

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 11, 1981

The meeting of the Business and Industry Committee was called to order by Chairman Frank W. Hazelbaker on February 11, 1981, at 10:00 a.m. in Room 404 of the State Capitol.

All Committee members were present.

Senator Hazelbaker called upon Senator Mike Anderson, Chairman of the Judiciary Committee from District 24. Senator Anderson introduced Senate Bill 331, which allows insurance companies to offer variable life insurance policies and variable annuity contracts. A company would be required to establish separate accounts for these types of contracts. The contracts issued would be required to meet all pertinent provisions of the insurance laws. The companies offering these contracts could be regulated by the commissioner. The liability policy would be for a sum certain. Senator Anderson explained the different types of coverage, and stressed that this Bill would allow people the option of the type of insurance policy. He advised that these laws are carefully reviewed. He said that interest on variable annuities is between four and five percent. He added that Retirement Policies receive interest on a fixed basis.

PROPOSERS:

Valencia Lane, representing the Montana State Insurance Department, explained that she is appearing today to take the place of Jo Driscoll.

In explaining Senate Bill 331 she said that this Bill was introduced at the request of the Montana State Insurance Department, and that they feel that it is in the best interest of the public to make this type of insurance available in Montana. She said that Montana, Hawaii and the District of Columbia are the only states which do not have this type of insurance coverage. The Montana Insurance Department would like to have this legislation passed, as they feel that we need it to allow the sale of variable annuities contracts in Montana. They feel that passage of this Bill will give the Insurance Department control in the State of Montana.

Bruce Larson, representing the Montana Securities Department, said that his office is a division of the State Auditor's Office.

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He advised that the Montana Security Act normally requires registration of all securities in the State. If this Bill is not passed, it will leave a question as to who will regulate the sale of variable annuities. They prefer that the Insurance Commission retain control of a variable annuity industry, as they are securities people. If control of annuities was placed in the Securities Department, they would have to increase their budget and personnel to handle the additional work.

Lester Loble II., representing the American Council of Life Insurance, a trade organization which includes about 509 of the 1800-1900 insurance companies which exist in the United States, was the next proponent to speak. He stated that variable life insurance offers people an investment-type option. He said that it is generally true that the stock market tends to rise. The position of a variable life insurance policy is optional with the consumer. (Please see attached handout). He said that if the Committee passes this Bill it would mean that we would also have the SEC regulations mentioned before which are extremely detailed.

Mr. Loble stated that he is speaking on behalf of Mr.

In concluding his testimony, Mr. Loble stated that John Hancock and Monarch Life Insurance Companies are interested in the Bill. In closing Mr. Loble asked that the Committee give this Bill a "Do Pass".

The next proponent was Ed Sheehy, Jr., Attorney, who represented the Montana Association of Mutual Life Underwriters who support this Bill. He commented that most of the people are now selling variable annuity contracts, and unless they get the authority to sell variable life insurance contracts, they will not be able to sell variable life insurance.

OPPONENTS:

None.

QUESTIONS FROM THE COMMITTEE:

Senator Goodover asked Miss Lane and Bruce Larsen if their testimony means that they would be in favor of Montana having a Sales Tax? He advised that you want to do this because 46 other states have it; therefore, would you be in favor of a Sales Tax?

Senator Regan stated that a variable life insurance policy, at face value, is the death value, and that does not vary. The other is the investment, which varies. She asked, if the market goes up, what kind of return is given to the individual's next-of-kin?

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Senator Anderson replied that should the market go up a certain percentage, you would buy the contract and basically you would have a cash value on reserve the first day. This value would go up following a compound interest curve, depending upon your investments.

Senator Regan asked, when you buy a life insurance policy, you know what the rate of return is; is this different, and Senator Anderson replied that you would not with a variable life insurance contract, which is why you buy it. In response to the question as to how would the premium rate develop, Senator Anderson replied that you can put any amount you want into a variable annuity amount.

Senator Blaylock asked, what would be the dividend if you buy stocks from a stockbroker, and you pay him a fee? If you bought this variable contract, you are taking some fee, right? How much is the difference?

Senator Anderson replied that the basis on most of this is 8%. The agent receives 4% and the company receives 4%. After the first year the money is reinvested. No company which is licensed in the State of New York, on a fixed annuity, pays its agents over 4% annuities. The normal rate of return to the agent is going to keep him from trying to sell this.

Senator Regan said: Show me how much \$100,000 worth of Term Insurance would cost me at age 25 for a 20-year paid-up life and for a variable. In a variable life, there should be a basic guaranteed rate of return - what is that guarantee?

Senator Anderson replied that he was guessing it.

Senator Boylan commented that the reserves really don't function much.

Senator Anderson said that they do on the plus side, and they do on the minus side after you get up there.

Senator Hazelbaker then closed the Hearing on Senate Bill 331.

Senator Anderson introduced Senate Bill 333, explaining that this is an interesting step to require the use of simplified language in insurance. He said that he believes that life insurance will be so simplified that a policy will be the size of a credit card. He explained that this Bill is the first step in that it only covers life, credit life, disability and credit disability. He stated that the State could decide what other types of insurance may be added. He urged a "Do Pass".

PROPOSERS:

Valencia Lane, again representing the Montana Insurance Department, and speaking on behalf of Jo Driscoll, explained that Senate Bill 333 is a model bill, the main part of which is to

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be found in Section 5, beginning on page 4. She said that it requires that all presentations meet a certain statement of readability, at which time she explains the Flesch Test. She explained that the effective date of this Act is 1983, but that the Insurance Department would not object to an earlier date.

Lester Loble II., representing the American Council of Life Insurance, urges a "Do Pass".

OPPONENTS:

Allen Cain, representing Blue Shield, stated that they are in the middle of this. He said that in regard to Health Insurance and Life Insurance, he doesn't recall any policy asking them about a problem which they have had with Life Insurance, but Health is a competitive field, and it is difficult to say what they contract to provide. He explained that frequently another program is brought in which is similar to what they already have, and he then stated that the most difficult policy is the automobile policy. He said that he took a careful look at the Flesch Test, and if this passes, most of the contracts will have to be re-structured because most of the language will not meet the standards of the Bill. He pointed out that the Committee must recognize that this is a test of readability; it does not measure understandability. He said that the Committee can fix the section so that it will meet the test, but that does not mean that the language is understood, and he wondered if this will do anything for the consumer. He further said that we will have to have a longer policy. According to Mr. Cain, Health Insurance is presently group insurance, which means that the master policy is entered into between the employer and the company. He has a serious question in his mind as to whether this will improve the understanding.

Senator Lee asked Valencia if all of the bills will not have to be re-written, and Valencia said that this applies to any policy filed or issued after 1982. She said that any policies filed after 1983 would have to meet the new language.

Senator Regan asked Mr. Cain if he had no objections to the Life Insurance. She asked if that is correct. She then said to Senator Anderson that you don't need to know about this if you are dead.

Senator Anderson said that there are a number of states that have enacted simplified language into their policies. In regard to a question as to what other states have done this, he said that on Casualty, there are many, including Arizona and Delaware.

Senator Regan asked if the 401 standard is used by all the rest of these, or would you be happy at sixth to eighth grade level?

Senator Goodover commented that he proposed this same type of a bill in 1975, and I was assured by the insurance people that there was no need to do this because they were going to do it; now they want a bill to do this. He asked Senator Anderson if he had done a readability test on page five, line four.

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Senator Anderson replied that this is intent-income language.

Senator Hazelbaker told Valencia Lane that he is in the Fire and Casualty business. He said that the industry itself has come down with what they call "plain language" on automobiles, homeowners and fire insurance policies. He said that this is a matter of vocabulary. He asked if this is a common thing, and Valencia Lane replied that some of the companies are doing this. She said that she doesn't know which of them are doing it, or if they are doing it because the states that they are in require it. There is nothing in the Code to prohibit the use of plain language.

Senator Dover asked Valencia how many policies they will have to review to apply this Flesch Test.

At this time Senator Hazelbaker closed the Hearing on Senate Bill 333.

Senator Ryan then presented an Amendment to the Bill. (Please see attached copy.)

Senator Lee moved "Do Pass". Motion carried. (At this time Senators Regan, Dover and Boylan had had to leave to attend another Committee meeting. Therefore, the Committee members remaining were: Senator Hazelbaker, Senator Goodover, Senator Lee, Senator Blaylock and Senator Kolstad.)

On Senate Bill 249 Senators Kolstad, Goodover, Hazelbaker and Lee voted "aye". Senator Blaylock voted "no". The Motion carried.

There being no further business, Senator Hazelbaker adjourned the meeting.


FRANK W. HAZELBAKER

mm

ROLL CALL

BUSINESS and INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date 2-11-81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	x		
Hazelbaker, Frank - Chairman	x		
Blaylock, Chet	x		
Boylan, Paul	x		
Dover, Harold	x		
Kolstad, Allen	x		
Lee, Gary	x		
Regan, Pat	x		

Each day attach to minutes.

NAME: Ed Sheehy, Jr.

DATE: 2/11/81

ADDRESS: 2031 11th Ave, Helena

PHONE. 442-9930

REPRESENTING WHOM? MT Assoc. of Life Underwriters

APPEARING ON WHICH PROPOSAL: SR 331

DO YOU: SUPPORT? 1 AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: LIAN CAIN DATE: 2/11/81

ADDRESS: 909 Fuller Ave Helena

PHONE: 492-5450

REPRESENTING WHOM? BLUE SHIELD

APPEARING ON WHICH PROPOSAL: SB 333

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒ _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Lester H. Loble II DATE: 2/11/81

ADDRESS: POB 176 Helena 59624

PHONE: 442 0070

REPRESENTING WHOM? American Council of Life Insurance

APPEARING ON WHICH PROPOSAL: SB 331 SB 333

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: William Lee DATE: 7/10

ADDRESS: W. L. L.

PHONE: 449-2996

REPRESENTING WHOM? W. J. Brown, FBI

APPEARING ON WHICH PROPOSAL: 5387-10000

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: James H. Brown DATE: 2/1/51

ADDRESS: Not known

PHONE: 442-9671

REPRESENTING WHOM: Martina Sicastris Dent Estate Helston

APPEARING ON WHICH PROPOSAL: CB 331

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

STATEMENT OF
THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES
AND
EQUITABLE VARIABLE LIFE INSURANCE COMPANY

TO THE SENATE BUSINESS AND INDUSTRY
COMMITTEE OF THE MONTANA SENATE IN
SUPPORT OF THE ENACTMENT OF SENATE
BILL 331

My name is Joseph F. Somelofske. I am Vice President and Counsel of The Equitable Life Assurance Society of the United States, a New York domiciled life insurance company which engages in the life and health insurance business in all 50 states of the United States and the District of Columbia.

This statement is being made on behalf of both The Equitable Life Assurance Society of the United States ("The Equitable") and Equitable Variable Life Insurance Company ("EVLICO") in support of the enactment of Senate Bill 331 to authorize the sale of variable life insurance (VLI) and annuity contracts in Montana.

EVLICO is a wholly-owned subsidiary of The Equitable. It is organized under the laws of the State of New York and is licensed to write life insurance in all States of the United States and the District of Columbia.

VLI legislation was first considered in Montana in 1975. At that time, however, no company was marketing VLI. Since then the picture has changed drastically. EVLICO began selling VLI in January 1976. Today it is marketing its VLI products in forty-seven states. As of December 31, 1980, EVLICO's life insurance volume in force was more than one billion dollars and, on the

basis of this performance, it is ranked in the top 200 life insurance companies in the United States out of a total of 1,800 companies.

Only the District of Columbia, Hawaii and Montana do not have laws authorizing VLI. However, steps are underway, in all of these jurisdictions to have such laws enacted in 1981.

The Equitable has always regarded Montana as one of the important states in which it does business. Our insurance agents in Montana are most anxious to have available for the residents of Montana all of the products that are being marketed in other states.

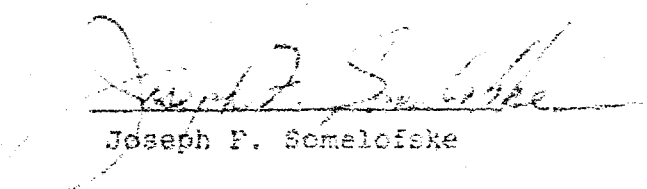
The purchase of VLI is entirely optional with the consumer and the residents of Montana should be permitted to choose VLI if they so desire this kind of life insurance. We believe that VLI, as well as traditional fixed-benefit life insurance, has a place in an individual's insurance program.

Senate Bill 331 follows the Model Variable Contract Law adopted by the National Association of Insurance Commissioners in 1970. Both The Equitable and EVLICO support the adoption of Senate Bill 331 and wish to have this support duly noted in the record of this hearing. Both companies strongly urge the enactment into law of Senate Bill 331.

I would like to add that John Hancock Life Insurance Company, Monarch Life Insurance Company and New York Life Insurance have asked me to voice for the record of this hearing their support and endorsement for the enactment of Senate Bill 331 into law.

Thank you for affording me the opportunity to appear at this hearing to speak in support of the enactment of this important legislation.

Resptfully submitted,



Joseph P. Somelofske

JFS:apw

- 1 provisions of the Montana Administrative Procedure Act.
2 First adopted by the ~~House~~ ^{Senate} COMMITTEE ON BUSINESS AND
3 INDUSTRY on February 17, 1956.

STATEMENT OF INTENT RE: ^{SAB 331} HB 741

3
4 A statement of intent is required for House Bill 741 in
5 that it delegates rulemaking authority to the commissioner
6 of insurance in section 5.

7 Although 33-1-313, MCA, delegates to the commissioner
8 of insurance rulemaking authority to effectuate any
9 provisions of the code, as House Bill 791 substantively
10 increases this power, a statement of intent is required.

11 Section 5 empowers the commissioner of insurance with
12 the sole authority to regulate the issuance and sale of
13 variable contracts and allows the commissioner to promulgate
14 rules to carry out the provisions of House Bill ^{Senate} 331. The
15 commissioner's authority to promulgate rules shall be
16 limited in scope to the following areas:

- 17 1. Rules relating to maintaining reserves for
- 18 guaranteed benefits and funds in a separate account;
- 19 2. Rules relating to valuation of assets allocated to
- 20 a separate account;
- 21 3. Rules relating to the transfer of cash or
- 22 securities among a life insurance company's accounts; and
- 23 4. Rules relating to the requirements of doing
- 24 business under this act.

25 All rules promulgated under this act are subject to the

SAB 331

HB 741

*Valuation
not subject*

SB 331 is a model bill drafted by the N.A.I.C. The act is to provide for the issuance of variable life and annuity contracts and enable the Insurance Commissioner to establish certain guidelines for the regulation of such products.

Similar legislation was defeated in the last session. However, since that time, the Department has taken a different view of variable products. We feel that because of the circumstances such as inflation and higher interest rates, that we should not deprive people who are interested in this product of the opportunity to purchase it.

It is my understanding that Montana, Hawaii and the District of Columbia are the only jurisdictions that have not approved these products. SB 331 is similar to the legislation enacted in other states. In addition, to this legislation, the Insurance Department intends to enact extensive regulations, based on NAIC models to give us the ability to effectively control all aspects of the insurance product in order to protect the interests of Montana residents.

There are other reasons why the Insurance Department is interested in having this legislation passed. Since 1967, under the direction of a former Chief Deputy, the Insurance Department has allowed the sale of variable annuities in Montana. This was allowed under the general insurance laws that allow a life insurer to sell life insurance and annuities. It has since come to our attention that our approval of such sales may not have actually been permissible under present law.

In the last year or so, the Insurance Commissioner has been involved in a joint study commission made up of insurance commissioners and securities commissioners which has been studying the problem of variable products. The general consensus is that variable products are securities and subject to the regulation by the state securities commissioners. However, the study commission recognizes the expertise of the insurance products and recommends that the regulation of variable products be undertaken by the state insurance commissioners. This bill, plus a bill introduced by the securities department exempting variable annuities from the state securities code, will permit the insurance department to take effective control over these products in Montana.

In the future, any agent selling variable products will have to be licensed as an insurance agent, a variable annuity agent, and as a securities dealer -- they will have to take exams in both fields.

In conclusion, we feel that we should allow the use of innovative products in Montana; if the public wants to buy these products, they should have that opportunity. This bill and regulations adopted pursuant to it will allow the Insurance Commissioner to take effective control over the sale of these products in Montana. We urge you to give this bill a Do Pass Recommendation.

Thank you.

Valencia
Mont
Dept.

SB 333 is a model bill drafted by the NAIC. The purpose of this act is to require the use of simplified language in the life and disability insurance policies and forms.

It applies to all insurance companies and organizations selling life and disability insurance in Montana.

The main part of the bill is found in Section 5, starting on Page 4. It requires that all policies meet a certain level of readability based on a "score" determined by the application of a Flesch reading ease test.

The practical points of a Flesch test is explained beginning on Page 5, Line 4. The words, sentences, and number of syllables are counted and multiplied by a certain factor to obtain a score. A policy must achieve a minimum score of 40 to be used in Montana.

The bill also provides that the Commissioner can approve other, comparable tests, and can approve forms with a lower score in certain circumstances.

The effective date of the act is 1983, which is based on the model act. The Insurance Department would not object to an earlier effective date.

February 11, 1981

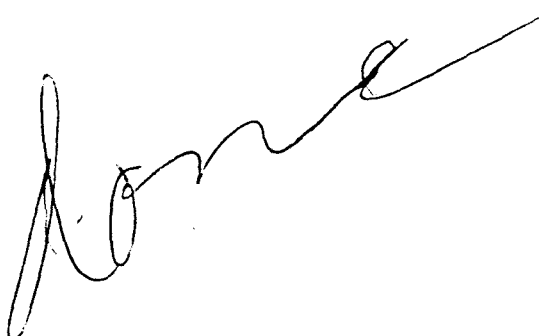
SENATE STANDING COMMITTEE REPORT
(Business and Industry)

That Senate Bill No. 333 be amended as follows:

1. Page 8, line 6.

Following: "approved"

Insert: "by the commissioner"

A handwritten signature in black ink, appearing to be "H. M. ...", is written across the middle of the page.

STANDING COMMITTEE REPORT

February 11

81

19.....

MR. **PRESIDENT**.....

We, your committee on **Business and Industry**.....

having had under consideration **Senate**..... Bill No. **249**.....

Respectfully report as follows: That **Senate**..... Bill No. **249**.....
be amended as follows:

1. Page 1, line 12.

Following: "the"

Strike: "keg or"

2. Page 1, line 18.

Following: "of the"

Strike: "keg or"

3. Page 1, line 19.

Following: "If a"

Strike: remainder of line 19

4. Page 1, lines 20 and 21.

Following: "may,"

Strike: remainder of line 20 through "keg," in line 21.

DO PASS

February 11

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19.....

5. Page 1, line 25.

Following: "period of"

Strike: "1 year"

Insert: "30 days"

6. Page 2, line 4.

Following: "personnel"

Insert: "and minors are present"

And, as so amended, DO PASS,

G.B.

STANDING COMMITTEE REPORT

February 11 19 81

MR. **PRESIDENT**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **SENATE**

Bill No. **299**

Respectfully report as follows: That **SENATE** Bill No. **299**

DO PASS

P.C.

[Signature]

STANDING COMMITTEE REPORT

February 11

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MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 333

Respectfully report as follows: That SENATE Bill No. 333
be amended as follows:

1. Page 3, line 6.
Following: "approved"
Insert: "by the commissioner"

And, as so amended,

DO PASS

J.C.

SENATE COMMITTEE Business and Industry

Date 2-11-81 Bill No. 249 Time 11:20 a.m.

NAME	YES	NO
Senator Goodover	x	
Senator Hazelbaker	x	
Senator Kolstad	x	
Senator Blaylock		x
Senator Lee	x	

Secretary

Chairman

Motion: Senator Lee moved the Amendments.

Senator Kolstad moved the Bill as amended.

Senate Bill 249 - DO PASS AS AMENDED

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE Business and Industry

Date 2-11-81 Bill No. 299 Time 11:30 a.m.

NAME	YES	NO
Senator Goodover	x	
Senator Hazelbaker	x	
Senator Blaylock	x	
Senator Lee	x	
Senator Kolstad	x	

Secretary _____

Chairman _____

Motion: Senate Bill 299.

"Do Pass" moved by Senator Lee.

Senate Bill 299 - DO PASS - unanimous.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 2-11-81 Bill No. 331 Time 11:35 a.m.

NAME	YES	NO
Senator Goodover	x	
Senator Hazelbaker	x	
Senator Lee	x	
Senator Blaylock	x	
Senator Kolstad	x	

Secretary

Chairman

Motion: Senator Lee moved the Amendments.

Senator Kolstad moved the Bill as amended.

Senate Bill 331 - DO PASS AS AMENDED.

(include enough information on motion--put with yellow copy of committee report.)