Senate BILL NO. 201 1 INTRODUCED BY Turnog( 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 4 5 91A-2-102 AND 91A-2-103, R.C.M. 1947, RELATING TO SUCCESSION TO AND DISTRIBUTION OF ESTATES." 6 7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 8 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 the surviving spouse is: 12 (1) if there is no surviving issue, the entire 13 intestate estate: 14 (2) if-there-are-surviving-issue-all-of-whom-are--issue 15 of--the--surviving--spouse--alsoy--the--first-fifty-thousand 16 dollars-{650,000},-plus-one-half-{1/2}-of-the-balance-of-the 17 intestate-estate if there is surviving only one (1) child, 18 or the issue of one (1) child, one-half (1/2) of the 19 20 intestate estate; (3) if-there-are-surviving-issue-one--(1)--or--more--of 21 whom--are--not-issue-of-the-surviving-spousey-one-half-(1/2) 22 of-the-intestate-estater if there are surviving more than 23 one (1) child, or one (1) child and the issue of one (1) or 24 more deceased children, one-third (1/3) of the intestate 25

INTRODUCED BILL

1 estate."

14

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

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

(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

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## l 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 the brothers and sisters and the issue-of-each-deceased 5 6 brother--or--sister--by--representation---if--there--is---no 7 surviving--brother--or--sistery--the--issue--of-brothers-and 8 sisters-take-equally-if-they-are-all-of-the-same--degree--of 9 kinship-to-the-decedenty-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-parenty-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-grandparenty-or-to-the-issue-of-the 18 paternal-grandparents-if-both-arc-deceasedy-the-issue-taking equally-if-they-are-all-of-the-same-degree-of-kinship-to-the 19 20 decedenty-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 the-paternal-or-the-maternal-side;-the-entire-estate--passes 24 25 to-the-relatives-on-the-other-side-in-the-same-manner-as-the

## 1 half;

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

-End-

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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-areissue
16	ofthesurvivingspousealsoythefirst-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{i}ormoreof
20	whomarenot-issue-of-the-surviving-spouse;-one-half-(1/2)
7 ·	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

SECOND READING

1 estate."

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

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

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ancestor more remote."

#### 2 2 (2) (3) if there is no surviving issue, to his parent a-parenty-grandparent-or-issue-of--a--grandparenty brother, 3 3 or parents equally; sister, or children or grandchildren of a deceased brother 4 (3) (4) if there is no surviving issue or parent, to 4 or sister, the estate masses to the next of kin, in equal 5 5 the brothers and sisters and the issue-of-each-deceased 6 6 brother--or--sister--by--representation;--if--there--is---no 7 7 surviving--brother--or--sistory--the--issue--of-brothers-and 8 8 sisters-take-equally-if-they-are-all-of-the-same--degree--of 9 kinship-to-the-decedenty-but-if-of-unequal-degree-then-these 9 10 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-parenty-but-the--decedent--is--survived--by--one--or--more 15 grandparents--or--issue--of-grandparentsy-half-of-the-estate 16 passes-to-the-paternal-grandparents-if-both-surviver--or--to 17 the--surviving--paternal-grandparenty-or-to-the-issue-of-the 18 paternal-grandparents-if-both-are-deceasedy-the-issue-taking 19 equally-if-they-are-all-of-the-some-degree-of-kinship-to-the decodenty-but-if-of-unequal--degree--those--of--more--remote 20 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-cither the-paternal-or-the-maternal-sides-the-entire-estate--passes 24

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25

degree take by representation;

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(5) if there is no surviving issue, parent, er-issue-of

degree, except that where there are two (2) or more

collateral kindred, in equal degree, but claiming through

different ancestors, those who claim through the nearer

ancestors must be preferred to those claiming through an

-End-

to-the-relatives-on-the-other-side-in-the-same-manner-as-the -3-

SENATE BILL NO. 201 1 2 INTRODUCED BY TURNAGE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 91A-2-102 AND 91A-2-103. R.C.M. 1947, RELATING TO SUCCESSION 5 TO AND DISTRIBUTION OF ESTATES." 6 7 3 3E 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 issue7--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 of-the-surviving--spouse--aiso---the--first--fifty--thousand 18 dollars-(650,000),-plus-one-half-(1/2)-of-the-balance-of-the 19 intestate--estate IF THERE ARE SURVIVING ISSUE ONE (1) OR 20 MORE OF WHOM ARE NOT ISSUE OF THE SURVIVING SPOUSE, AS 21 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) of-the-intestate-estate, if there are surviving more than 3 4 one (1) SUCH child, or one (1) SUCH child and the issue of Ę 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 to read as follows: Q "91A-2-103. 9 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 equally, but if of unequal degree, then those of more remote 16 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 married, all the estate that came to such deceased child by 21 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 -2-SB 201

THIRD READING

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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	$\frac{1}{2}$ (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	brotherorsisterbyrepresentation;ifthereisno
12	survivingbrotherorsister7theissueof-brothers-and
13	sisters-take-equally-if-they-are-all-of-the-samedegreeof
14	kinship-to-the-decedent;-but-if-of-unequal-degree-then-those
15	ofmoreremotedegreetake-by-representation children or
16	grandchildren of any deceased brother or sister, by
17	representation;
18	(4)if-there-is-no-surviving-issue7-parent-or-issue-of
19	a-parenty-but-thedecedentissurvivedbyoneormore
20	grandparentsorissueof-grandparents;-half-of-the-estate
21	passes-to-the-paternal-grandparents-if-both-survive7orto
22	thesurvivingpaternal-grandparent;-or-to-the-issue-of-the
<b>2</b> 3	paternal-grandparents-if-both-are-deceased7-the-issue-taking
24	equally-if-they-are-all-of-the-same-degree-of-kinship-to-the
25	decedenty-but-if-of-unequaldegreethoseofmoreremote
	-3- SB 201

married, all the other children of his parents are also

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1	degreetake-by-representation;-and-the-other-half-passes-to
2	the-maternal-relatives-in-the-same-manner;-but-iftherebe
3	nosurvivinggrandparent-or-issue-of-grandparent-on-either
4	the-paternal-or-the-maternal-side;-the-entire-estatepasses
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 <u>, or-issue-of</u>
8	aparentygrandparentor-issue-of-a-grandparenty brother,
9	sister, or children or grandchildren of a deceased brother
10	or sister, theestate-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-

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S3 201

intestate estate;

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2	INTRODUCED BY TURNAGE
3	
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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 issuetheentire
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-survivingspousealso7thefirstfiftythousand
19	dellars-{\$50,000},-plus-one-half-{1/2}-of-the-balance-of-the
20	intestateestate 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

1	(3) if-there-are-surviving-issue-one-(1)-or-more-of
2	whomarenot-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

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REFERENCE BILL

SB 201

### SB 0201/02

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;

9 (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-decedenty-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-parenty-but-the--desedent--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-deceasedy-the-issue-taking 24 equally-if-they-are-all-of-the-same-degree-of-kinship-to-the 25 decedenty-but-if-of-uncqual--degree--those--of--more--remote -3-SB 201

degree--take-by-representation;-and-the-other-half-passes-to 1 2 the-maternal-relatives-in-the-same-manner;-but-if--there--be 3 no--surviving--grandparent-or-issue-of-grandparent-on-either the-paternal-or-the-maternal-sider-the-entire-estate--passes 4 5 to-the-relatives-on-the-other-side-in-the-same-manner-as-the 6 half+ (5) if there is no surviving issue, parent, er-issue-of 7 8 a--parenty--grandparent--or-issue-of-a-grandparenty brother, g sister, or children or grandchildren of a deceased brother or sister. the--estate-passes to the next of kin, in equal 10 degree, except that where there are two (2) or more 11 collateral kindred, in equal degree, but claiming through 12 13 different ancestors, those who claim through the nearer 14 ancestors must be preferred to those claiming through an ancestor more remote." 15

-End-