

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

April 8, 2021

The Honorable Mark Blasdel
President of the Senate
State Capitol
Helena, MT 59601

The Honorable Wylie Galt
Speaker of the House
State Capitol
Helena, MT 59601

Dear President Blasdel and Speaker Galt:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill 227 "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."

Article III, Section 1 of the Montana Constitution provides:

The power of the government of this state is divided into three distinct branches – legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to the one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

SB 227 is an unlawful violation of the separation of powers. It attempts to remove from the governor, the chief executive officer of the state with the final authority over the rulemaking activities of the executive branch, the power to approve or disapprove the legislature's review of the administrative rules implemented by the executive branch. It allows for the repeal of an administrative rule through a joint resolution, which does not have to be presented to the governor for signature and thus prevents the governor from exercising his final authority over the rulemaking activities of the executive branch.

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Furthermore, SB 227 unlawfully exceeds the permitted scope of a joint resolution as set forth in Rule 40-60(1)(j) of the Joint Rules of the Montana Senate and House. Under the joint rules, a joint resolution may only "advise or request the repeal, amendment, or adoption of a rule in the Administrative Rules of Montana" as proposed under SB 227. The joint rules were so written to respect the constitutional separation of powers between the legislature and the executive branch.

The concerns SB 227 seeks to address regarding legislative oversight over administrative rules has been addressed in SB 82, which I signed into law.

For these reasons, I veto SB 227.

Sincerely,



Greg Gianforte
Governor

cc: Legislative Services Division
Secretary of State Christi Jacobsen