

1 Senate BILL NO. 201
 2 INTRODUCED BY Turnage

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION
 6 TO AND DISTRIBUTION OF ESTATES."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 91A-2-102, R.C.M. 1947, is amended
 10 to read as follows:

11 "91A-2-102. Share of spouse. The intestate share of
 12 the surviving spouse is:

13 (1) if there is no surviving issue, the entire
 14 intestate estate;

15 (2) ~~if there are surviving issue all of whom are issue~~
 16 ~~of the surviving spouse also, the first fifty thousand~~
 17 ~~dollars (\$50,000), plus one-half (1/2) of the balance of the~~
 18 intestate estate if there is surviving only one (1) child,
 19 or the issue of one (1) child, one-half (1/2) of the
 20 intestate estate;

21 (3) ~~if there are surviving issue one (1) or more of~~
 22 ~~whom are not issue of the surviving spouse, one-half (1/2)~~
 23 ~~of the intestate estate, if there are surviving more than~~
 24 one (1) child, or one (1) child and the issue of one (1) or
 25 more deceased children, one-third (1/3) of the intestate

1 estate."
 2 Section 2. Section 91A-2-103, R.C.M. 1947, is amended
 3 to read as follows:

4 "91A-2-103. Share of heirs other than surviving
 5 spouse. The part of the intestate estate not passing to the
 6 surviving spouse under section 91A-2-102, or the entire
 7 intestate estate if there is no surviving spouse, passes as
 8 follows:

9 (1) to the issue of the decedent; if they are all of
 10 the same degree of kinship to the decedent they take
 11 equally, but if of unequal degree, then those of more remote
 12 degree take by representation;

13 (2) if there are surviving several children, or one
 14 (1) child, and the issue of one (1) or more children, and
 15 any such surviving child dies under age, and not having been
 16 married, all the estate that came to such deceased child by
 17 inheritance from the decedent, in equal shares to the other
 18 children of the same parent, and to the issue of any such
 19 other children who are dead, by representation; and if, at
 20 the death of such child, who dies under age, not having been
 21 married, all the other children of his parents are also
 22 dead, and any of them have left issue, to the issue of all
 23 other children of the same parent; and if all the issue are
 24 in the same degree of kinship to such child, they take
 25 equally, but if of unequal degree then those of more remote

1 degree take by representation;

2 ~~(2)~~ (3) if there is no surviving issue, to his parent
3 or parents equally;

4 ~~(3)~~ (4) if there is no surviving issue or parent, to
5 the brothers and sisters and the ~~issue-of-each-deceased~~
6 ~~brother--or--sister--by--representation,--if--there--is---no~~
7 ~~surviving--brother--or--sister,--the--issue--of--brothers--and~~
8 ~~sisters--take--equally--if--they--are--all--of--the--same--degree--of~~
9 ~~kinship--to--the--decedent,--but--if--of--unequal--degree--then--those~~
10 ~~of--more--remote--degree--take--by--representation~~ children or
11 grandchildren of any deceased brother or sister, by
12 representation;

13 ~~(4)--if--there--is--no--surviving--issue,--parent--or--issue--of~~
14 ~~a--parent,--but--the--decedent--is--survived--by--one--or--more~~
15 ~~grandparents--or--issue--of--grandparents,--half--of--the--estate~~
16 ~~passes--to--the--paternal--grandparents--if--both--survive,--or--to~~
17 ~~the--surviving--paternal--grandparent,--or--to--the--issue--of--the~~
18 ~~paternal--grandparents--if--both--are--deceased,--the--issue--taking~~
19 ~~equally--if--they--are--all--of--the--same--degree--of--kinship--to--the~~
20 ~~decedent,--but--if--of--unequal--degree--those--of--more--remote~~
21 ~~degree--take--by--representation,--and--the--other--half--passes--to~~
22 ~~the--maternal--relatives--in--the--same--manner,--but--if--there--be~~
23 ~~no--surviving--grandparent--or--issue--of--grandparent--on--either~~
24 ~~the--paternal--or--the--maternal--side,--the--entire--estate--passes~~
25 ~~to--the--relatives--on--the--other--side--in--the--same--manner--as--the~~

1 ~~half;~~

2 (5) if there is no surviving issue, parent, ~~or--issue--of~~
3 ~~a--parent,--grandparent--or--issue--of--a--grandparent,~~ brother,
4 sister, or children or grandchildren of a deceased brother
5 or sister, the-estate-passes to the next of kin, in equal
6 degree, except that where there are two (2) or more
7 collateral kindred, in equal degree, but claiming through
8 different ancestors, those who claim through the nearer
9 ancestors must be preferred to those claiming through an
10 ancestor more remote."

-End-

Reported back from Committee without recommendation,

1 Senate BILL NO. 201
2 INTRODUCED BY Turnage
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
5 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION
6 TO AND DISTRIBUTION OF ESTATES."
7

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

9 Section 1. Section 91A-2-102, R.C.M. 1947, is amended
10 to read as follows:

11 "91A-2-102. Share of spouse. The intestate share of
12 the surviving spouse is:

13 (1) if there is no surviving issue, the entire
14 intestate estate;

15 ~~(2) if there are surviving issue all of whom are issue~~
16 ~~of the surviving spouse also, the first fifty thousand~~
17 ~~dollars (\$50,000), plus one-half (1/2) of the balance of the~~
18 ~~intestate estate if there is surviving only one (1) child,~~
19 ~~or the issue of one (1) child, one-half (1/2) of the~~
20 ~~intestate estate;~~

21 ~~(3) if there are surviving issue one (1) or more of~~
22 ~~whom are not issue of the surviving spouse, one-half (1/2)~~
23 ~~of the intestate estate, if there are surviving more than~~
24 ~~one (1) child, or one (1) child and the issue of one (1) or~~
25 ~~more deceased children, one-third (1/3) of the intestate~~

1 estate."

2 Section 2. Section 91A-2-103, R.C.M. 1947, is amended
3 to read as follows:

4 "91A-2-103. Share of heirs other than surviving
5 spouse. The part of the intestate estate not passing to the
6 surviving spouse under section 91A-2-102, or the entire
7 intestate estate if there is no surviving spouse, passes as
8 follows:

9 (1) to the issue of the decedent; if they are all of
10 the same degree of kinship to the decedent they take
11 equally, but if of unequal degree, then those of more remote
12 degree take by representation;

13 (2) if there are surviving several children, or one
14 (1) child, and the issue of one (1) or more children, and
15 any such surviving child dies under age, and not having been
16 married, all the estate that came to such deceased child by
17 inheritance from the decedent, in equal shares to the other
18 children of the same parent, and to the issue of any such
19 other children who are dead, by representation; and if, at
20 the death of such child, who dies under age, not having been
21 married, all the other children of his parents are also
22 dead, and any of them have left issue, to the issue of all
23 other children of the same parent; and if all the issue are
24 in the same degree of kinship to such child, they take
25 equally, but if of unequal degree then those of more remote

502-1

1 degree take by representation;
 2 ~~{2}~~ (3) if there is no surviving issue, to his parent
 3 or parents equally;
 4 ~~{3}~~ (4) if there is no surviving issue or parent, to
 5 the brothers and sisters and the ~~issue-of-each-deceased~~
 6 ~~brother--or--sister--by--representation,--if--there--is--no~~
 7 ~~surviving--brother--or--sister,--the--issue--of--brothers--and~~
 8 ~~sisters--take--equally--if--they--are--all--of--the--same--degree--of~~
 9 ~~kinship--to--the--decedent,--but--if--of--unequal--degree--then--those~~
 10 ~~of--more--remote--degree--take--by--representation~~ children or
 11 grandchildren of any deceased brother or sister, by
 12 representation;
 13 ~~{4}--if--there--is--no--surviving--issue,--parent--or--issue--of~~
 14 ~~a--parent,--but--the--decedent--is--survived--by--one--or--more~~
 15 ~~grandparents--or--issue--of--grandparents,--half--of--the--estate~~
 16 ~~passes--to--the--paternal--grandparents--if--both--survive,--or--to~~
 17 ~~the--surviving--paternal--grandparent,--or--to--the--issue--of--the~~
 18 ~~paternal--grandparents--if--both--are--deceased,--the--issue--taking~~
 19 ~~equally--if--they--are--all--of--the--same--degree--of--kinship--to--the~~
 20 ~~decedent,--but--if--of--unequal--degree--those--of--more--remote~~
 21 ~~degree--take--by--representation,--and--the--other--half--passes--to~~
 22 ~~the--maternal--relatives--in--the--same--manner,--but--if--there--be~~
 23 ~~no--surviving--grandparent--or--issue--of--grandparent--on--either~~
 24 ~~the--paternal--or--the--maternal--side,--the--entire--estate--passes~~
 25 ~~to--the--relatives--on--the--other--side--in--the--same--manner--as--the~~

1 ~~half;~~
 2 (5) if there is no surviving issue, parent, ~~or--issue--of~~
 3 ~~a--parent,--grandparent--or--issue--of--a--grandparent,~~ brother,
 4 sister, or children or grandchildren of a deceased brother
 5 or sister, the estate passes to the next of kin, in equal
 6 degree, except that where there are two (2) or more
 7 collateral kindred, in equal degree, but claiming through
 8 different ancestors, those who claim through the nearer
 9 ancestors must be preferred to those claiming through an
 10 ancestor more remote."

-End-

1 SENATE BILL NO. 201
2 INTRODUCED BY TURNAGE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
5 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION
6 TO AND DISTRIBUTION OF ESTATES."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 91A-2-102, R.C.M. 1947, is amended
10 to read as follows:

11 "91A-2-102. Share of spouse. The intestate share of
12 the surviving spouse is:

13 (1) ~~if there is no surviving issue,--the--entire~~
14 ~~intestate-estate OR IF THERE ARE SURVIVING ISSUE ALL OF WHOM~~
15 ~~ARE ISSUE OF THE SURVIVING SPOUSE ALSO, THE ENTIRE REMAINING~~
16 ~~ESTATE;~~

17 (2) ~~if there are surviving issue all of whom are issue~~
18 ~~of the surviving--spouse--also,--the--first--fifty--thousand~~
19 ~~dollars-(650,000),--plus one-half-(1/2)--of the balance of the~~
20 ~~intestate--estate IF THERE ARE SURVIVING ISSUE ONE (1) OR~~
21 ~~MORE OF WHOM ARE NOT ISSUE OF THE SURVIVING SPOUSE, AS~~
22 ~~FOLLOWS:~~

23 (A) if there is surviving only one (1) SUCH child, or
24 the issue of one (1) SUCH child, one-half (1/2) of the
25 intestate estate;

1 ~~(B) if there are surviving issue one-(1)-or more of~~
2 ~~whom--are--not issue of the surviving spouse, one-half-(1/2)~~
3 ~~of the intestate estate, if there are surviving more than~~
4 ~~one (1) SUCH child, or one (1) SUCH child and the issue of~~
5 ~~one (1) or more deceased children, one-third (1/3) of the~~
6 ~~intestate estate."~~

7 Section 2. Section 91A-2-103, R.C.M. 1947, is amended
8 to read as follows:

9 "91A-2-103. Share of heirs other than surviving
10 spouse. The part of the intestate estate not passing to the
11 surviving spouse under section 91A-2-102, or the entire
12 intestate estate if there is no surviving spouse, passes as
13 follows:

14 (1) to the issue of the decedent; if they are all of
15 the same degree of kinship to the decedent they take
16 equally, but if of unequal degree, then those of more remote
17 degree take by representation;

18 (2) if there are surviving several children, or one
19 (1) child, and the issue of one (1) or more children, and
20 any such surviving child dies under age, and not having been
21 married, all the estate that came to such deceased child by
22 inheritance from the decedent, in equal shares to the other
23 children of the same parent, and to the issue of any such
24 other children who are dead, by representation; and if, at
25 the death of such child, who dies under age, not having been

1 married, all the other children of his parents are also
 2 dead, and any of them have left issue, to the issue of all
 3 other children of the same parent; and if all the issue are
 4 in the same degree of kinship to such child, they take
 5 equally, but if of unequal degree then those of more remote
 6 degree take by representation;

7 ~~(2)~~ (3) if there is no surviving issue, to his parent
 8 or parents equally;

9 ~~(3)~~ (4) if there is no surviving issue or parent, to
 10 the brothers and sisters and the ~~issue of each deceased~~
 11 ~~brother--or--sister--by--representation;--if--there--is--no~~
 12 ~~surviving--brother--or--sister;--the--issue--of--brothers--and~~
 13 ~~sisters--take--equally--if--they--are--all--of--the--same--degree--of~~
 14 ~~kinship--to--the--decedent;--but--if--of--unequal--degree--then--those~~
 15 ~~of--more--remote--degree--take--by--representation~~ children or
 16 grandchildren of any deceased brother or sister, by
 17 representation;

18 ~~(4)--if--there--is--no--surviving--issue;--parent--or--issue--of~~
 19 ~~a--parent;--but--the--decedent--is--survived--by--one--or--more~~
 20 ~~grandparents--or--issue--of--grandparents;--half--of--the--estate~~
 21 ~~passes--to--the--paternal--grandparents--if--both--survive;--or--to~~
 22 ~~the--surviving--paternal--grandparent;--or--to--the--issue--of--the~~
 23 ~~paternal--grandparents--if--both--are--deceased;--the--issue--taking~~
 24 ~~equally--if--they--are--all--of--the--same--degree--of--kinship--to--the~~
 25 ~~decedent;--but--if--of--unequal--degree--those--of--more--remote~~

1 ~~degree--take--by--representation;--and--the--other--half--passes--to~~
 2 ~~the--maternal--relatives--in--the--same--manner;--but--if--there--be~~
 3 ~~no--surviving--grandparent--or--issue--of--grandparent--on--either~~
 4 ~~the--paternal--or--the--maternal--side;--the--entire--estate--passes~~
 5 ~~to--the--relatives--on--the--other--side--in--the--same--manner--as--the~~
 6 ~~half;~~

7 (5) if there is no surviving issue, parent, or issue of
 8 a parent, grandparent or issue of a grandparent, brother,
 9 sister, or children or grandchildren of a deceased brother
 10 or sister, the estate passes to the next of kin, in equal
 11 degree, except that where there are two (2) or more
 12 collateral kindred, in equal degree, but claiming through
 13 different ancestors, those who claim through the nearer
 14 ancestors must be preferred to those claiming through an
 15 ancestor more remote."

-End-

1 SENATE BILL NO. 201
 2 INTRODUCED BY TURNAGE
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS
 5 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION
 6 TO AND DISTRIBUTION OF ESTATES."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 91A-2-102, R.C.M. 1947, is amended
 10 to read as follows:
 11 "91A-2-102. Share of spouse. The intestate share of
 12 the surviving spouse is:
 13 (1) if there is no surviving issue,~~the entire~~
 14 ~~intestate estate~~ OR IF THERE ARE SURVIVING ISSUE ALL OF WHOM
 15 ARE ISSUE OF THE SURVIVING SPOUSE ALSO, THE ENTIRE REMAINING
 16 ESTATE;
 17 (2) ~~if there are surviving issue all of whom are issue~~
 18 ~~of the surviving spouse also, the first fifty thousand~~
 19 ~~dollars (\$50,000), plus one-half (1/2) of the balance of the~~
 20 ~~intestate estate~~ IF THERE ARE SURVIVING ISSUE ONE (1) OR
 21 MORE OF WHOM ARE NOT ISSUE OF THE SURVIVING SPOUSE, AS
 22 FOLLOWS:
 23 (A) if there is surviving only one (1) SUCH child, or
 24 the issue of one (1) SUCH child, one-half (1/2) of the
 25 intestate estate;

1 ~~{3} (B) if there are surviving issue one (1) or more of~~
 2 ~~whom are not issue of the surviving spouse, one-half (1/2)~~
 3 ~~of the intestate estate, if there are surviving more than~~
 4 ~~one (1) SUCH child, or one (1) SUCH child and the issue of~~
 5 ~~one (1) or more deceased children, one-third (1/3) of the~~
 6 ~~intestate estate."~~
 7 Section 2. Section 91A-2-103, R.C.M. 1947, is amended
 8 to read as follows:
 9 "91A-2-103. Share of heirs other than surviving
 10 spouse. The part of the intestate estate not passing to the
 11 surviving spouse under section 91A-2-102, or the entire
 12 intestate estate if there is no surviving spouse, passes as
 13 follows:
 14 (1) to the issue of the decedent; if they are all of
 15 the same degree of kinship to the decedent they take
 16 equally, but if of unequal degree, then those of more remote
 17 degree take by representation;
 18 (2) if there are surviving several children, or one
 19 (1) child, and the issue of one (1) or more children, and
 20 any such surviving child dies under age, and not having been
 21 married, all the estate that came to such deceased child by
 22 inheritance from the decedent, in equal shares to the other
 23 children of the same parent, and to the issue of any such
 24 other children who are dead, by representation; and if, at
 25 the death of such child, who dies under age, not having been

1 married, all the other children of his parents are also
2 dead, and any of them have left issue, to the issue of all
3 other children of the same parent; and if all the issue are
4 in the same degree of kinship to such child, they take
5 equally, but if of unequal degree then those of more remote
6 degree take by representation;

7 ~~(2)~~ (3) if there is no surviving issue, to his parent
8 or parents equally;

9 ~~(3)~~ (4) if there is no surviving issue or parent, to
10 the brothers and sisters and the issue-of-each-deceased
11 brother--or--sister--by--representation,--if--there--is--no
12 surviving--brother--or--sister,--the--issue--of--brothers--and
13 sisters--take--equally--if--they--are--all--of--the--same--degree--of
14 kinship--to--the--decedent,--but--if--of--unequal--degree--then--those
15 of--more--remote--degree--take--by--representation children or
16 grandchildren of any deceased brother or sister, by
17 representation;

18 ~~(4)~~--if there is no surviving issue, parent or issue of
19 a parent, but the decedent is survived by one or more
20 grandparents--or--issue--of--grandparents, half of the estate
21 passes to the paternal grandparents if both survive, or to
22 the surviving paternal grandparent, or to the issue of the
23 paternal grandparents if both are deceased, the issue taking
24 equally if they are all of the same degree of kinship to the
25 decedent, but if of unequal degree, those of more remote

1 ~~degree--take--by--representation,--and--the--other--half--passes--to~~
2 ~~the--maternal--relatives--in--the--same--manner,--but--if--there--be~~
3 ~~no--surviving--grandparent--or--issue--of--grandparent--on--either~~
4 ~~the--paternal--or--the--maternal--side,--the--entire--estate--passes~~
5 ~~to--the--relatives--on--the--other--side--in--the--same--manner--as--the~~
6 ~~half;~~

7 (5) if there is no surviving issue, parent, or issue of
8 a--parent,--grandparent--or--issue--of--a--grandparent, brother,
9 sister, or children or grandchildren of a deceased brother
10 or sister, the--estate--passes to the next of kin, in equal
11 degree, except that where there are two (2) or more
12 collateral kindred, in equal degree, but claiming through
13 different ancestors, those who claim through the nearer
14 ancestors must be preferred to those claiming through an
15 ancestor more remote."

-End-