thank you for the opportunity to share our support of and recommended change to Senate Bill 295.



**Testimony to the Senate Committee on Labor and Regulatory
Reform in opposition to Senate Bill 295,
relating to the expiration of administrative rules**

August 29, 2017

Chairman Nass and distinguished members of the Committee, I'm Matt Rothschild, the executive director of the Wisconsin Democracy Campaign, which is now in its third decade as an advocate for clean and open government in Wisconsin.

The Wisconsin Democracy Campaign opposes SB 295 for the following reasons:

It's unnecessary: The legislature already has the power to oversee the functioning of the agencies, and if it doesn't like any of the administrative rules that any agency adopts, it can suspend that rule.

It's overly broad: Rather than deal with any specific administrative rules it doesn't like, SB 295 would throw all of them out the window every seven years. This is a classic example of throwing the baby out with the bathwater.

It's costly: This bill would be a bureaucratic nightmare that would increase costs and workloads across agencies. The Department of Health Services estimated that it would increase existing operations by \$211,400 every year. The Department of Children and Families warns that it "could create a large increase in DCF workload... DCF staff estimate that it would take 200-400 hours of staff time to complete the standard rule-making process for one chapter" – and it appears that there are 252 chapters covering the DCF. I leave you to do the math. Meanwhile, the Department of Revenue warns that "the repeal of tax chapters may hinder the department's ability to collect taxes and could result in a decrease in voluntary compliance."

It's an early Christmas present to corporate lobbyists and donors:

The largest special interests in Wisconsin, which have backed this bill, want less and less government oversight, regardless of the necessity of such oversight for the

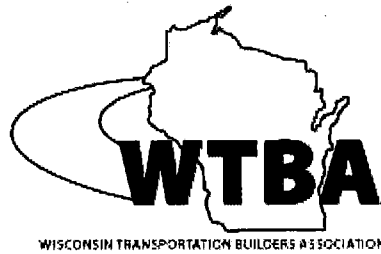
health and well-being of Wisconsinites and our environment. This bill would reward these big business interests with an early Christmas present.

Most alarming of all, it would endanger the health and safety of the people of Wisconsin and its environment: Others are here to testify today about the risks to Wisconsin's environment, so let me focus just on health and safety. Since the bill would put a 7-year sunset on every chapter of the administrative code, let's just look at one chapter from the Department of Health Services.

Chapter 145 deals with "Control of Communicable Diseases." Its purpose consists of providing "effective communicable disease reporting," and providing ways to prevent, control, and investigate the "transmission of communicable diseases." It has specific sections covering how employees of schools, health care facilities, day care centers, home health agencies, and restaurants and other food preparers should respond if they have a communicable disease. And it deals with such diseases as tuberculosis and sexually transmitted diseases, specifying in great detail how the public should be protected. Do you really want to just throw this whole chapter out, or force the Department to jump through a lot of hoops to get it renewed, when the health and safety of the public hangs in the balance?

For these reasons, the Wisconsin Democracy Campaign opposes SB 295.

Thank you for considering our testimony.



To: Members of the Senate Committee on Labor and Regulatory Reform

From: Pat Goss, Executive Director

Date: August 29th, 2017

Subject: WTBA Testimony in Support of Senate Bill 295

On behalf of the members of the Wisconsin Transportation Builders Association (WTBA), we are pleased to submit testimony in support of Senate Bill (SB) 295.

We applaud Senator Darling, Representative Steineke and the other co-sponsors of SB 295 for their efforts to continue to make positive, regulatory reforms within our state's agencies. SB 295 will help eliminate bureaucratic red tape by automatically sun setting administrative code every seven years and giving more legislative oversight by having the agencies get approval to renew codes from the legislature. WTBA views these as positive reforms.

Eliminating unnecessary administrative code will help my members spend more time focusing on their work versus perhaps spending time complying with an archaic regulation. Getting government out of the way, no matter how small, is a positive step forward in helping businesses like my members.

Again, WTBA is happy to support SB 295. We are grateful for Chairman Nass holding a public hearing and are hopeful this legislation will continue to make its way through the legislative process. If you have any questions, please do not hesitate to contact me at 608-256-6891 or pgoss@wtba.org.