

1 SENATE BILL NO. 6
2 INTRODUCED BY MAZUREK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE UNIFORM
5 STATUTORY RULE AGAINST PERPETUITIES BY PROVIDING A UNIFORM
6 METHOD FOR MEASURING A PERIOD OF TIME CONTAINED IN
7 INSTRUMENTS GOVERNING PROPERTY ARRANGEMENTS; AND AMENDING
8 SECTION 70-1-802, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 70-1-802, MCA, is amended to read:

12 "70-1-802. Statutory rule against perpetuities. (1) A
13 nonvested property interest is invalid unless:

14 (a) when the interest is created, it is certain to vest
15 or terminate no later than 21 years after the death of an
16 individual then alive; or

17 (b) the interest either vests or terminates within 90
18 years after its creation.

19 (2) A general power of appointment not presently
20 exercisable because of a condition precedent is invalid
21 unless:

22 (a) when the power is created, the condition precedent
23 is certain to be satisfied or become impossible to satisfy
24 no later than 21 years after the death of an individual then
25 alive; or

1 (b) the condition precedent either is satisfied or
2 becomes impossible to satisfy within 90 years after its
3 creation.

4 (3) A nongeneral power of appointment or a general
5 testamentary power of appointment is invalid unless:

6 (a) when the power is created, it is certain to be
7 irrevocably exercised or otherwise to terminate no later
8 than 21 years after the death of an individual then alive;
9 or

10 (b) the power is irrevocably exercised or otherwise
11 terminates within 90 years after its creation.

12 (4) In determining whether a nonvested property
13 interest or a power of appointment is valid under subsection
14 (1)(a), (2)(a), or (3)(a), the possibility that a child will
15 be born to an individual after the individual's death is
16 disregarded.

17 (5) If, in measuring a period from the creation of a
18 trust or other property arrangement, a clause in a governing
19 instrument purports to postpone the vesting or termination
20 of any interest or trust until, purports to disallow the
21 vesting or termination of any interest or trust beyond,
22 purports to require all interests or trusts to vest or
23 terminate no later than, or operates in any similar fashion
24 upon the later of:

25 (a) the expiration of a period of time that exceeds 21

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1 years or that exceeds or might exceed 21 years after the
2 death of the survivor of lives in being at the creation of
3 the trust or other property arrangement; or
4 (b) the death of, or the expiration of a period not
5 exceeding 21 years after the death of, the survivor of
6 specified lives in being at the creation of the trust or
7 other property arrangement, then the portion of the clause
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12 clause operates upon the death of, or upon the expiration of
13 the period not exceeding 21 years after the death of, the
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-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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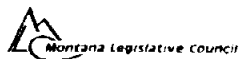
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(2) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

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THIRD READING

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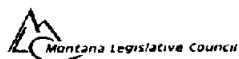
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REFERENCE BILL



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