

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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