



AN ACT GENERALLY REVISING THE MONTANA ADMINISTRATIVE PROCEDURE ACT; PROVIDING THAT THE LEGISLATURE MAY REPEAL RULES OR AMENDMENTS BY JOINT RESOLUTION; LIMITING THE REPEAL TO RULES ADOPTED OR AMENDED DURING THE INTERIM; AMENDING SECTION 2-4-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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

Section 1. Section 2-4-412, MCA, is amended to read:

"2-4-412. Legislative review of rules -- effect of failure to object. (1) (a) The legislature may, by bill, repeal any rule in the ARM. If a rule is repealed, the legislature shall in the bill state its objections to the repealed rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new rule in accordance with the objections stated by the legislature in the bill. If the legislature does not repeal a rule filed with it before the adjournment of that regular session, the rule remains valid.

(b) The legislature may, by joint resolution, repeal a rule or amendment to a rule in the ARM that was adopted after final adjournment of the most recent regular legislative session. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new rule in accordance with the objections stated by the legislature in the joint resolution. In order to be effective, the joint resolution must be passed during the regular session and not during a special session. After the regular session adjourns, the rule or the amendment to the rule that was adopted during the period between the two regular legislative sessions remains valid and may not be repealed using a joint resolution.

(2) The legislature may also by joint resolution request or advise or by bill direct the adoption, amendment, or repeal of any rule. If a change in a rule or the adoption of an additional rule is advised, requested, or directed to be made, the legislature shall in the joint resolution or bill state the nature of the change or the additional rule to be made and its reasons for the change or addition. The agency shall, in the

manner provided in the Montana Administrative Procedure Act, adopt a new rule in accordance with the legislative direction in a bill.

(3) Rules and changes in rules made by agencies under subsection (2) must conform and be pursuant to statutory authority.

(4) Failure of the legislature or the appropriate administrative rule review committee to object in any manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this state to prove the validity of any rule."

Section 2. Effective date. [This act] is effective on passage and approval.

Section 3. Applicability. [This act] applies to administrative rules adopted or amended on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
SB 227, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 227

INTRODUCED BY S. FITZPATRICK

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