

## HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on January 31, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members present.

### HOUSE BILL 498

REP. RAY PECK, District 8, sponsor, opened by saying this bill revises the laws regulating credit unions to allow them to meet losses from the sale of investments or securities from the regular reserve if the director of the department has previously approved such use of the regular reserve.

#### PROPONENTS:

JEFFRY KIRKLAND, Montana Credit Unions League, said this is a bill proposed by the Montana Credit Unions League and developed in consultation with the Commissioner of Financial Institutions, who is in charge of regulating their state-chartered credit unions. It provides the commissioner with a new "safety and soundness" tool rather than providing credit unions with any new authority. This bill gives the Director of the Department of Commerce the permissive authority on a case-by-case basis to allow credit unions to use their regular reserves to meet losses from the sale of investments or securities. (Exhibit #1)

REP. BACHINI, went on record as supporting HB 498.

OPPONENTS: none

QUESTIONS: none

### HOUSE BILL 464

REP. ANDREA HEMSTAD, District 40, sponsor, opened by saying the Department of Insurance had requested her to sponsor this bill. It is a model of a National Association of Insurance Commissioners law. The states that have this bill have no problems with it. She said it's seen by many as a hedge against inflation.

#### PROPONENTS:

JAYNE MITCHELL, Attorney for the Montana Insurance Department, said the act provides for the issuance of variable life and annuity contracts and enables the Insurance Commissioner to establish certain guidelines for the regulation of such products. Thirty two states have adopted the NAIC model variable law or similar laws. Only a few states, including Montana, have no legislation on this subject. (Exhibit #2) She stated there was a typing error on Page 2 line 5 that should be amended to read "33-2-806".

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Business & Industry Committee

OPPONENTS: NONE

QUESTIONS:

REP. KITSELMAN: Is this a NAIC requirement because of the securities that back this product? Doug James, Department of Insurance, said the exemption from securities covers flat rate securities and the exempt transaction which applies to salesmen, brokers, etc. applies to variable annuities. We would take a position of caution to say all insurance salesmen should be registered with us.

REP. WALLIN: Was this bill introduced in the Senate last year?  
Ms. Mitchell: Yes as SB 331 and it was killed.

HOUSE BILL 465

REP. ANDREA HEMSTAD, District 40, sponsor, opened by saying this bill would generally revise the laws relating to insurance. It does a number of small amendments to the present law.

PROPOSAL:

JAYNE MITCHELL, Attorney for the Department of Insurance, said this is a "housekeeping bill" to amend certain statutes which were found inconsistent with other statutes and were troublesome to administer. It is also intended to correct an inadvertent change in the law which occurred during the 1981 session.

TERRY MEAGHER, Montana Insurance Department, said they have had trouble with companies "fronting" or "pooling" risks by meeting the minimum financial requirements, writing the risk and then he insures the entire amount in another company that is not licensed in Montana. We are trying to make the revocation or suspension of licenses for these offenses discretionary instead of mandatory. If they have re-insured 90% of their risks, we will look at it and then decide if we will hold a hearing. In 1981 the premium tax section 33-2-705 (4) was mistakenly amended to include inland marine. The loss to the State of Montana was \$170,000. Prior to 1981, inland marine had been taxed at 2 3/4% of net premiums written. The 1981 amendment included inland marine to be taxed with wet marine at 3/4 of 1% of gross underwriting profit. The amendment will return the tax rate and tax base to the level they were at prior to the inadvertent change. Section 5 would give the commissioner the discretion to hold a hearing if he considers it necessary. It outlines the factors to be considered in deciding whether a hearing is necessary on reviewing bulk reinsurance agreements.

NORMA SEIFFERT, Montana Insurance Department, testified that companies try to get in under the Inland Marine definition and it has been very troublesome to their office and they would like it changed.

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Business & Industry Committee

MS. MITCHELL: We need a committee amendment on this bill to change the inland marine tax from 3/4 of 1% to 2 3/4%. Do we need a fiscal note? Rep. Metcalf: Yes.

ROGER McGLENN, Independent Insurance Agents of Montana, said his organization would like to go on record as supporting this bill.

OPPONENTS: none

QUESTIONS:

REP. FABREGA: What does Inland Marine cover? Terry Meagher: Cargo and transportation by truck. Wet marine even covers jewelry insurance and wet cargo in ships. There is probably a higher risk and loss with wet marine.

REP. WALLIN: This would have quite an effect on the firemen's insurance. Is this money earmarked for this? Mr. Meagher: They would also get a portion of the premium tax developed for that line. It would be 2 3/4% of approximately \$200,000 or maybe \$6,000.

REP. HARPER: On page 12 you have a procedure where the commissioner can approve or disapprove a hearing. Wouldn't the Montana Administrative Procedures Act apply to these things? Ms. Mitchell: We fall under MAPA except we do have a specific hearing section. The factors in 33-1-701 are not meant to exempt the factors of MAPA, it's just to determine whether a hearing is necessary. Rep. Harper: Since you are not excluded from MAPA, you would have to meet the minimum requirements of it and this section would be invalid. Is there any reason this shouldn't be referenced to MAPA? Ms. Mitchell: This will just determine if a hearing is to be held. Rep. Harper: Under MAPA if 10% or 25 people ask for a hearing under the agency, you have to hold a hearing. Ms. Mitchell: I agree, we would have to hold one if it were determined.

EXECUTIVE SESSION:

HOUSE BILL 498

REP. LYBECK moved that HOUSE BILL 498 DO PASS.  
Question: The motion carried by unanimous vote.

HOUSE BILL 464

REP. HARPER moved to amend page 2, line 5. Question: Carried unanimously. REP. FAGG moved passage of the Statement of Intent. Question: Carried unanimously. REP. WALLIN moved that HOUSE BILL 464 DO PASS AS AMENDED. Motion carried unanimously.

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Business & Industry Committee

HOUSE BILL 465

REP. FABREGA moved the amendments on title, line 9 to strike 3/4 of 1% and insert 2 3/4%. Question: Carried unanimously.

REP. HARPER: On page 12 there is a problem. Every agency except the ones deleted out by MAPA must follow the requirements listed. Under this section, they say that one person can receive a hearing. Ten days cuts the requirement of MAPA in half. If they were given only 10 days notice in advance of a hearing, I think any decisions the commissioner makes could be deemed void. I would ask Jayne Mitchell to look at that and give us a recommendation.

HOUSE BILL 452

REP. ELLERD made the motion that HOUSE BILL 452 DO PASS AS AMENDED.

REP. METCALF: We eliminated the grandfather clause and added if out-of-state examiners come in they need to show equivalent licensure to purchase a license in Montana.

REP. HARPER: On page 4, line 15 - sub A, one of the requirements is that you engage in the occupation for at least 1 year. How can you do that without a license? I suggest we amend that.

REP. ELLERD: Is there any reason they should have a high school diploma? Rep. Metcalf: Yes.

Question:

The motion that HOUSE BILL 452 DO PASS AS AMENDED carried unanimously.

REP. KITSELMAN made the motion that the Statement of Intent do pass. Motion carried unanimously.

HOUSE BILL 147

REP. METCALF: The Senate now has HB 147 in a sub-committee and they would like the House to appoint a sub-committee to iron out the problems together. I will appoint Rep. Harper, Chairman, Rep. Nisbet and Rep. Kitselman to serve on that committee.

The hearing adjourned at 10:15 a.m.

J. Metcalf

REP. JERRY METCALF, CHAIRMAN

Linda Palmer

Linda Palmer, Secretary

# STANDING COMMITTEE REPORT

JA January 31 19 83

**SPEAKER:**  
MR. ....

We, your committee on .....  
**BUSINESS & INDUSTRY**

having had under consideration .....  
**HOUSE** ..... Bill No. .... **498**

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color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CREDIT UNIONS,  
WITH PRIOR APPROVAL OF THE DIRECTOR OF THE DEPARTMENT OF  
COMMERCE, TO USE REGULAR RESERVES TO MEET LOSSES FROM THE  
SALE OF INVESTMENTS OR SECURITIES; AMENDING SECTION 32-3-703, MCA."**

Respectfully report as follows: That.....  
**HOUSE** ..... Bill No. .... **498**

DO PASS

STATE PUB. CO.  
Helena, Mont.

**JERRY METCALF**

Chairman.

# STANDING COMMITTEE REPORT

January 31

83

19

MR. Speaker:

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

HOUSE

465

having had under consideration .....

Bill No. ....

first reading copy ( white )

color

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE; CHANGING FORM FILING REQUIREMENTS; CLARIFYING PROVISIONS RELATING TO REINSURANCE AGREEMENTS AND BULK REINSURANCE; PROVIDING THAT INLAND MARINE INSURANCE IS TAXES AT 3/4 OF 1 PERCENT OF NET PREMIUMS WRITTEN; CLARIFYING THAT SELF-GOVERNING LOCAL GOVERNMENTS MAY NOT TAX OR LICENSE INSURERS OR AGENTS; DELETING THE REQUIREMENT FOR FILING SUPPORTING DATA ON RATE CHANGES BY INSURERS, RATING ORGANIZATIONS, AND ADVISORY ORGANIZATIONS; DEFINING A "MANAGING GENERAL AGENT" AND PROVIDING FOR LICENSURE; CLARIFYING WHEN INSURANCE INFORMATION MAY BE OBTAINED ABOUT AN INDIVIDUAL; CLARIFYING THE POLICY AMOUNT THAT MUST BE OFFERED ON TERMINATION OF A GROUP LIFE POLICY; AND PROVIDING THAT A POLICY CLAUSE ON CONFORMITY WITH STATE STATUTES BE MANDATORY; AMENDING SECTIONS 33-1-501, 33-2-119, 33-2-705, 33-2-707, 33-2-1206, 33-16-203, 33-17-103, 33-17-183, 33-17-201, 33-19-304, 33-20-1210, Bill No. ....  
Respectfully yours, JERRY METCALF, Chairman, Bill No. ....  
AND 33-22-229, MCA.!"

RESPECTFULLY REPORT AS FOLLOWS: THAT HOUSE BILL NO. 465

BE AMENDED AS FOLLOWS:

1. Title, line 9  
Following: "AT"  
Strike: "3/4 OF 1"  
Insert: "2 3/4"

AND AS AMENDED

DO PASS

# STANDING COMMITTEE REPORT

January 31

83

19

MR. SPEAKER:

## BUSINESS & INDUSTRY

We, your committee on ..... **DOAISBOD & INDOSIRI** .....

having had under consideration ..... **HOUSE** ..... Bill No. **452** .....

## HOUSE

Bill No. 452

first reading copy ( white )  
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A BILL FOR AN ACT ENTITLED: "AN ACT LICENSING AND REGULATING PERSONS WHO PURPORT TO BE ABLE TO DETECT DECEPTION, VERIFY TRUTHFULNESS, OR PROVIDE A DIAGNOSTIC OPINION OF DECEPTION OR TRUTHFULNESS THROUGH THE USE OF ANY DEVICE OR INSTRUMENT CAPABLE OF MEASURING OR RECORDING BODILY RESPONSES OR PSYCHOPHYSIOLOGICAL ACTIVITIES; PROVIDING LICENSING QUALIFICATIONS; PROVIDING FOR REVOCATION AND SUSPENSION OF LICENSES; GRANTING RULEMAKING AUTHORITY TO THE DEPARTMENT OF COMMERCE; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

## HOUSES

452

Respectfully report as follows: That..... Bill No.....

BE AMENDED AS FOLLOWS:

1. Title, line 11  
Following: "LICENSEES;"  
Insert: "REQUIRING CONTINUING EDUCATION FOR RENEWAL OF LICENSES;"
2. Title, line 12  
Following: "COMMERCE;"  
Insert "AND"
3. Title, line 12  
Following: "PENALTIES"  
Strike: Remainder of line 12 and line 13 through "DATE"
4. Page 4, line 16  
Following: "through"  
Strike: "14"  
Insert: "15"

XXVII XXXXXXVII XXXXIX

1. Page 3, line 6  
Following: "section"  
Strike: "14"  
Insert: "15"

6. Page 3, line 13  
Following: "["  
Strike: all language and punctuation through "13"  
Insert: "this act"

7. Page 3, line 15  
Following: "through"  
Strike: "14"  
Insert: "15"

8. Page 4, line 7  
Strike: "without"

9. Page 4, line 8  
Strike: "examination"

10. Page 4, line 9 and 10  
Following: "department"  
Strike: remainder of line 9 through "act)" on line 10

11. Page 4, line 11  
Following: "license"  
Strike: "without examination"

12. Page 4, line 13  
Following: "he"  
Strike: remainder of line 13 and lines 14 through 19 in their entirety through "(b)" on line 19

13. Page 4, line 20  
Following: "6"  
Strike: "(1) through (5)"

14. Page 5, line 25  
Following: "equivalent"  
Strike: remainder of the line and through "agency" on line 2 on page 6

15. Page 6, line 5  
Following: "polygraph"  
Insert: "or a comparable examination conducted by another state whose law requires successful completion of the examination as qualification for a license"

16. Page 6, line 13  
Following: "through"  
Strike: "14"  
Insert: "15"

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17. Page 6, following line 13

Insert: "Section 8. Continuing education. The department shall establish by rule minimum requirements of professional education and training, consistent with field of learning and with the standards of professional organizations, for renewal of licenses."

Renumber: subsequent sections

18. Page 8, line 13

~~Retaining xxx#xxxam~~

Strike: "14"

Insert: "15"

19. Page 8, line 16

Following: "through"

Strike: "14"

Insert: "15"

20. Page 10, line 3

Following: "through"

Strike: "14"

Insert: "15"

21. Page 10, lines 7 and 8

Strike: Section 15 in its entirety

Renumber: subsequent section

22. Page 10, line 10

Following: "through"

Strike: "14"

Insert: "15"

23. Page 10, line 12

Following: "through"

Strike: "14"

Insert: "15"

AND AS AMENDED

DO PASS

January 31

19 83

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS AND INDUSTRY, HAVING HAD UNDER  
CONSIDERATION HOUSE BILL NO. 452, FIRST READING COPY WHITE,  
ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT  
HOUSE BILL 452

A statement of intent is required for this bill because section 3 grants rulemaking authority to the Department of Commerce.

It is the legislature's intent that the department shall adopt rules setting forth the manner in which an applicant must prove his fitness for licensure and adopt rules specifying the fees authorized by section 7. The department must also adopt rules establishing the date of expiration of all licenses; it is contemplated that these rules will establish a different numerical grouping so that all licenses do not expire on one date. The department shall also adopt rules specifying the form of the license and pocket card. The department shall also adopt, under section 8, rules for continuing education of examiners. The department may, under section 3 and 15, adopt any or all parts of the Attorney General's Model Rules which satisfy the requirements of section 15. It is the legislature's intent that no other rules than those required by section 15 and as may otherwise be authorized by the Administrative Procedure Act, be adopted by the department to implement this act.

# STANDING COMMITTEE REPORT

January 31

19 83

MR. Speaker:

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE 464 Bill No.

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A BILL FOR AN ACT ENTITLED: "AN ACT TO ADOPT A VARIABLE CONTRACT LAW AUTHORIZING LIFE INSURANCE COMPANIES TO ESTABLISH SEPARATE ACCOUNTS TO PROVIDE FOR VARIABLE LIFE INSURANCE POLICIES AND VARIABLE ANNUITY CONTRACTS."

HOUSE

464

Respectfully report as follows: That..... Bill No.....

BE AMENDED AS FOLLOWS:

1. Page 2, line 5  
Following: "under"  
Strike: "32-2-806"  
Insert: "33-2-806"

AND AS AMENDED  
DO PASS

January 31

163

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS AND INDUSTRY, HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 464, FIRST READING COPY WHITE, ATTACH THE FOLLOWING STATEMENT OF INTENT:

"STATEMENT OF INTENT  
HOUSE BILL 464"

A statement of intent is required for this bill in that it delegates rulemaking authority to the Commissioner of Insurance in section 5.

Although 33-1-313, MCA, delegates to the Commissioner of Insurance rulemaking authority to effectuate any provisions of the code, as LC1116 substantively increases this power, a statement of intent is required.

Section 5 empowers the Commissioner of Insurance with the sole authority to regulate the issuance and sale of variable contracts and allows the Commissioner to promulgate rules to carry out the provisions of this bill. The Commissioner's authority to promulgate rules is limited in scope to the following areas:

1. Rules relating to maintaining reserves for guaranteed benefits and funds in a separate account;
2. Rules relating to valuation of assets allocated to a separate account;
3. Rules relating to the transfer of cash or securities among a life insurance company's accounts; and
4. Rules relating to the requirements of doing business under this bill.

All rules promulgated under this bill are subject to the provisions of the Montana Administrative Procedure Act.

HOUSE BILL 498  
TESTIMONY OF JEFFRY M. KIRKLAND  
VICE PRESIDENT-GOVERNMENTAL RELATIONS  
MONTANA CREDIT UNIONS LEAGUE

BEFORE THE HOUSE BUSINESS & INDUSTRY COMMITTEE  
ON MONDAY, 31 JANUARY 1983

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, FOR THE RECORD I AM JEFF KIRKLAND, VICE PRESIDENT-GOVERNMENTAL & COMMUNITY RELATIONS FOR THE MONTANA CREDIT UNIONS LEAGUE. THE LEAGUE REPRESENTS 118 OF MONTANA'S 121 CREDIT UNIONS.

HOUSE BILL 498 IS A BILL PROPOSED BY THE MONTANA CREDIT UNIONS LEAGUE AND DEVELOPED IN CONSULTATION WITH THE COMMISSIONER OF FINANCIAL INSTITUTIONS, WHO IS IN CHARGE OF REGULATING OUR STATE-CHARTERED CREDIT UNIONS. I STRESS THE CONSULTATION WITH THE COMMISSIONER OF FINANCIAL INSTITUTIONS, SINCE THE BILL PROVIDES THE COMMISSIONER WITH A NEW "SAFETY AND SOUNDNESS" TOOL RATHER THAN PROVIDING CREDIT UNIONS WITH ANY NEW AUTHORITY.

THE BILL ARISES FROM A SPECIFIC SITUATION IN WHICH THE SAFETY AND SOUNDNESS OF A CREDIT UNION WAS THREATENED AND IN WHICH THE REGULATOR FELT HE HAD NO STATUTORY AUTHORITY FOR REMEDY.

CREDIT UNIONS TYPICALLY LOAN OUT THE SAVINGS DEPOSITS THEY ATTRACT TO GENERATE THE INCOME TO PAY SAVERS INTEREST (WE CALL IT "DIVIDENDS") FOR THEIR DEPOSITS. HOWEVER, WHEN LOAN DEMAND DECREASES OR WHEN THE CREDIT UNION IS ATTRACTING MORE SAVINGS DEPOSITS THAN THERE IS LOAN DEMAND FOR, IT HAS TO INVEST THOSE SURPLUS FUNDS TO GENERATE INCOME TO PAY SAVERS DIVIDENDS.

SECTION 32-3-701, MCA, VERY SPECIFICALLY LISTS PERMISSABLE INVESTMENTS FOR STATE-CHARTERED CREDIT UNIONS, PREVENTING THE POSSIBILITY OF INVESTING IN HIGH-RISK, SPECULATIVE SECURITIES. HOWEVER, EVEN WITH SECURITIES AND OBLIGATIONS ISSUED BY OR FULLY GUARANTEED BY THE U.S. GOVERNMENT OR ONE OF ITS AGENCIES, THERE IS A CHANCE OF TAKING A LOSS UPON SALE OR LIQUIDATION OF THAT INVESTMENT. AND THAT IS THE PRIMARY PROBLEM THIS BILL ADDRESSES.

A CREDIT UNION HAD INVESTED SURPLUS FUNDS IN SEVERAL AGENCY OBLIGATIONS BACK IN 1977 AND 1978 WHEN A 7.25% AND AN 8% YIELD WAS EXCELLENT INCOME. THEN, BEGINNING IN LATE 1978, CREDIT UNIONS FOUND THEMSELVES HAVING TO PAY AT LEAST 6% FOR PASSBOOK SAVINGS AND UP TO 14% FOR VARIOUS SHARE CERTIFICATES. OBVIOUSLY, A 7.25% OR 8% YIELD FROM THE INVESTMENTS WAS NOT ENOUGH TO PAY SAVERS MARKET RATES FOR THEIR SAVINGS AND STILL HAVE ENOUGH LEFT OVER TO PAY OVERHEAD AND OPERATING EXPENSES.

THE CREDIT UNION ASKED THE DEPARTMENT IF IT COULD SELL THOSE INVESTMENTS, WHICH WOULD HAVE NECESSITATED TAKING A SMALL LOSS, AND THEN MAKE UP FOR THE LOSS BY ACCESSING ITS REGULAR RESERVES. THE DEPARTMENT DENIED THE REQUEST, STATING THAT UNDER STATE CREDIT UNION LAW REGULAR RESERVES COULD ONLY BE USED FOR LOSSES INCURRED BY RISK ASSETS. UNFORTUNATELY, AGENCY OBLIGATIONS ARE NOT DEFINED BY CREDIT UNION LAW AS RISK ASSETS.

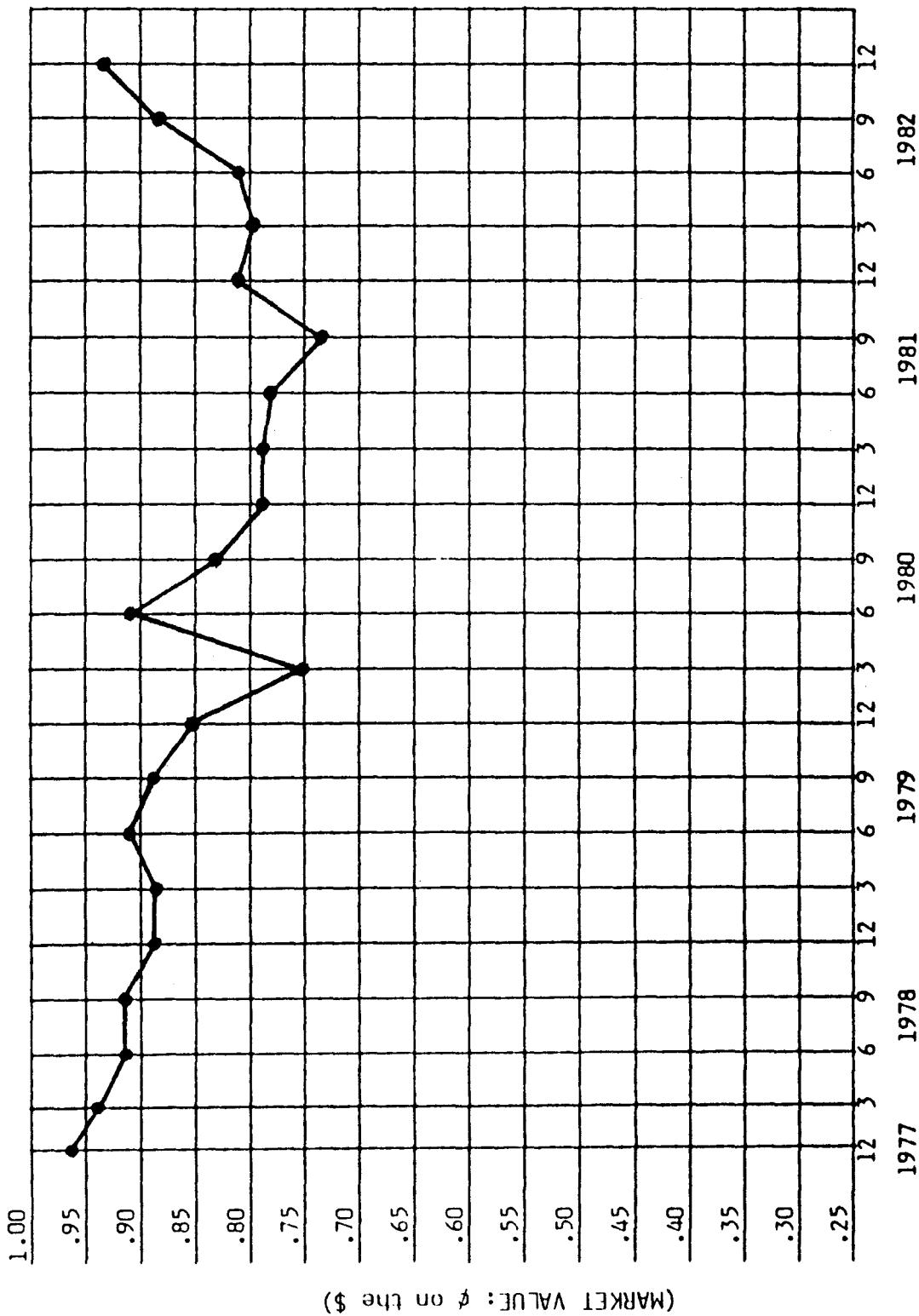
THE CREDIT UNION WATCHED THE MARKET VALUE OF THOSE INVESTMENTS PLUMMET (REFER TO ACCOMPANYING CHARTS), ALL THE WHILE EARNING LESS FROM THEM THAN ITS COST OF FUNDS AND SUSTAINING LOSSES MONTH AFTER MONTH. THOSE LOSSES BEGAN TO IMPAIR THE SAFETY AND SOUNDNESS OF THE CREDIT UNION.

FINALLY, IN CONSULTATION WITH THE NATIONAL CREDIT UNION ADMINISTRATION, THE AGENCY WHICH INSURES THE DEPOSITS IN ALL MONTANA CREDIT UNIONS, THE DEPARTMENT RELUCTANTLY ALLOWED THE CREDIT UNION TO LIQUIDATE THE INVESTMENTS AND MAKE UP FOR THE LOSS BY UTILIZING ITS REGULAR RESERVES. OF COURSE, THE CREDIT UNION HAD TO REPLENISH ITS REGULAR RESERVES TO THEIR STATUTORY LEVEL BY MAKING REGULAR TRANSFERS FROM SUBSEQUENT EARNINGS.

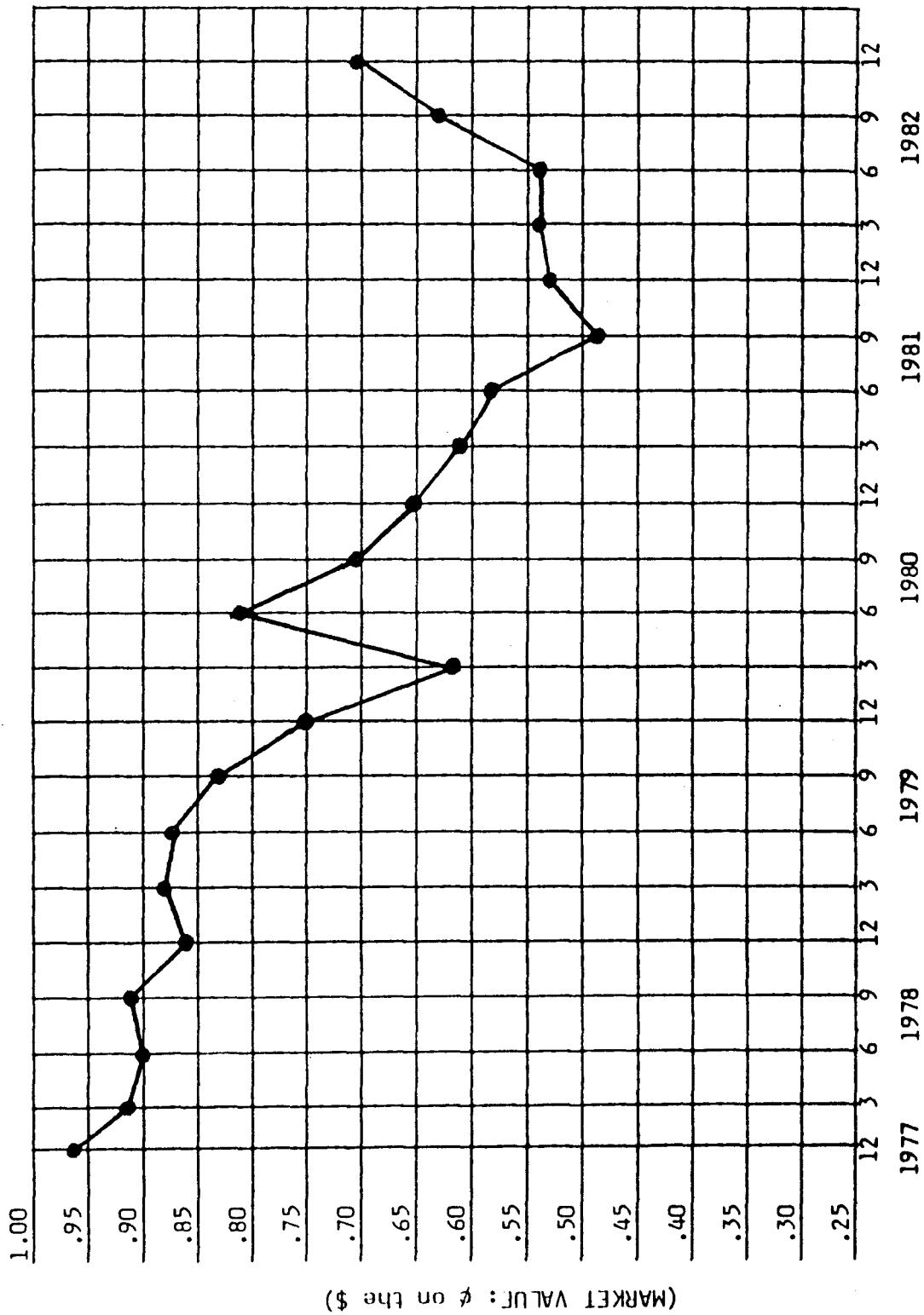
HOUSE BILL 498 GIVES THE DIRECTOR OF THE DEPARTMENT OF COMMERCE, THROUGH AUTHORITY DELEGATED TO THE COMMISSIONER OF FINANCIAL INSTITUTIONS, THE PERMISSIVE AUTHORITY ON A CASE-BY-CASE BASIS TO ALLOW CREDIT UNIONS TO USE THEIR REGULAR RESERVES TO MEET LOSSES FROM THE SALE OF INVESTMENTS OR SECURITIES. WE SEE THIS AUTHORITY BEING UTILIZED ONLY UNDER EXTRAORDINARY CONDITIONS IN WHICH THE SAFETY AND SOUNDNESS OF A CREDIT UNION IS IMPAIRED BY ITS NOT BEING ABLE TO SELL INVESTMENTS DURING PERIODS OF STRONG LIQUIDITY PRESSURE.

THE DEPARTMENT OF COMMERCE AND THE COMMISSIONER OF FINANCIAL INSTITUTIONS SUPPORTS THIS BILL, AS DOES THE MONTANA CREDIT UNIONS LEAGUE. WE URGE THAT, UPON CONSIDERATION OF THE MERITS OF THE BILL, THIS COMMITTEE RECOMMEND THAT HOUSE BILL 498 DO PASS.

FNMA: purchased 10-28-77, yield 7.25%, maturing 7-10-85, book value \$944,000



FHLMC: purchased 11-21-77, yield 8%, maturing 9-1-07, book value \$907,000



# Exhibit #2

State Auditor - Insurance Department  
Testimony - HB 464

This is the model bill drafted by the National Association of Insurance Commissioners (NAIC). The act provides for the issuance of variable life and annuity contracts and enables the Insurance Commissioner to establish certain guidelines for the regulation of such products.

Most jurisdictions approve these products. Thirty two states have adopted the NAIC model variable law or similar laws. Thirteen other states and the District of Columbia have adopted modified versions of the model or independent legislation. Texas and Georgia have retained much of the model language but make separate provisions for life insurance and annuities. Only a few states, including Montana, have no legislation on this subject. We have contacted the states which authorize the sale of these products. Of those responding most said they had virtually no problems with this legislation.

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 allowing a life insurer to sell life insurance and annuities. The department would like to have the law clarified.

Variable life insurance contracts have death benefits which increase or decrease depending on investment results. In no event will the death benefit fall below a guaranteed minimum equal to the face amount of insurance specified in the policy. Variable life insurance policies have cash values which also increase or decrease depending on investment results but then is no guaranteed minimum cash value.

This legislation, in conjunction with the enactment of regulations, based on the NAIC Model will give the Insurance Department effective control of these products for the protection of Montana Residents.

We feel that we should allow the use of these products in Montana; if the public wants to buy the products they should have the opportunity.

**STATE POSITIONS RELATIVE TO THE  
MODEL VARIABLE CONTRACT LAW**

32 states have adopted the NAIC Model Variable Contract Law, or similar laws. 13 other states and the District of Columbia have adopted either significantly modified versions of the model, or independent legislation in this area. Of that group of states, Georgia and Texas have retained much of the model language, but have separate provisions for life insurance and for annuities. Five states, Indiana, Montana, New Mexico, Rhode Island, and Utah have no legislation in this area. A tabulation of state positions appears below.

State	Adopted NAIC Model		Other Legislative or Administrative Action
	Yes	No	
Alabama	Title 28A, Chapter 34 Sections 754-759, effective January 1, 1972		
Alaska		X	Title 21, Chapter 21, Section 21.21.320, effective 1966
Arizona		X	Title 20, Chapter 3, Section 20-536.01, effective 1967/1970
Arkansas	Title 66, Chapter 33, Sections 66-3337 through 66-3340, effective 1975		
California	Part 2, Chapter 5, Article 5, Sections 10506-10506.1, effective 1964, amended 1968, 1971		
Colorado	Title 10, Article 7, Sections 10-7-402 through 10-7-405, effective 1963		
Connecticut	Title 38, Chapter 680, Sections 38-151a through 38-155, effective 1967/1971		
Delaware	Title 18, Part 1, Chapter 29, Section 2932, effective 1953		
D.C.		X	Title 35, Chapter 5, Section 35-541
Florida		X	Title XXXV, Chapter 627, Sections 627.801-627.807
Georgia		X	Title 56, Chapter 56-10, Section 56-1038(life) and 56-1040(annuities), effective 1969
Hawaii	Title 24, Chapter 431, Section 431-563, effective October 27, 1969		
Idaho	Title 41, Chapter 19, Sections 41-1936 through 41-1939, effective		
Illinois	Chapter 73, Article XIV½, Sections 857.21 through 857.62		
Indiana		X	None to date
Iowa	Title XX Chapter 508A, Sections 508A.1-508A.5, effective 1973		
Kansas	Chapter 40, Article 4, Sections 40-436 through 40-438, effective 1967/1972		
Kentucky	Chapter 304, Subtitle 15, Section 304.5-390		
Louisiana	Title 22, Part XXXII, Section 1500, effective 1966		
Maine	Title 24-A, Chapter 29, Section 2537, effective 1970		
Maryland		X	Article 48A, Subtitle 21, Section 362, effective 1970-1973

State	Adopted NAIC Model		Other Legislative or Administrative Action
	Yes	No	
Massachusetts	Mass. Gen. Laws c. 175, Section 132G, 132H, effective June 11, 1968		
Michigan		X	Chapter 500, Chapter 9, Section 500.925, effective 1963-1974
Minnesota	Chapter 61A, Sections 61A.13-61A.21, effective 1969		
Mississippi	Title 83, Chapter 7, Sections 83-7-27 through 83-7-49, effective 1968		
Missouri	Title XXIV, Chapter 376, Section 376.309, effective 1969		
Montana		X	None to date
Nebraska		X	Chapter 44, Article 22, Sections 44-2201 through 44-2221, effective 1969
Nevada	Title 57, Chapter 688A, Section 688A.390, effective 1971		
New Hampshire	.. .	X	Chapter 408, Sections 408:23-408:41, effective 1968
New Jersey	Title 173, Subtitle 3, Sections 17B:28-1 through 17B:28-14, effective 1971		
New Mexico		X	None to date
New York	Article IXa, Section 227, effective 1971		
North Carolina	Chapter 58, Article 6, Section 58-79.2, effective 1965/1973		
North Dakota	Title 26, Chapter 26-11.1, Sections 26-11.1-01 through 26-11.1-05, effective 1971		
Ohio		X	Title XXXIX, Chapter 3905, Section 3905.20, effective 1959
Oklahoma	Title 36, Chapter 2, Section 6061, effective 1959		
Oregon	Sections 733.220-733.230, effective 1973		
Pennsylvania	Chapter 2, Article IVa, Section 406.2, effective 1967/1974		
Rhode Island		X	None to date
South Carolina	Title 38, Chapter 33, Sections 38-33-10 through 38-33-50, effective 1968		
South Dakota	Title 58, Chapter 58-28, Sections 58-28-13 through 58-28-31, effective January 1, 1977		
Tennessee	Title 56, Chapter 3, Sections 56-312 through 56-320, effective 1967		
Texas		X	Articles 3.72 and 3.73, effective 1971
Utah		X	None to date
Vermont	Title 8, Subchapter 6, Sections 3855-3859, effective 1971		
Virginia		X	Title 38.1, Chapter 8, Sections 38.1-408, and 38.1-443, effective 1966/1976
Washington	Title 48, Chapter 48.18A, Sections 48.18A.010-78.18A.900, effective 1969		

State	Adopted NAIC Model		Other Legislative or Administrative Action
	Yes	No	
West Virginia	Chapter 33, Article 13A, Sections 33-13A-1 through 33-13A-5, effective July 5, 1977		
Wisconsin		X	Section 611.25, Wisconsin Statutes effective 1971
Wyoming	Title 26.1, Chapter 16, Section 26.1-367, effective 1967		
Puerto Rico*		X	None to date
Virgin Island*		X	None to date

\*Research not yet verified

STATEMENT OF INTENT  
105 Bill No. 464 [LC 1116]

A statement of intent is required for this bill in that it delegates rulemaking authority to the Commissioner of Insurance in section 5.

Although 33-1-313, MCA, delegates to the Commissioner of Insurance rulemaking authority to effectuate any provisions of the code, as LC 1116 substantively increases this power, a statement of intent is required.

Section 5 empowers the Commissioner of Insurance with the sole authority to regulate the issuance and sale of variable contracts and allows the Commissioner to promulgate rules to carry out the provisions of this bill. The Commissioner's authority to promulgate rules is limited in scope to the following areas:

1. Rules relating to maintaining reserves for guaranteed benefits and funds in a separate account;
2. Rules relating to valuation of assets allocated to a separate account;
3. Rules relating to the transfer of cash or securities among a life insurance company's accounts; and
4. Rules relating to the requirements of doing business under this bill.

All rules promulgated under this bill are subject to the provisions of the Montana Administrative Procedure Act.

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H.B. 464

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