



Co-Sponsorship Memorandum

To: Legislative Colleagues
From: Senator Rob Hutton
Representatives Dan Knodl and Amanda Nedweski
Date: April 30, 2025
Re: Co-sponsorship of LRB 2509/1 and LRB 2515/1, relating to: scope statements and eliminating ambiguity.
Deadline: **Wednesday, May 14, 2025**

This bill proposes a reform to Wisconsin's administrative rulemaking process by clarifying how scope statements are used. A scope statement is the first formal step in agency rulemaking. It outlines the proposed rule's purpose, statutory authority, resource needs, potential impacts, and comparisons to policies in neighboring states. As part of the Red Tape Reset, a package of bills aimed at addressing regulatory reform, this will continue to move Wisconsin forward.

According to a recent study published by the Wisconsin Institute for Law and Liberty, Wisconsin is currently the 13th most regulated state in the country, and 2nd most regulated in region. With over 165,000 regulatory restrictions—a staggering 5.25 times more than Idaho, the least regulated state – Wisconsin's excessive regulation is stifling economic growth, driving up costs, and discouraging innovation. While reform-minded states like Idaho and Ohio have aggressively reduced red tape, Wisconsin's regulatory code grew by 2.3% between 2020 and 2023. WILL found that reducing red tape by just 10% over three years could add \$6.6 billion to Wisconsin's GDP by 2037. A 40% reduction could yield over \$68 billion in growth.

Currently, Wisconsin law requires agencies to prepare a scope statement but does not explicitly state whether each rule must have its own unique statement. This ambiguity has allowed agencies to use a single scope statement to issue both an emergency and a permanent rule on the same topic, or to issue multiple permanent rules spread over time. Such practices reduce transparency and limit public input during the rulemaking process.

The bill addresses this loophole by requiring that each scope statement be tied to a single rule—either an emergency rule or a permanent rule. It also creates a clear six-month expiration for scope statements related to emergency rules. This provision helps preserve the temporary nature

of emergency rulemaking and prevents it from becoming a workaround for prolonged regulatory action.

The motivation behind this legislation is to reinforce the purpose and integrity of the scope statement process. By mandating one rule per scope statement and specifying whether a statement applies to a permanent or emergency rule, the bill enhances public notice and increases opportunities for public participation. Permanent rules involve public hearings, legislative review, and an Economic Impact Analysis (EIA), whereas emergency rules currently bypass these safeguards and can take effect immediately.

By limiting agencies to one rule per scope statement, the bill ensures both emergency and permanent rulemaking processes remain transparent, distinct, and subject to appropriate oversight. This change prevents agencies from using a single scope statement to justify multiple rules over extended periods, ensuring more focused and timely regulatory actions. It aligns emergency rule practices with public expectations and strengthens Wisconsin's commitment to government transparency, accountability, and citizen engagement in regulatory decisions.

To be added as a co-sponsor of LRB-2509/1 and LRB-2515/1 please reply to this email or contact Sen. Hutton's office at 6-2512, Rep. Knodl's office at 9124, or Rep. Nedweski's office at 9132.

Analysis by the Legislative Reference Bureau

Under current law, in order to promulgate a rule, an agency must submit a statement of scope for the proposed rule for review by the Department of Administration and approval by the governor. Once the governor approves the statement, the agency must send the approved statement of scope to the Legislative Reference Bureau for publication in the Wisconsin Administrative Register before continuing with the rule promulgation process. A statement of scope expires after 30 months, after which the agency may not promulgate any rule based on that statement of scope that has not been submitted for legislative review by the expiration date. This bill does the following:

1. Limits an agency to promulgating either a permanent or an emergency rule for a given statement of scope and requires the agency to specify in a statement of scope whether it is for a proposed emergency rule or for a proposed permanent rule.
2. Limits an agency to promulgating one permanent rule or one emergency rule per statement of scope.
3. Provides that a statement of scope for an emergency rule expires after six months and provides that when a statement of scope for an emergency rule expires, an agency may not promulgate an emergency rule based upon that statement of scope. The bill retains the 30-month expiration under current law with respect to statements of scope for proposed permanent rules.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.