SENATE BILL NO. 6

INTRODUCED BY MAZUREK

IN THE SENATE

	IN THE SENATE
DECEMBER 28, 1990	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 7, 1991	FIRST READING.
JANUARY 18, 1991	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 19, 1991	PRINTING REPORT.
JANUARY 21, 1991	SECOND READING, DO PASS.
JANUARY 22, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.
	IN THE HOUSE
JANUARY 22, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 23, 1991	FIRST READING.
FEBRUARY 4, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 5, 1991	SECOND READING, CONCURRED IN.
FEBRUARY 6, 1991	THIRD READING, CONCURRED IN. AYES, 99; NOES, 0.
	RETURNED TO SENATE.
	IN THE SENATE
FEBRUARY 6, 1991	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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alive; or

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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

is certain to be satisfied or become impossible to satisfy

no later than 21 years after the death of an individual then

(b)	the	cond	itior	n preced	dent	eith	er is	sat	isfied	01
becomes	impos	sible	to s	satisfy	with	in 91) уеа	ırs a	fter i	ts
creation	١.									

- 4 (3) A nongeneral power of appointment or a general 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
- (b) the power is irrevocably exercised or otherwise 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.
- trust or other property arrangement, a clause in a governing
 instrument purports to postpone the vesting or termination
 of any interest or trust until, purports to disallow the
 vesting or termination of any interest or trust beyond,

(5) If, in measuring a period from the creation of a

- 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

SB 0006/01

SB 0006/01

-	years or char exceeds of might exceed if 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
8	pertaining to the period of time that exceeds 21 years or
9	that exceeds or might exceed 21 years after the death of the
10	survivor of lives in being at the creation of the trust or
11	other property arrangement must be disregarded, and the
12	clause operates upon the death of, or upon the expiration of
13	the period not exceeding 21 years after the death of, the
14	survivor of the specified lives in being at the creation of
15	the trust or other property arrangement."

-End-

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unless:

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APPROVED BY COMMITTEE ON JUDICIARY

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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 70-1-802, MCA, is amended to read:
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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

SENATE BILL NO 6

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

exercisable because of a condition precedent is invalid

- (b) the condition precedent either is satisfied or 1 becomes impossible to satisfy within 90 years after its creation.
- (3) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:
- 6 (a) when the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; 9
- 10 (b) the power is irrevocably exercised or otherwise terminates within 90 years after its creation. 11
- (4) In determining whether a nonvested property 12 13 interest or a power of appointment is valid under subsection (1)(a), (2)(a), or (3)(a), the possibility that a child will be born to an individual after the individual's death is 15
- trust or other property arrangement, a clause in a governing 18 19 instrument purports to postpone the vesting or termination

(5) If, in measuring a period from the creation of a

- 20 of any interest or trust until, purports to disallow the vesting or termination of any interest or trust beyond, 21
- 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:

disregarded.

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

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
8	pertaining to the period of time that exceeds 21 years or
9	that exceeds or might exceed 21 years after the death of the
10	survivor of lives in being at the creation of the trust or
11	other property arrangement must be disregarded, and the
12	clause operates upon the death of, or upon the expiration of
13	the period not exceeding 21 years after the death of, the
14	survivor of the specified lives in being at the creation of
15	the trust or other property arrangement."

-End-

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
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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 them
25	alive; or

SENATE BILL NO. 6

1	(b)	the	cond	ition	prece	dent	eith	er is	satisfi	ed or
2	becomes	impos	sibl e	to s	atisfy	with	in 9	0 year	s after	its
3	creation	١.								

- (3) A nongeneral power of appointment or a general 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
- (b) the power is irrevocably exercised or otherwise
 terminates within 90 years after its creation.
 - (4) In determining whether a nonvested property interest or a power of appointment is valid under subsection (1)(a), (2)(a), or (3)(a), the possibility that a child will be born to an individual after the individual's death is disregarded.

(5) If, in measuring a period from the creation of a

- trust or other property arrangement, a clause in a governing
 instrument purports to postpone the vesting or termination
 of any interest or trust until, purports to disallow the
- vesting or termination of any interest or trust beyond,
 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:

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

THIRD READING

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 specified lives in being at the creation of the trust or 7 other property arrangement, then the portion of the clause pertaining to the period of time that exceeds 21 years or 9 that exceeds or might exceed 21 years after the death of the 10 survivor of lives in being at the creation of the trust or 11 other property arrangement must be disregarded, and the 12 clause operates upon the death of, or upon the expiration of 13 the period not exceeding 21 years after the death of, the 14 survivor of the specified lives in being at the creation of 15 the trust or other property arrangement."

-End-

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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE UNIFORM
5	STATUTORY RULE AGAINST PERPETUITIES BY PROVIDING A UNIFORM
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7	INSTRUMENTS GOVERNING PROPERTY ARRANGEMENTS; AND AMENDING
8	SECTION 70-1-802, MCA."
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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 them
25	alive; or

SENATE BILL NO. 6

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

25

1

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- (b) the condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation. (3) A nongeneral power of appointment or a general
- testamentary power of appointment is invalid unless:
- (a) when the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later 21 years after the death of an individual then alive;
- the power is irrevocably exercised or otherwise inates within 90 years after its creation.
- (4) In determining whether a nonvested rest or a power of appointment is valid under subsection a), (2)(a), or (3)(a), the possibility that a child will born to an individual after the individual's death is egarded.
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- ports 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:
 - (a) the expiration of a period of time that exceeds 21

SB 0006/02

L	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
8	pertaining to the period of time that exceeds 21 years or
9	that exceeds or might exceed 21 years after the death of the
0	survivor of lives in being at the creation of the trust or
ı	other property arrangement must be disregarded, and the
2	clause operates upon the death of, or upon the expiration of
3	the period not exceeding 21 years after the death of, the
4	survivor of the specified lives in being at the creation of
5	the trust or other property arrangement."

-End-