

SENATE BILL NO. 99

INTRODUCED BY R. LAIBLE

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE APPLICABILITY OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; REVISING THE JURISDICTION OF COURTS TO REVIEW THE REFUSAL OF AGENCIES TO ENGAGE IN RULEMAKING UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Limitation on applicability of Montana Administrative Procedure Act.**

This chapter applies according to the provisions of this chapter, except to the extent that:

- (1) state law precludes judicial review; or
- (2) an agency action is committed to agency discretion by state law.

**NEW SECTION. Section 2. Precluding judicial review for failure to engage in rulemaking.** A

Montana court is precluded from judicially reviewing any refusal of an agency to engage in rulemaking, absent express statutory direction outside of Title 2, chapter 4.

**NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 4, and the provisions of Title 2, chapter 4, apply to [sections 1 and 2].

**NEW SECTION. Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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