

HOUSE BILL NO. 572

INTRODUCED BY KITSELMAN, HARPER, YARDLEY

IN THE HOUSE

January 29, 1983	Introduced and referred to Committee on Business and Industry.
February 8, 1983	Committee recommend bill do pass as amended. Report adopted.
February 9, 1983	Bill printed and placed on members' desks.
February 10, 1983	Second reading, do pass.
February 11, 1983	Considered correctly engrossed.
February 12, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 12, 1983	Introduced and referred to Committee on Business and Industry.
March 19, 1983	Committee recommend bill be concurred in. Report adopted. Statement of Intent attached.
March 23, 1983	Second reading, concurred in.
March 25, 1983	Third reading, concurred in. Ayes, 47; Noes, 1.

IN THE HOUSE

March 25, 1983

Returned to House with
Statement of Intent.

March 31, 1983

Second reading, Statement of
Intent concurred in.

April 1, 1983

Third reading, Statement of
Intent concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 572
 2 INTRODUCED BY Kitschman Harper Gardley
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA
 5 INSURANCE CODE STANDARD VALUATION LAW; AMENDING SECTIONS
 6 33-2-523 THROUGH 33-2-526, MCA."
 7

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

9 Section 1. Section 33-2-523, MCA, is amended to read:
 10 "33-2-523. Contracts on or after the operative date of
 11 33-20-213 -- valuation. (1) This section shall apply to only
 12 those policies and contracts issued on or after the
 13 operative date of 33-20-213, except as otherwise provided in
 14 33-2-524 for group annuity and pure endowment contracts
 15 issued prior to that date.

16 (2) Except as otherwise provided in 33-2-524 and
 17 ~~33-2-525~~, the minimum standard for the valuation of all such
 18 policies and contracts shall be the commissioner's reserve
 19 valuation methods defined in 33-2-525 and 32-2-526(3), 5%
 20 interest for group annuity and pure endowment contracts and
 21 3 1/2% interest for all other such policies and contracts or
 22 in the case of policies and contracts, other than annuity
 23 and pure endowment contracts, issued on or after March 17,
 24 1973, 4% interest for such policies issued prior to July 1,
 25 1979, and 4 1/2% interest for such policies issued on or

1 after July 1, 1979, and the following tables:

2 (a) for all ordinary policies of life insurance issued
 3 on the standard basis, excluding any disability and
 4 accidental death benefits in such policies, the
 5 commissioner's 1941 standard ordinary mortality table;

6 (ii) for such policies issued prior to the operative
 7 date of 33-20-206, as amended, and the commissioner's 1958
 8 standard ordinary mortality table for such policies issued
 9 on or after that operative date but prior to the operative
 10 date of [section 8], except that for any category of such
 11 policies issued on female risks, modified net premiums and
 12 present values, referred to in 33-2-525 and 33-2-526, may be
 13 calculated, at the option of the insurer with the approval
 14 of the commissioner, according to an age younger than the
 15 actual age of the insured; or

16 (iii) for such policies issued on or after the operative
 17 date of [section 8]:

18 (A) the commissioner's 1980 standard ordinary
 19 mortality table;

20 (B) at the election of the company for any one or more
 21 specified plans of life insurance, the commissioner's 1980
 22 standard ordinary mortality table with 10-year select
 23 mortality factors; or

24 (C) any ordinary mortality table adopted after 1980 by
 25 the national association of insurance commissioners that is

1 approved by the commissioner by rule for use in determining
 2 the minimum standard of valuation for such policies;

3 (b) for all industrial life insurance policies issued
 4 on the standard basis, excluding any disability and
 5 accidental death benefits in such policies, the 1941
 6 standard industrial mortality table for such policies issued
 7 prior to the operative date of 33-20-207, as amended, and
 8 ~~the commissioner's 1961 standard industrial mortality table~~
 9 for such policies issued on or after that operative date ~~the~~
 10 ~~commissioner's 1961 standard industrial mortality table or~~
 11 ~~any industrial mortality table adopted after 1980 by the~~
 12 ~~national association of insurance commissioners that is~~
 13 ~~approved by the commissioner by rule for use in determining~~
 14 ~~the minimum standard of valuation for such policies;~~

15 (c) for individual annuity and pure endowment
 16 contracts, excluding any disability and accidental death
 17 benefits in such policies, the 1937 standard annuity
 18 mortality table or, at the option of the insurer, the
 19 annuity mortality table for 1949, ultimate, or any
 20 modification of either of these tables approved by the
 21 commissioner;

22 (d) for group annuity and pure endowment contracts,
 23 excluding any disability and accidental death benefits in
 24 such policies, the group annuity mortality table for 1951,
 25 any modification of such table approved by the commissioner,

1 or, at the option of the insurer, any of the tables or
 2 modifications of tables specified for individual annuity and
 3 pure endowment contracts;

4 (e) (i) for total and permanent disability benefits in
 5 or supplementary to ordinary policies or contracts:

6 (A) for policies or contracts issued on or after
 7 January 1, 1966, the tables of period 2 disablement rates
 8 and the 1930 to 1950 termination rates of the 1952
 9 disability study of the society of actuaries, with due
 10 regard to the type of benefit, ~~or any tables of disablement~~
 11 ~~rates and termination rates adopted after 1980 by the~~
 12 ~~national association of insurance commissioners that are~~
 13 ~~approved by the commissioner by rule for use in determining~~
 14 ~~the minimum standard of valuation for such policies;~~

15 (B) for policies or contracts issued on or after
 16 January 1, 1961, and prior to January 1, 1966, either such
 17 tables or, at the option of the insurer, the class 3
 18 disability table (1926); and

19 (C) for policies issued prior to January 1, 1961, the
 20 class 3 disability table (1926);

21 (ii) any such table shall, for active lives, be
 22 combined with a mortality table permitted for calculating
 23 the reserves for life insurance policies;

24 (f) (i) for accidental death benefits in or
 25 supplementary to policies:

(A) for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such policies;

(B) for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the intercompany double indemnity mortality table; and

(C) for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table;

(ii) either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(g) for group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner."

Section 2. Section 33-2-524, MCA, is amended to read:

"33-2-524. Individual and group annuity and pure endowment contracts -- valuation. (1) The except as provided in [section 3], the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this section, as defined herein, and for all annuities and pure endowments purchased

on or after that operative date, under group annuity and pure endowment contracts is the commissioner's reserve valuation methods defined in 33-2-525 and the following tables and interest rates:

(a) for individual annuity and pure endowment contracts issued prior to July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of this table approved by the commissioner and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts;

(b) for individual single premium immediate annuity contracts issued on or after July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such contracts or any modification of this--table such tables approved by the commissioner and 7 1/2% interest;

(c) for individual annuity and pure endowment contracts issued on or after July 1, 1979, other than single premium immediate annuity contracts, excluding any

1 disability and accidental death benefits in such contracts,
 2 the 1971 individual annuity mortality table or any
 3 individual annuity mortality table adopted after 1980 by the
 4 national association of insurance commissioners that is
 5 approved by the commissioner by rule for use in determining
 6 the minimum standard of valuation for such contracts or any
 7 modification of ~~this--table~~ such tables approved by the
 8 commissioner and 5 1/2% interest for single premium deferred
 9 annuity and pure endowment contracts and 4 1/2% interest for
 10 all other such individual annuity and pure endowment
 11 contracts;

12 (d) for all annuities and pure endowments purchased
 13 prior to July 1, 1979, under group annuity and pure
 14 endowment contracts, excluding any disability and accidental
 15 death benefits purchased under such contracts, the 1971
 16 group annuity mortality table or any modification of the
 17 table approved by the commissioner and 6% interest;

18 (e) for all annuities and pure endowments purchased on
 19 or after July 1, 1979, under group annuity and pure
 20 endowment contracts, excluding any disability and accidental
 21 death benefits purchased under such contracts, the 1971
 22 group annuity mortality table or any group annuity mortality
 23 table adopted after 1980 by the national association of
 24 insurance commissioners that is approved by the commissioner
 25 by rule for use in determining the minimum standard of

1 valuation for such annuities and pure endowments or any
 2 modification of ~~this--table~~ such tables approved by the
 3 commissioner and 7 1/2% interest.

4 (2) After March 17, 1973, any insurer may file with
 5 the commissioner a written notice of its election to comply
 6 with the provisions of subsection (1) after a specified date
 7 before January 1, 1979, which shall be the operative date of
 8 subsection (1) for such insurer. An insurer may elect a
 9 different operative date for individual annuity and pure
 10 endowment contracts from that elected for group annuity and
 11 pure endowment contracts. If an insurer makes no such
 12 election, the operative date of this section for such
 13 insurer shall be January 1, 1979."

14 NEW SECTION. Section 3. Interest rates --
 15 determination of minimum standard valuation. (1) The
 16 calendar year statutory valuation interest rates as
 17 established in this section must be used in determining the
 18 minimum standard for the valuation of:

19 (a) all life insurance policies issued in a particular
 20 calendar year on or after the operative date of [section 8];

21 (b) all individual annuity and pure endowment
 22 contracts issued in a particular calendar year on or after
 23 January 1, 1984;

24 (c) all annuities and pure endowments purchased in a
 25 particular calendar year on or after January 1, 1984, under

group annuity and pure endowment contracts; and

(d) the net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under guaranteed interest contracts.

(2) Except as provided in subsection (3), the calendar year statutory valuation interest rates are determined as follows and the results rounded to the nearer 1/4 of 1%, when R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate established in [section 5], and W is the weighting factor established in [section 4]:

(a) for life insurance:

Interest rate = .03 + W(R1 - .03) + (W/2)(R2 - .09);

(b) for single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

Interest rate = .03 + W(R - .03);

(c) for other annuities with:

(i) cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subsection (2)(b), the formula for life insurance stated in subsection (2)(a) applies to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula

for single-premium immediate annuities stated in subsection (2)(b) applies to annuities and guaranteed interest contracts with guarantee durations of 10 years or less;

(ii) no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single-premium immediate annuities stated in subsection (2)(b) applies; and

(iii) cash settlement options and guaranteed interest contracts with cash settlement options valued on a change-in-fund basis, the formula for single-premium immediate annuities stated in subsection (2)(b) applies.

(3) If the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 1/2 of 1%, the calendar year statutory valuation interest rate for such life insurance policies is equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of this subsection, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year must be determined for 1980 (using the reference interest rate defined for 1979) and must be determined for each subsequent calendar year regardless of when [section 8] becomes operative.

1 ~~NEW SECTION.~~ Section 4. Interest rate weighting
 2 factor. (1) The weighting factors referred to in the
 3 formulas stated in [section 3] are as follows:

4 (a) (i) for life insurance:

5	Guarantee	
6	Duration in	Weighting
7	Years	Factors
8	10 or less	.50
9	More than 10 but not more than 20	.45
10	More than 20	.35

11 (ii) for life insurance, the guarantee duration is the
 12 maximum number of years the life insurance can remain in
 13 force on a basis guaranteed in the policy or under options
 14 to convert to plans of life insurance with premium rates or
 15 nonforfeiture values, or both, that are guaranteed in the
 16 original policy;

17 (b) .80 for single premium immediate annuities and for
 18 annuity benefits involving life contingencies arising from
 19 other annuities with cash settlement options and guaranteed
 20 interest contracts with cash settlement options;

21 (c) for other annuities and for guaranteed interest
 22 contracts, except as stated in subsection (1)(b), according
 23 to the guarantee duration established in subsection (2) and
 24 the type of plan established in subsection (3):

25 (i) for annuities and guaranteed interest contracts

1 valued on an issue year basis:

2	Guarantee	Weighting Factor		
3	Duration in	For Plan Type		
4	Years	A	B	C
5	5 or less	.90	.60	.50
6	More than 5 but not more than 10	.75	.60	.50
7	More than 10 but not more than 20	.65	.50	.45
8	More than 20	.45	.35	.35

9 Plan Type

10 (ii) A B C

11 for annuities and guaranteed interest
 12 contracts valued on a change-in-fund
 13 basis, the factors shown in
 14 subsection (1)(c)(i) increased by: .15 .25 .05

15 Plan Type

16 (iii) A B C

17 for annuities and guaranteed interest
 18 contracts valued on an issue year
 19 basis (other than those with no cash
 20 settlement options) that do not
 21 guarantee interest on considerations
 22 received more than 1 year after issue
 23 or purchase and for annuities and
 24 guaranteed interest contracts valued
 25 on a change-in-fund basis that do not

1 guarantee interest rates on
2 considerations received more than 12
3 months beyond the valuation date, the
4 factors set forth in subsection
5 (1)(c)(i) or derived in subsection
6 (1)(c)(ii) increased by: .05 .05 .05
7 (2) For other annuities with cash settlement options
8 and guaranteed interest contracts with cash settlement
9 options, the guarantee duration is the number of years for
10 which the contract guarantees interest rates in excess of
11 the calendar year statutory valuation interest rate for life
12 insurance policies with guarantee duration in excess of 20
13 years. For other annuities with no cash settlement options
14 and for guaranteed interest contracts with no cash
15 settlement options, the guarantee duration is the number of
16 years from the date of issue or date of purchase to the date
17 annuity benefits are scheduled to commence.

18 (3) Plan types used in subsection (1)(c) are:

19 (a) Plan Type A--No withdrawal is permitted or at any
20 time policyholder may withdraw funds only:

21 (i) with an adjustment to reflect changes in interest
22 rates or asset values since receipt of the funds by the
23 insurance company;

24 (ii) without such adjustment but in installments over 5
25 years or more; or

1 (iii) as an immediate life annuity.

2 (b) Plan Type B--(i) Before expiration of the interest
3 rate guarantee, no withdrawal is permitted or a policyholder
4 may withdraw funds only:

5 (A) with an adjustment to reflect changes in interest
6 rates or asset values since receipt of the funds by the
7 insurance company;

8 (B) without such adjustment but in installments over 5
9 years or more.

10 (ii) At the end of the interest rate guarantee, funds
11 may be withdrawn without such adjustment in a single sum or
12 installments over less than 5 years.

13 (c) Plan Type C--A policyholder may withdraw funds
14 before expiration of the interest rate guarantee in a single
15 sum or installments over less than 5 years either:

16 (i) without adjustment to reflect changes in interest
17 rates or asset values since receipt of the funds by the
18 insurance company; or

19 (ii) subject only to a fixed surrender charge
20 stipulated in the contract as a percentage of the fund.

21 (4) (a) An insurer may elect to value guaranteed
22 interest contracts with cash settlement options and
23 annuities with cash settlement options on either an issue
24 year basis or on a change-in-fund basis. Guaranteed interest
25 contracts with no cash settlement options and other

annuities with no cash settlement options must be valued on an issue year basis.

(b) As used in subsection (4):

(i) issue year basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract; and

(ii) change-in-fund basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

NEW SECTION. Section 5. Reference interest rate. (1)

The reference interest rate referred to in the formulas in [section 3] is:

(a) for all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average--monthly average corporates;

(b) for single-premium immediate annuities and for annuity benefits involving life contingencies arising from

other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(c) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(d) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(e) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average

corporates; or

(f) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a change-in-fund basis, except as stated in subsection (1)(b), the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's corporate bond yield average--monthly average corporates.

(2) If Moody's corporate bond yield average--monthly average corporates is no longer published by Moody's investors service, inc., or if the national association of insurance commissioners determines that Moody's corporate bond yield average--monthly average corporates as published by Moody's investors service, inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate adopted by the national association of insurance commissioners and approved by the commissioner may be substituted.

Section 6. Section 33-2-525, MCA, is amended to read:

"33-2-525. Commissioner's reserve valuation method.

(1) Except as otherwise provided in subsection (3) and 33-2-526(3), reserves according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform

amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) a net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of such policy;

(b) a net 1-year term premium for such benefits provided for in the first policy year.

~~(2) (a) For every life insurance policy issued on or~~

after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year, for which no comparable additional benefit is provided in the first year for such excess, and that provides an endowment benefit, a cash surrender value, or a combination of both in an amount greater than such excess premium, the reserve according to the commissioner's reserve valuation method, as of any policy anniversary occurring on or before the assumed ending date as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium, is, except as otherwise provided in 33-2-526, the greater of the reserve as of such policy anniversary calculated as described in subsection (1) or the reserve as of such policy anniversary calculated as described in subsection (1) with the following exceptions:

(i) the value defined in subsection (1)(a) is reduced by 15% of the amount of such excess first-year premium;

(ii) all present values of benefits and premiums are determined without reference to premiums or benefits provided for in the policy after the assumed ending date;

(iii) the policy is assumed to mature on such assumed ending date as an endowment; and

(iv) the cash surrender value provided on such assumed ending date is considered an endowment benefit.

(b) In making the comparisons in subsection (2)(a), the mortality and interest bases stated in 33-2-523 and [section 3] must be used.

(2)(3) Reserves according to the commissioner's reserve valuation method for the following shall be calculated by a method consistent with the principles of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums:

(a) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(b) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended;

(c) disability and accidental death benefits in all policies and contracts; and

(d) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts.

~~(3)(4)~~ (a) Subsection ~~(3)~~ ~~(4)~~(b) applies to any annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

(b) Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations required by the terms of such contract that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates specified in such contracts for determining guaranteed

benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values."

Section 7. Section 33-2-526, MCA, is amended to read:

"33-2-526. Limits -- options -- minimum reserves. (1)

In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in 33-2-525 and subsection (3) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) Reserves for any category of policies, contracts, or benefits as established by the commissioner may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract

1 calculated by the method used in calculating the reserve
 2 thereon, but using the minimum valuation standards of
 3 mortality and rate of interest, the minimum reserve required
 4 for such policy or contract shall be the greater of either
 5 the reserve calculated according to the mortality table,
 6 rate of interest, and method actually used for such policy
 7 or contract or the reserve calculated by the method actually
 8 used for such policy or contract but using the minimum
 9 standards of mortality and rate of interest and replacing
 10 the valuation net premium by the actual gross premium in
 11 each contract year for which the valuation net premium
 12 exceeds the actual gross premium. The minimum valuation
 13 standards of mortality and rate of interest referred to in
 14 this section are those standards stated in 33-2-524 and
 15 [section 3].

16 (4) For every life insurance policy issued after
 17 December 30, 1984, for which the gross premium in the first
 18 policy year exceeds that of the second year, for which no
 19 comparable additional benefit is provided in the first year
 20 for such excess, and that provides an endowment benefit, a
 21 cash surrender value, or a combination of both in an amount
 22 greater than such excess premium, subsections (1) through
 23 (3) of this section must be applied as if the method
 24 actually used in calculating the reserve for such policy
 25 were the method described in 33-2-525(1). The minimum

1 reserve at each policy anniversary of such a policy must be
 2 the greater of the minimum reserve calculated in accordance
 3 with 33-2-525 and the minimum reserve calculated in
 4 accordance with this section."

5 NEW SECTION. Section 8. Undeterminable reserves --
 6 rules by commissioner. If a plan of life insurance provides
 7 for future premium determination the amounts of which are to
 8 be determined by the insurance company based on current
 9 estimates of future experience, or if a plan of life
 10 insurance or annuity is of such a nature that the minimum
 11 reserves cannot be determined by the methods described in
 12 33-2-525 and 33-2-526, the reserves that are held under any
 13 such plan must, as determined by regulations promulgated by
 14 the commissioner:

15 (1) be appropriate in relation to the benefits and the
 16 pattern of premiums for that plan; and

17 (2) be computed by a method which is consistent with
 18 the principles of 33-2-521 through 33-2-526 and 33-2-531
 19 through 33-2-535 and [sections 3 through 5].

20 NEW SECTION. Section 9. Codification instruction.
 21 Sections 3 through 5 and 8 are intended to be codified as an
 22 integral part of Title 33, chapter 2, part 5, and the
 23 provisions of Title 33 apply to sections 3 through 5 and 8.

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 572

INTRODUCED BY KITSELMAN, HARPER, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA
INSURANCE CODE STANDARD VALUATION LAW; AMENDING SECTIONS
33-2-523 THROUGH 33-2-526, MCA."

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

Section 1. Section 33-2-523, MCA, is amended to read:

"33-2-523. Contracts on or after the operative date of
33-20-213 -- valuation. (1) This section shall apply to only
those policies and contracts issued on or after the
operative date of 33-20-213, except as otherwise provided in
33-2-524 for group annuity and pure endowment contracts
issued prior to that date.

(2) Except as otherwise provided in 33-2-524 and
33-2-525, the minimum standard for the valuation of all such
policies and contracts shall be the commissioner's reserve
valuation methods defined in 33-2-525 and 32-2-526(3), 5%
interest for group annuity and pure endowment contracts and
3 1/2% interest for all other such policies and contracts or
in the case of policies and contracts, other than annuity
and pure endowment contracts, issued on or after March 17,
1973, 4% interest for such policies issued prior to July 1,
1979, and 4 1/2% interest for such policies issued on or

after July 1, 1979, and the following tables:

(a) for all ordinary policies of life insurance issued
on the standard basis, excluding any disability and
accidental death benefits in such policies, the
commissioner's 1941 standard ordinary mortality table;

(i) for such policies issued prior to the operative
date of 33-20-206, as amended, and the commissioner's 1958
standard ordinary mortality table for such policies issued
on or after that operative date ~~but prior to the operative~~
~~date of [section 6 OF HOUSE BILL 592]~~, except that for any
category of such policies issued on female risks, modified
net premiums and present values, referred to in 33-2-525 and
33-2-526, may be calculated, at the option of the insurer
with the approval of the commissioner, according to an age
younger than the actual age of the insured; or

~~(ii) for such policies issued on or after the operative~~
~~date of [section 6 OF HOUSE BILL 592];~~

~~(A) the commissioner's 1980 standard ordinary~~
~~mortality table;~~

~~(B) at the election of the company for any one or more~~
~~specified plans of life insurance, the commissioner's 1980~~
~~standard ordinary mortality table with 10-year select~~
~~mortality factors; or~~

~~(C) any ordinary mortality table adopted after 1980 by~~
~~the national association of insurance commissioners that is~~

1 ~~approved by the commissioner by rule for use in determining~~
2 ~~the minimum standard of valuation for such policies;~~

3 (b) for all industrial life insurance policies issued
4 on the standard basis, excluding any disability and
5 accidental death benefits in such policies, the 1941
6 standard industrial mortality table for such policies issued
7 prior to the operative date of 33-20-207, as amended, and
8 ~~the commissioner's 1961 standard industrial mortality table~~
9 ~~for such policies issued on or after that operative date the~~
10 ~~commissioner's 1961 standard industrial mortality table or~~
11 ~~any industrial mortality table adopted after 1980 by the~~
12 ~~national association of insurance commissioners that is~~
13 ~~approved by the commissioner by rule for use in determining~~
14 ~~the minimum standard of valuation for such policies;~~

15 (c) for individual annuity and pure endowment
16 contracts, excluding any disability and accidental death
17 benefits in such policies, the 1937 standard annuity
18 mortality table or, at the option of the insurer, the
19 annuity mortality table for 1949, ultimate, or any
20 modification of either of these tables approved by the
21 commissioner;

22 (d) for group annuity and pure endowment contracts,
23 excluding any disability and accidental death benefits in
24 such policies, the group annuity mortality table for 1951,
25 any modification of such table approved by the commissioner,

1 or, at the option of the insurer, any of the tables or
2 modifications of tables specified for individual annuity and
3 pure endowment contracts;

4 (e) (i) for total and permanent disability benefits in
5 or supplementary to ordinary policies or contracts:

6 (A) for policies or contracts issued on or after
7 January 1, 1966, the tables of period 2 disablement rates
8 and the 1930 to 1950 termination rates of the 1952
9 disability study of the society of actuaries, with due
10 regard to the type of benefits ~~or any tables of disablement~~
11 ~~rates and termination rates adopted after 1980 by the~~
12 ~~national association of insurance commissioners that are~~
13 ~~approved by the commissioner by rule for use in determining~~
14 ~~the minimum standard of valuation for such policies;~~

15 (B) for policies or contracts issued on or after
16 January 1, 1961, and prior to January 1, 1966, either such
17 tables or, at the option of the insurer, the class 3
18 disability table (1926); and

19 (C) for policies issued prior to January 1, 1961, the
20 class 3 disability table (1926);

21 (ii) any such table shall, for active lives, be
22 combined with a mortality table permitted for calculating
23 the reserves for life insurance policies;

24 (f) (i) for accidental death benefits in or
25 supplementary to policies:

(A) for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such policies;

(B) for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the intercompany double indemnity mortality table; and

(C) for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table;

(ii) either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(g) for group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner."

Section 2. Section 33-2-524, MCA, is amended to read:

"33-2-524. Individual and group annuity and pure endowment contracts -- valuation. (1) The Except as provided in [section 3], the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this section, as defined herein, and for all annuities and pure endowments purchased

on or after that operative date, under group annuity and pure endowment contracts is the commissioner's reserve valuation methods defined in 33-2-525 and the following tables and interest rates:

(a) for individual annuity and pure endowment contracts issued prior to July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of this table approved by the commissioner and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts;

(b) for individual single premium immediate annuity contracts issued on or after July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such contracts or any modification of this--table such tables approved by the commissioner and 7 1/2% interest;

(c) for individual annuity and pure endowment contracts issued on or after July 1, 1979, other than single premium immediate annuity contracts, excluding any

1 disability and accidental death benefits in such contracts,
 2 the 1971 individual annuity mortality table or ~~any~~
 3 ~~individual annuity mortality table adopted after 1980 by the~~
 4 ~~national association of insurance commissioners that is~~
 5 ~~approved by the commissioner by rule for use in determining~~
 6 ~~the minimum standard of valuation for such contracts~~ or any
 7 modification of this ~~table~~ such tables approved by the
 8 commissioner and 5 1/2% interest for single premium deferred
 9 annuity and pure endowment contracts and 4 1/2% interest for
 10 all other such individual annuity and pure endowment
 11 contracts;

12 (d) for all annuities and pure endowments purchased
 13 prior to July 1, 1979, under group annuity and pure
 14 endowment contracts, excluding any disability and accidental
 15 death benefits purchased under such contracts, the 1971
 16 group annuity mortality table or any modification of the
 17 table approved by the commissioner and 6% interest;

18 (e) for all annuities and pure endowments purchased on
 19 or after July 1, 1979, under group annuity and pure
 20 endowment contracts, excluding any disability and accidental
 21 death benefits purchased under such contracts, the 1971
 22 group annuity mortality table ~~or any group annuity mortality~~
 23 ~~table adopted after 1980 by the national association of~~
 24 ~~insurance commissioners that is approved by the commissioner~~
 25 ~~by rule for use in determining the minimum standard of~~

1 valuation for such annuities and pure endowments or any
 2 modification of this ~~table~~ such tables approved by the
 3 commissioner and 7 1/2% interest.

4 (2) After March 17, 1973, any insurer may file with
 5 the commissioner a written notice of its election to comply
 6 with the provisions of subsection (1) after a specified date
 7 before January 1, 1979, which shall be the operative date of
 8 subsection (1) for such insurer. An insurer may elect a
 9 different operative date for individual annuity and pure
 10 endowment contracts from that elected for group annuity and
 11 pure endowment contracts. If an insurer makes no such
 12 election, the operative date of this section for such
 13 insurer shall be January 1, 1979."

14 ~~NEW SECTION.~~ Section 3. Interest rates --
 15 determination of minimum standard valuation. (1) The
 16 calendar year statutory valuation interest rates as
 17 established in this section must be used in determining the
 18 minimum standard for the valuation of:

19 (a) all life insurance policies issued in a particular
 20 calendar year on or after the operative date of [section 8 &
 21 ~~OF HOUSE BILL 522~~];

22 (b) all individual annuity and pure endowment
 23 contracts issued in a particular calendar year on or after
 24 January 1, 1984;

25 (c) all annuities and pure endowments purchased in a

particular calendar year on or after January 1, 1984, under group annuity and pure endowment contracts; and

(d) the net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under guaranteed interest contracts.

(2) Except as provided in subsection (3), the calendar year statutory valuation interest rates are determined as follows and the results rounded to the nearer $1/4$ of 1%, when R_1 is the lesser of R and .09, R_2 is the greater of R and .09, R is the reference interest rate established in [section 5], and W is the weighting factor established in [section 4]:

(a) for life insurance:

Interest rate = $.03 + W(R_1 - .03) + (W/2)(R_2 - .09)$;

(b) for single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

Interest rate = $.03 + W(R - .03)$;

(c) for other annuities with:

(i) cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subsection (2)(b), the formula for life insurance stated in subsection (2)(a) applies to annuities and guaranteed interest contracts with

guarantee durations in excess of 10 years and the formula for single-premium immediate annuities stated in subsection (2)(b) applies to annuities and guaranteed interest contracts with guarantee durations of 10 years or less;

(ii) no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single-premium immediate annuities stated in subsection (2)(b) applies; and

(iii) cash settlement options and guaranteed interest contracts with cash settlement options valued on a change-in-fund basis, the formula for single-premium immediate annuities stated in subsection (2)(b) applies.

(3) If the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than $1/2$ of 1%, the calendar year statutory valuation interest rate for such life insurance policies is equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of this subsection, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year must be determined for 1980 (using the reference interest rate defined for 1979) and must be determined for each subsequent calendar year regardless of when [section 8] becomes

1 operative.

2 **NEW SECTION.** Section 4. Interest rate weighting
3 factor. (1) The weighting factors referred to in the
4 formulas stated in [section 3] are as follows:

5 (a) (i) for life insurance:

6 Guarantee

7 Duration in Weighting

8 Years Factors

9 10 or less .50

10 More than 10 but not more than 20 .45

11 More than 20 .35

12 (ii) for life insurance, the guarantee duration is the
13 maximum number of years the life insurance can remain in
14 force on a basis guaranteed in the policy or under options
15 to convert to plans of life insurance with premium rates or
16 nonforfeiture values, or both, that are guaranteed in the
17 original policy;

18 (b) .80 for single premium immediate annuities and for
19 annuity benefits involving life contingencies arising from
20 other annuities with cash settlement options and guaranteed
21 interest contracts with cash settlement options;

22 (c) for other annuities and for guaranteed interest
23 contracts, except as stated in subsection (1)(b), according
24 to the guarantee duration established in subsection (2) and
25 the type of plan established in subsection (3):

1 (i) for annuities and guaranteed interest contracts
2 valued on an issue year basis:

3 Guarantee Weighting Factor

4 Duration in for Plan Type

5 Years A B C

6 5 or less .80 .60 .50

7 More than 5 but not more than 10 .75 .60 .50

8 More than 10 but not more than 20 .65 .50 .45

9 More than 20 .45 .35 .35

10 Plan Type

11 (ii) A B C

12 for annuities and guaranteed interest
13 contracts valued on a change-in-fund
14 basis, the factors shown in
15 subsection (1)(c)(i) increased by: .15 .25 .05

16 Plan Type

17 (iii) A B C

18 for annuities and guaranteed interest
19 contracts valued on an issue year
20 basis (other than those with no cash
21 settlement options) that do not
22 guarantee interest on considerations
23 received more than 1 year after issue
24 or purchase and for annuities and
25 guaranteed interest contracts valued

1 on a change-in-fund basis that do not
 2 guarantee interest rates on
 3 considerations received more than 12
 4 months beyond the valuation date, the
 5 factors set forth in subsection
 6 (1)(c)(i) or derived in subsection
 7 (1)(c)(ii) increased by: .05 .05 .05
 8 (2) For other annuities with cash settlement options
 9 and guaranteed interest contracts with cash settlement
 10 options, the guarantee duration is the number of years for
 11 which the contract guarantees interest rates in excess of
 12 the calendar year statutory valuation interest rate for life
 13 insurance policies with guarantee duration in excess of 20
 14 years. For other annuities with no cash settlement options
 15 and for guaranteed interest contracts with no cash
 16 settlement options, the guarantee duration is the number of
 17 years from the date of issue or date of purchase to the date
 18 annuity benefits are scheduled to commence.
 19 (3) Plan types used in subsection (1)(c) are:
 20 (a) Plan Type A--No withdrawal is permitted or at any
 21 time policyholder may withdraw funds only:
 22 (i) with an adjustment to reflect changes in interest
 23 rates or asset values since receipt of the funds by the
 24 insurance company;
 25 (ii) without such adjustment but in installments over 5

1 years or more; or
 2 (iii) as an immediate life annuity.
 3 (b) Plan Type B--(i) Before expiration of the interest
 4 rate guarantee, no withdrawal is permitted or a policyholder
 5 may withdraw funds only:
 6 (A) with an adjustment to reflect changes in interest
 7 rates or asset values since receipt of the funds by the
 8 insurance company;
 9 (B) without such adjustment but in installments over 5
 10 years or more.
 11 (ii) At the end of the interest rate guarantee, funds
 12 may be withdrawn without such adjustment in a single sum or
 13 installments over less than 5 years.
 14 (c) Plan Type C--A policyholder may withdraw funds
 15 before expiration of the interest rate guarantee in a single
 16 sum or installments over less than 5 years either:
 17 (i) without adjustment to reflect changes in interest
 18 rates or asset values since receipt of the funds by the
 19 insurance company; or
 20 (ii) subject only to a fixed surrender charge
 21 stipulated in the contract as a percentage of the fund.
 22 (4) (a) An insurer may elect to value guaranteed
 23 interest contracts with cash settlement options and
 24 annuities with cash settlement options on either an issue
 25 year basis or on a change-in-fund basis. Guaranteed interest

contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis.

(b) As used in subsection (4):

(i) issue year basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract; and

(ii) change-in-fund basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

NEW SECTION. Section 5. Reference interest rate. (1)

The reference interest rate referred to in the formulas in [section 3] is:

(a) for all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average--monthly average corporates;

(b) for single-premium immediate annuities and for

annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(c) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(d) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(e) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase,

1 of Moody's corporate bond yield average--monthly average
2 corporates; or

3 (f) for other annuities with cash settlement options
4 and guaranteed interest contracts with cash settlement
5 options valued on a change-in-fund basis, except as stated
6 in subsection (1)(b), the average over a period of 12
7 months, ending on June 30 of the calendar year of the change
8 in the fund, of Moody's corporate bond yield
9 average--monthly average corporates.

10 (2) If Moody's corporate bond yield average--monthly
11 average corporates is no longer published by Moody's
12 investors service, Inc., or if the national association of
13 insurance commissioners determines that Moody's corporate
14 bond yield average--monthly average corporates as published
15 by Moody's investors service, Inc., is no longer appropriate
16 for the determination of the reference interest rate, then
17 an alternative method for determination of the reference
18 interest rate adopted by the national association of
19 insurance commissioners and approved by the commissioner may
20 be substituted.

21 Section 6. Section 33-2-525, MCA, is amended to read:

22 "33-2-525. Commissioner's reserve valuation method.
23 (1) Except as otherwise provided in subsection ~~(3)~~ (4) and
24 33-2-526(3), reserves according to the commissioner's
25 reserve valuation method, for the life insurance and

1 endowment benefits of policies providing for a uniform
2 amount of insurance and requiring the payment of uniform
3 premiums, shall be the excess, if any, of the present value,
4 at the date of valuation, of such future guaranteed benefits
5 provided for by such policies, over the then present value
6 of any future modified net premiums therefor. The modified
7 net premiums for any such policy shall be such uniform
8 percentage of the respective contract premiums for such
9 benefits that the present value, at the date of issue of the
10 policy, of all such modified net premiums shall be equal to
11 the sum of the then present value of such benefits provided
12 for by the policy and the excess of (a) over (b), as
13 follows:

14 (a) a net level annual premium equal to the present
15 value, at the date of issue, of such benefits provided for
16 after the first policy year, divided by the present value,
17 at the date of issue of an annuity of one per annum payable
18 on the first and each subsequent anniversary of such policy
19 on which a premium falls due; provided, however, that such
20 net level annual premium shall not exceed the net level
21 annual premium on the 19-year premium whole life plan for
22 insurance of the same amount at an age 1 year higher than
23 the age at issue of such policy;

24 (b) a net 1-year term premium for such benefits
25 provided for in the first policy year.

1 (2) (a) For every life insurance policy issued on or
 2 after January 1, 1987, for which the contract premium in the
 3 first policy year exceeds that of the second year, for which
 4 no comparable additional benefit is provided in the first
 5 year for such excess, and that provides an endowment
 6 benefit, a cash surrender value, or a combination of both in
 7 an amount greater than such excess premium, the reserve
 8 according to the commissioner's reserve valuation method, as
 9 of any policy anniversary occurring on or before the assumed
 10 ending date as the first policy anniversary on which the sum
 11 of any endowment benefit and any cash surrender value then
 12 available is greater than such excess premium, is, except as
 13 otherwise provided in 33-2-526, the greater of the reserve
 14 as of such policy anniversary calculated as described in
 15 subsection (1) of the reserve as of such policy anniversary
 16 calculated as described in subsection (1) with the following
 17 exceptions:

18 (i) the value defined in subsection (1)(a) is reduced
 19 by 1% of the amount of such excess first-year premium;

20 (ii) all present values of benefits and premiums are
 21 determined without reference to premiums or benefits
 22 provided for in the policy after the assumed ending date;

23 (iii) the policy is assumed to mature on such assumed
 24 ending date as an endowment; and

25 (iv) the cash surrender value provided on such assumed

1 ending date is considered an endowment benefit.

2 (b) In making the comparisons in subsection (2)(a),
 3 the mortality and interest bases stated in 33-2-523 and
 4 [section 3] must be used.

5 (2)(3) Reserves according to the commissioner's
 6 reserve valuation method for the following shall be
 7 calculated by a method consistent with the principles of
 8 this section, except that any extra premiums charged because
 9 of impairments or special hazards shall be disregarded in
 10 the determination of modified net premiums:

11 (a) life insurance policies providing for a varying
 12 amount of insurance or requiring the payment of varying
 13 premiums;

14 (b) group annuity and pure endowment contracts
 15 purchased under a retirement plan or plan of deferred
 16 compensation, established or maintained by an employer
 17 (including a partnership or sole proprietorship) or by an
 18 employee organization, or by both, other than a plan
 19 providing individual retirement accounts or individual
 20 retirement annuities under section 408 of the Internal
 21 Revenue Code, as now or hereafter amended;

22 (c) disability and accidental death benefits in all
 23 policies and contracts; and

24 (d) all other benefits, except life insurance and
 25 endowment benefits in life insurance policies and benefits

provided by all other annuity and pure endowment contracts.

~~(3)~~(4) (a) Subsection ~~(3)~~ (4)(b) applies to any annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

(b) Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations required by the terms of such contract that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or

rates specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values."

Section 7. Section 33-2-526, MCA, is amended to read:

"33-2-526. Limits -- options -- minimum reserves. (1)

In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in 33-2-525 and subsection (3) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) Reserves for any category of policies, contracts, or benefits as established by the commissioner may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) If in any contract year the gross premium charged by any life insurer on any policy or contract is less than

1 the valuation net premium for the policy or contract
 2 calculated by the method used in calculating the reserve
 3 thereon, but using the minimum valuation standards of
 4 mortality and rate of interest, the minimum reserve required
 5 for such policy or contract shall be the greater of either
 6 the reserve calculated according to the mortality table,
 7 rate of interest, and method actually used for such policy
 8 or contract or the reserve calculated by the method actually
 9 used for such policy or contract but using the minimum
 10 standards of mortality and rate of interest and replacing
 11 the valuation net premium by the actual gross premium in
 12 each contract year for which the valuation net premium
 13 exceeds the actual gross premium. The minimum valuation
 14 standards of mortality and rate of interest referred to in
 15 this section are those standards stated in 33-2-524 and
 16 [section 3].

17 (4) For every life insurance policy issued after
 18 December 30, 1986, for which the gross premium in the first
 19 policy year exceeds that of the second year, for which no
 20 comparable additional benefit is provided in the first year
 21 for such excess, and that provides an endowment benefit, a
 22 cash surrender value, or a combination of both in an amount
 23 greater than such excess premium, subsections (1) through
 24 (3) of this section must be applied as if the method
 25 actually used in calculating the reserve for such policy

1 were the method described in 33-2-525(1). The minimum
 2 reserve at each policy anniversary of such a policy must be
 3 the greater of the minimum reserve calculated in accordance
 4 with 33-2-525 and the minimum reserve calculated in
 5 accordance with this section."

6 NEW SECTION. Section 8. Undeterminable reserves --
 7 rules by commissioner. If a plan of life insurance provides
 8 for future premium determination the amounts of which are to
 9 be determined by the insurance company based on current
 10 estimates of future experience, or if a plan of life
 11 insurance or annuity is of such a nature that the minimum
 12 reserves cannot be determined by the methods described in
 13 33-2-525 and 33-2-526, the reserves that are held under any
 14 such plan must, as determined by regulations promulgated by
 15 the commissioner:

16 (1) be appropriate in relation to the benefits and the
 17 pattern of premiums for that plan; and

18 (2) be computed by a method which is consistent with
 19 the principles of 33-2-521 through 33-2-526 and 33-2-531
 20 through 33-2-535 and [sections 3 through 5].

21 NEW SECTION. Section 9. Codification instruction.
 22 Sections 3 through 5 and 8 are intended to be codified as an
 23 integral part of Title 33, chapter 2, part 5, and the
 24 provisions of Title 33 apply to sections 3 through 5 and 8.

-End-

HOUSE BILL NO. 572

INTRODUCED BY KITSELMAN, HARPER, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA
INSURANCE CODE STANDARD VALUATION LAW; AMENDING SECTIONS
33-2-523 THROUGH 33-2-526, MCA."

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

Section 1. Section 33-2-523, MCA, is amended to read:

"33-2-523. Contracts on or after the operative date of
33-20-213 -- valuation. (1) This section shall apply to only
those policies and contracts issued on or after the
operative date of 33-20-213, except as otherwise provided in
33-2-524 for group annuity and pure endowment contracts
issued prior to that date.

(2) Except as otherwise provided in 33-2-524 and
33-2-525, the minimum standard for the valuation of all such
policies and contracts shall be the commissioner's reserve
valuation methods defined in 33-2-525 and 32-2-526(3), 5%
interest for group annuity and pure endowment contracts and
3 1/2% interest for all other such policies and contracts or
in the case of policies and contracts, other than annuity
and pure endowment contracts, issued on or after March 17,
1973, 4% interest for such policies issued prior to July 1,
1979, and 4 1/2% interest for such policies issued on or

after July 1, 1979, and the following tables:

(a) for all ordinary policies of life insurance issued
on the standard basis, excluding any disability and
accidental death benefits in such policies, the
commissioner's 1941 standard ordinary mortality table;

(i) for such policies issued prior to the operative
date of 33-20-206, as amended, and the commissioner's 1958
standard ordinary mortality table for such policies issued
on or after that operative date ~~but prior to the operative~~
~~date of [section 2 6 OF HOUSE BILL 592]~~, except that for any
category of such policies issued on female risks, modified
net premiums and present values, referred to in 33-2-525 and
33-2-526, may be calculated, at the option of the insurer
with the approval of the commissioner, according to an age
younger than the actual age of the insured; or

~~(ii) for such policies issued on or after the operative~~
~~date of [section 2 6 OF HOUSE BILL 592];~~

~~(A) the commissioner's 1980 standard ordinary~~
~~mortality table;~~

~~(B) at the election of the company for any one or more~~
~~specified plans of life insurance, the commissioner's 1980~~
~~standard ordinary mortality table with 10-year select~~
~~mortality factors; or~~

~~(C) any ordinary mortality table adopted after 1980 by~~
~~the national association of insurance commissioners that is~~

1 ~~approved by the commissioner by rule for use in determining~~
2 ~~the minimum standard of valuation for such policies;~~

3 (b) for all industrial life insurance policies issued
4 on the standard basis, excluding any disability and
5 accidental death benefits in such policies, the 1941
6 standard industrial mortality table for such policies issued
7 prior to the operative date of 33-20-207, as amended, and
8 ~~the commissioner's 1961 standard industrial mortality table~~
9 for such policies issued on or after that operative date ~~the~~
10 ~~commissioner's 1961 standard industrial mortality table or~~
11 ~~any industrial mortality table adopted after 1980 by the~~
12 ~~national association of insurance commissioners that is~~
13 ~~approved by the commissioner by rule for use in determining~~
14 ~~the minimum standard of valuation for such policies;~~

15 (c) for individual annuity and pure endowment
16 contracts, excluding any disability and accidental death
17 benefits in such policies, the 1937 standard annuity
18 mortality table or, at the option of the insurer, the
19 annuity mortality table for 1949, ultimate, or any
20 modification of either of these tables approved by the
21 commissioner;

22 (d) for group annuity and pure endowment contracts,
23 excluding any disability and accidental death benefits in
24 such policies, the group annuity mortality table for 1951,
25 any modification of such table approved by the commissioner,

1 or, at the option of the insurer, any of the tables or
2 modifications of tables specified for individual annuity and
3 pure endowment contracts;

4 (e) (i) for total and permanent disability benefits in
5 or supplementary to ordinary policies or contracts:

6 (A) for policies or contracts issued on or after
7 January 1, 1966, the tables of period 2 disablement rates
8 and the 1930 to 1950 termination rates of the 1952
9 disability study of the society of actuaries, with due
10 regard to the type of benefit, ~~or any tables of disablement~~
11 ~~rates and termination rates adopted after 1980 by the~~
12 ~~national association of insurance commissioners that are~~
13 ~~approved by the commissioner by rule for use in determining~~
14 ~~the minimum standard of valuation for such policies;~~

15 (B) for policies or contracts issued on or after
16 January 1, 1961, and prior to January 1, 1966, either such
17 tables or, at the option of the insurer, the class 3
18 disability table (1926); and

19 (C) for policies issued prior to January 1, 1961, the
20 class 3 disability table (1926);

21 (ii) any such table shall, for active lives, be
22 combined with a mortality table permitted for calculating
23 the reserves for life insurance policies;

24 (f) (i) for accidental death benefits in or
25 supplementary to policies;

(A) for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such policies;

(B) for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the intercompany double indemnity mortality table; and

(C) for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table;

(ii) either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(g) for group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner."

Section 2. Section 33-2-524, MCA, is amended to read:

"33-2-524. Individual and group annuity and pure endowment contracts -- valuation. (1) The Except as provided in [Section 3], the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this section, as defined herein, and for all annuities and pure endowments purchased

on or after that operative date, under group annuity and pure endowment contracts is the commissioner's reserve valuation methods defined in 33-2-525 and the following tables and interest rates:

(a) for individual annuity and pure endowment contracts issued prior to July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of this table approved by the commissioner and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts;

(b) for individual single premium immediate annuity contracts issued on or after July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such contracts or any modification of this ~~table~~ such tables approved by the commissioner and 7 1/2% interest;

(c) for individual annuity and pure endowment contracts issued on or after July 1, 1979, other than single premium immediate annuity contracts, excluding any

1 disability and accidental death benefits in such contracts,
 2 the 1971 individual annuity mortality table or any
 3 individual annuity mortality table adopted after 1980 by the
 4 national association of insurance commissioners that is
 5 approved by the commissioner by rule for use in determining
 6 the minimum standard of valuation for such contracts or any
 7 modification of this--table such tables approved by the
 8 commissioner and 5 1/2% interest for single premium deferred
 9 annuity and pure endowment contracts and 4 1/2% interest for
 10 all other such individual annuity and pure endowment
 11 contracts;

12 (d) for all annuities and pure endowments purchased
 13 prior to July 1, 1979, under group annuity and pure
 14 endowment contracts, excluding any disability and accidental
 15 death benefits purchased under such contracts, the 1971
 16 group annuity mortality table or any modification of the
 17 table approved by the commissioner and 6% interest;

18 (e) for all annuities and pure endowments purchased on
 19 or after July 1, 1979, under group annuity and pure
 20 endowment contracts, excluding any disability and accidental
 21 death benefits purchased under such contracts, the 1971
 22 group annuity mortality table or any group annuity mortality
 23 table adopted after 1980 by the national association of
 24 insurance commissioners that is approved by the commissioner
 25 by rule for use in determining the minimum standard of

1 valuation for such annuities and pure endowments or any
 2 modification of this--table such tables approved by the
 3 commissioner and 7 1/2% interest.

4 (2) After March 17, 1973, any insurer may file with
 5 the commissioner a written notice of its election to comply
 6 with the provisions of subsection (1) after a specified date
 7 before January 1, 1979, which shall be the operative date of
 8 subsection (1) for such insurer. An insurer may elect a
 9 different operative date for individual annuity and pure
 10 endowment contracts from that elected for group annuity and
 11 pure endowment contracts. If an insurer makes no such
 12 election, the operative date of this section for such
 13 insurer shall be January 1, 1979."

14 NEW SECTION. Section 3. Interest rates --
 15 determination of minimum standard valuation. (1) The
 16 calendar year statutory valuation interest rates as
 17 established in this section must be used in determining the
 18 minimum standard for the valuation of:

19 (a) all life insurance policies issued in a particular
 20 calendar year on or after the operative date of [section 8 &
 21 DE HOUSE BILL 522];

22 (b) all individual annuity and pure endowment
 23 contracts issued in a particular calendar year on or after
 24 January 1, 1984;

25 (c) all annuities and pure endowments purchased in a

1 particular calendar year on or after January 1, 1984, under
2 group annuity and pure endowment contracts; and

3 (d) the net increase, if any, in a particular calendar
4 year after January 1, 1984, in amounts held under guaranteed
5 interest contracts.

6 (2) Except as provided in subsection (3), the calendar
7 year statutory valuation interest rates are determined as
8 follows and the results rounded to the nearer 1/4 of 1%,
9 when R1 is the lesser of R and .09, R2 is the greater of R
10 and .09, R is the reference interest rate established in
11 [section 5], and W is the weighting factor established in
12 [section 4]:

13 (a) for life insurance:

14 Interest rate = $.03 + W(R1 - .03) + (W/2)(R2 - .09)$;

15 (b) for single-premium immediate annuities and for
16 annuity benefits involving life contingencies arising from
17 other annuities with cash settlement options and from
18 guaranteed interest contracts with cash settlement options:

19 Interest rate = $.03 + W(R - .03)$;

20 (c) for other annuities with:

21 (i) cash settlement options and guaranteed interest
22 contracts with cash settlement options, valued on an issue
23 year basis, except as stated in subsection (2)(b), the
24 formula for life insurance stated in subsection (2)(a)
25 applies to annuities and guaranteed interest contracts with

1 guarantee durations in excess of 10 years and the formula
2 for single-premium immediate annuities stated in subsection
3 (2)(b) applies to annuities and guaranteed interest
4 contracts with guarantee durations of 10 years or less;

5 (ii) no cash settlement options and for guaranteed
6 interest contracts with no cash settlement options, the
7 formula for single-premium immediate annuities stated in
8 subsection (2)(b) applies; and

9 (iii) cash settlement options and guaranteed interest
10 contracts with cash settlement options valued on a
11 change-in-fund basis, the formula for single-premium
12 immediate annuities stated in subsection (2)(b) applies.

13 (3) If the calendar year statutory valuation interest
14 rate for any life insurance policies issued in any calendar
15 year differs from the corresponding actual rate for similar
16 policies issued in the immediately preceding calendar year
17 by less than 1/2 of 1%, the calendar year statutory
18 valuation interest rate for such life insurance policies is
19 equal to the corresponding actual rate for the immediately
20 preceding calendar year. For purposes of this subsection,
21 the calendar year statutory valuation interest rate for life
22 insurance policies issued in a calendar year must be
23 determined for 1980 (using the reference interest rate
24 defined for 1979) and must be determined for each subsequent
25 calendar year regardless of when [section 8] becomes

1 operative.

2 **NEW SECTION.** Section 4. Interest rate weighting
3 factor. (1) The weighting factors referred to in the
4 formulas stated in [section 3] are as follows:

5 (a) (i) for life insurance:

6	Guarantee	
7	Duration in	Weighting
8	Years	Factors
9	10 or less	.50
10	More than 10 but not more than 20	.45
11	More than 20	.35

12 (ii) for life insurance, the guarantee duration is the
13 maximum number of years the life insurance can remain in
14 force on a basis guaranteed in the policy or under options
15 to convert to plans of life insurance with premium rates or
16 nonforfeiture values, or both, that are guaranteed in the
17 original policy;

18 (b) .80 for single premium immediate annuities and for
19 annuity benefits involving life contingencies arising from
20 other annuities with cash settlement options and guaranteed
21 interest contracts with cash settlement options;

22 (c) for other annuities and for guaranteed interest
23 contracts, except as stated in subsection (1)(b), according
24 to the guarantee duration established in subsection (2) and
25 the type of plan established in subsection (3):

1 (i) for annuities and guaranteed interest contracts
2 valued on an issue year basis:

3	Guarantee	Weighting Factor		
4	Duration in	for Plan Type		
5	Years	A	B	C
6	5 or less	.80	.60	.50
7	More than 5 but not more than 10	.75	.60	.50
8	More than 10 but not more than 20	.65	.50	.45
9	More than 20	.45	.35	.35

10 Plan Type

11	(ii)	A	B	C
12	for annuities and guaranteed interest			
13	contracts valued on a change-in-fund			
14	basis, the factors shown in			
15	subsection (1)(c)(i) increased by:	.15	.25	.05
16		Plan Type		

17 (iii) A B C

18 for annuities and guaranteed interest
19 contracts valued on an issue year
20 basis (other than those with no cash
21 settlement options) that do not
22 guarantee interest on considerations
23 received more than 1 year after issue
24 or purchase and for annuities and
25 guaranteed interest contracts valued

1 on a change-in-fund basis that do not
 2 guarantee interest rates on
 3 considerations received more than 12
 4 months beyond the valuation date, the
 5 factors set forth in subsection
 6 (1)(c)(i) or derived in subsection
 7 (1)(c)(ii) increased by: .05 .05 .05
 8 (2) For other annuities with cash settlement options
 9 and guaranteed interest contracts with cash settlement
 10 options, the guarantee duration is the number of years for
 11 which the contract guarantees interest rates in excess of
 12 the calendar year statutory valuation interest rate for life
 13 insurance policies with guarantee duration in excess of 20
 14 years. For other annuities with no cash settlement options
 15 and for guaranteed interest contracts with no cash
 16 settlement options, the guarantee duration is the number of
 17 years from the date of issue or date of purchase to the date
 18 annuity benefits are scheduled to commence.
 19 (3) Plan types used in subsection (1)(c) are:
 20 (a) Plan Type A--No withdrawal is permitted or at any
 21 time policyholder may withdraw funds only:
 22 (i) with an adjustment to reflect changes in interest
 23 rates or asset values since receipt of the funds by the
 24 insurance company;
 25 (ii) without such adjustment but in installments over 5

1 years or more; or
 2 (iii) as an immediate life annuity.
 3 (b) Plan Type B--(i) Before expiration of the interest
 4 rate guarantee, no withdrawal is permitted or a policyholder
 5 may withdraw funds only:
 6 (A) with an adjustment to reflect changes in interest
 7 rates or asset values since receipt of the funds by the
 8 insurance company;
 9 (B) without such adjustment but in installments over 5
 10 years or more.
 11 (ii) At the end of the interest rate guarantee, funds
 12 may be withdrawn without such adjustment in a single sum or
 13 installments over less than 5 years.
 14 (c) Plan Type C--A policyholder may withdraw funds
 15 before expiration of the interest rate guarantee in a single
 16 sum or installments over less than 5 years either:
 17 (i) without adjustment to reflect changes in interest
 18 rates or asset values since receipt of the funds by the
 19 insurance company; or
 20 (ii) subject only to a fixed surrender charge
 21 stipulated in the contract as a percentage of the fund.
 22 (4) (a) An insurer may elect to value guaranteed
 23 interest contracts with cash settlement options and
 24 annuities with cash settlement options on either an issue
 25 year basis or on a change-in-fund basis. Guaranteed interest

contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis.

(b) As used in subsection (4):

(i) issue year basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract; and

(ii) change-in-fund basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

NEW SECTION. Section 5. Reference interest rate. (1)

The reference interest rate referred to in the formulas in [section 3] is:

(a) for all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average--monthly average corporates;

(b) for single-premium immediate annuities and for

annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(c) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(d) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(e) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase,

1 of Moody's corporate bond yield average--monthly average
2 corporates; or

3 (f) for other annuities with cash settlement options
4 and guaranteed interest contracts with cash settlement
5 options valued on a change-in-fund basis, except as stated
6 in subsection (1)(b), the average over a period of 12
7 months, ending on June 30 of the calendar year of the change
8 in the fund, of Moody's corporate bond yield
9 average--monthly average corporates.

10 (2) If Moody's corporate bond yield average--monthly
11 average corporates is no longer published by Moody's
12 investors service, inc., or if the national association of
13 insurance commissioners determines that Moody's corporate
14 bond yield average--monthly average corporates as published
15 by Moody's investors service, inc., is no longer appropriate
16 for the determination of the reference interest rate, then
17 an alternative method for determination of the reference
18 interest rate adopted by the national association of
19 insurance commissioners and approved by the commissioner may
20 be substituted.

21 Section 6. Section 33-2-525, MCA, is amended to read:

22 "33-2-525. Commissioner's reserve valuation method.
23 (1) Except as otherwise provided in subsection ~~(3)~~ (4) and
24 33-2-526(3), reserves according to the commissioner's
25 reserve valuation method, for the life insurance and

1 endowment benefits of policies providing for a uniform
2 amount of insurance and requiring the payment of uniform
3 premiums, shall be the excess, if any, of the present value,
4 at the date of valuation, of such future guaranteed benefits
5 provided for by such policies, over the then present value
6 of any future modified net premiums therefor. The modified
7 net premiums for any such policy shall be such uniform
8 percentage of the respective contract premiums for such
9 benefits that the present value, at the date of issue of the
10 policy, of all such modified net premiums shall be equal to
11 the sum of the then present value of such benefits provided
12 for by the policy and the excess of (a) over (b), as
13 follows:

14 (a) a net level annual premium equal to the present
15 value, at the date of issue, of such benefits provided for
16 after the first policy year, divided by the present value,
17 at the date of issue of an annuity of one per annum payable
18 on the first and each subsequent anniversary of such policy
19 on which a premium falls due; provided, however, that such
20 net level annual premium shall not exceed the net level
21 annual premium on the 19-year premium whole life plan for
22 insurance of the same amount at an age 1 year higher than
23 the age at issue of such policy;

24 (b) a net 1-year term premium for such benefits
25 provided for in the first policy year.

1 ~~(2) (a) For every life insurance policy issued on or~~
 2 ~~after January 1, 1987, for which the contract premium in the~~
 3 ~~first policy year exceeds that of the second year, for which~~
 4 ~~no comparable additional benefit is provided in the first~~
 5 ~~year for such excess, and that provides an endowment~~
 6 ~~benefit, a cash surrender value, or a combination of both in~~
 7 ~~an amount greater than such excess premium, the reserve~~
 8 ~~according to the commissioner's reserve valuation method, as~~
 9 ~~of any policy anniversary occurring on or before the assumed~~
 10 ~~ending date as the first policy anniversary on which the sum~~
 11 ~~of any endowment benefit and any cash surrender value then~~
 12 ~~available is greater than such excess premium, is, except as~~
 13 ~~otherwise provided in 33-2-526, the greater of the reserve~~
 14 ~~as of such policy anniversary calculated as described in~~
 15 ~~subsection (1) or the reserve as of such policy anniversary~~
 16 ~~calculated as described in subsection (1) with the following~~
 17 ~~exceptions:~~

18 ~~(i) the value defined in subsection (1)(a) is reduced~~
 19 ~~by 15% of the amount of such excess first-year premium;~~

20 ~~(ii) all present values of benefits and premiums are~~
 21 ~~determined without reference to premiums or benefits~~
 22 ~~provided for in the policy after the assumed ending date;~~

23 ~~(iii) the policy is assumed to mature on such assumed~~
 24 ~~ending date as an endowment; and~~

25 ~~(iv) the cash surrender value provided on such assumed~~

1 ~~ending date is considered an endowment benefit.~~

2 ~~(b) In making the comparisons in subsection (2)(a),~~
 3 ~~the mortality and interest bases stated in 33-2-523 and~~
 4 ~~[section 3] must be used.~~

5 ~~(2)(3)~~ Reserves according to the commissioner's
 6 reserve valuation method for the following shall be
 7 calculated by a method consistent with the principles of
 8 this section, except that any extra premiums charged because
 9 of impairments or special hazards shall be disregarded in
 10 the determination of modified net premiums:

11 (a) life insurance policies providing for a varying
 12 amount of insurance or requiring the payment of varying
 13 premiums;

14 (b) group annuity and pure endowment contracts
 15 purchased under a retirement plan or plan of deferred
 16 compensation, established or maintained by an employer
 17 (including a partnership or sole proprietorship) or by an
 18 employee organization, or by both, other than a plan
 19 providing individual retirement accounts or individual
 20 retirement annuities under section 408 of the Internal
 21 Revenue Code, as now or hereafter amended;

22 (c) disability and accidental death benefits in all
 23 policies and contracts; and

24 (d) all other benefits, except life insurance and
 25 endowment benefits in life insurance policies and benefits

provided by all other annuity and pure endowment contracts.

~~†3†~~(41) (a) Subsection ~~†3†~~ ~~(41)~~(b) applies to any annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

(b) Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations required by the terms of such contract that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or

rates specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values."

Section 7. Section 33-2-526, MCA, is amended to read:

"33-2-526. Limits -- options -- minimum reserves. (1) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in 33-2-525 and subsection (3) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) Reserves for any category of policies, contracts, or benefits as established by the commissioner may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) If in any contract year the gross premium charged by any life insurer on any policy or contract is less than

1 the valuation net premium for the policy or contract
 2 calculated by the method used in calculating the reserve
 3 thereon, but using the minimum valuation standards of
 4 mortality and rate of interest, the minimum reserve required
 5 for such policy or contract shall be the greater of either
 6 the reserve calculated according to the mortality tables,
 7 rate of interest, and method actually used for such policy
 8 or contract or the reserve calculated by the method actually
 9 used for such policy or contract but using the minimum
 10 standards of mortality and rate of interest and replacing
 11 the valuation net premium by the actual gross premium in
 12 each contract year for which the valuation net premium
 13 exceeds the actual gross premium. ~~The minimum valuation~~
 14 ~~standards of mortality and rate of interest referred to in~~
 15 ~~this section are those standards stated in 33-2-524 and~~
 16 ~~[section 3].~~

17 ~~(4) For every life insurance policy issued after~~
 18 ~~December 30, 1986, for which the gross premium in the first~~
 19 ~~policy year exceeds that of the second year, for which no~~
 20 ~~comparable additional benefit is provided in the first year~~
 21 ~~for such excess, and that provides an endowment benefit, a~~
 22 ~~cash surrender value, or a combination of both in an amount~~
 23 ~~greater than such excess premium, subsections (1) through~~
 24 ~~(3) of this section must be applied as if the method~~
 25 ~~actually used in calculating the reserve for such policy~~

1 ~~were the method described in 33-2-525(1). The minimum~~
 2 ~~reserve at each policy anniversary of such a policy must be~~
 3 ~~the greater of the minimum reserve calculated in accordance~~
 4 ~~with 33-2-525 and the minimum reserve calculated in~~
 5 ~~accordance with this section."~~

6 NEW SECTION. Section 8. Undeterminable reserves --
 7 rules by commissioner. If a plan of life insurance provides
 8 for future premium determination the amounts of which are to
 9 be determined by the insurance company based on current
 10 estimates of future experience, or if a plan of life
 11 insurance or annuity is of such a nature that the minimum
 12 reserves cannot be determined by the methods described in
 13 33-2-525 and 33-2-526, the reserves that are held under any
 14 such plan must, as determined by regulations promulgated by
 15 the commissioner:

16 (1) be appropriate in relation to the benefits and the
 17 pattern of premiums for that plan; and

18 (2) be computed by a method which is consistent with
 19 the principles of 33-2-521 through 33-2-526 and 33-2-531
 20 through 33-2-535 and [sections 3 through 5].

21 NEW SECTION. Section 9. Codification instruction.
 22 Sections 3 through 5 and 8 are intended to be codified as an
 23 integral part of Title 33, chapter 2, part 5, and the
 24 provisions of Title 33 apply to sections 3 through 5 and 8.

-End-

March 19, 1983

SENATE STANDING COMMITTEE REPORT
(Business & Industry)

Statement of Intent House Bill No. 572

A statement of intent is required for this bill in that it delegates rulemaking authority to the commissioner of insurance in section 1, 2 and 6.

Although 33-1-313, MCA, delegates to the commissioner of insurance rulemaking authority to effectuate any provisions of the Code, as this bill substantially increases this power, a statement of intent is required.

Section 1 empowers the commissioner of insurance to approve new tables as the minimum standard for reserve calculations for life insurance policies and annuity contracts.

Section 2 empowers the commissioner of insurance to approve new tables as the minimum standard for reserve calculations for annuity and pure endowment contracts.

Section 6 allows the insurance commissioner to promulgate regulations pertaining to the calculation of reserves for insurance policies and annuity contracts not included in the original Valuation Law.

1 STATEMENT OF INTENT

2 HOUSE BILL 572

3

4 A statement of intent is required for this bill in that
5 it delegates rulemaking authority to the commissioner of
6 insurance in sections 1, 2, and 6.

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

11 Section 1 empowers the commissioner of insurance to
12 approve new tables as the minimum standard for reserve
13 calculations for life insurance policies and annuity
14 contracts.

15 Section 2 empowers the commissioner of insurance to
16 approve new tables as the minimum standard for reserve
17 calculations for annuity and pure endowment contracts.

18 Section 6 allows the insurance commissioner to
19 promulgate regulations pertaining to the calculation of
20 reserves for insurance policies and annuity contracts not
21 included in the original Valuation Law.

REFERENCE BILL

HB 572

HOUSE BILL NO. 572

INTRODUCED BY KITSELMAN, HARPER, YARDLEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA INSURANCE CODE STANDARD VALUATION LAW; AMENDING SECTIONS 33-2-523 THROUGH 33-2-526, MCA."

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

Section 1. Section 33-2-523, MCA, is amended to read:

"33-2-523. Contracts on or after the operative date of 33-20-213 -- valuation. (1) This section shall apply to only those policies and contracts issued on or after the operative date of 33-20-213, except as otherwise provided in 33-2-524 for group annuity and pure endowment contracts issued prior to that date.

(2) Except as otherwise provided in 33-2-524 and 33-2-525, the minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation methods defined in 33-2-525 and 32-2-526(3), 5% interest for group annuity and pure endowment contracts and 3 1/2% interest for all other such policies and contracts or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after March 17, 1973, 4% interest for such policies issued prior to July 1, 1979, and 4 1/2% interest for such policies issued on or

after July 1, 1979, and the following tables:

(a) for all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioner's 1941 standard ordinary mortality table;

(i) for such policies issued prior to the operative date of 33-20-206, as amended, and the commissioner's 1958 standard ordinary mortality table for such policies issued on or after that operative date ~~but prior to the operative date of [section 6 OF HOUSE BILL 592]~~, except that for any category of such policies issued on female risks, modified net premiums and present values, referred to in 33-2-525 and 33-2-526, may be calculated, at the option of the insurer with the approval of the commissioner, according to an age younger than the actual age of the insured; ~~or~~

~~(ii) for such policies issued on or after the operative date of [section 6 OF HOUSE BILL 592];~~

~~(a) the commissioner's 1980 standard ordinary mortality table;~~

~~(i) at the election of the company for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with 10-year select mortality factors; or~~

~~(ii) any ordinary mortality table adopted after 1980 by the national association of insurance commissioners that is~~

1 ~~approved by the commissioner by rule for use in determining~~
 2 ~~the minimum standard of valuation for such policies;~~

3 (b) for all industrial life insurance policies issued
 4 on the standard basis, excluding any disability and
 5 accidental death benefits in such policies, the 1941
 6 standard industrial mortality table for such policies issued
 7 prior to the operative date of 33-20-207, as amended, and
 8 ~~the commissioner's 1961 standard industrial mortality table~~
 9 ~~for such policies issued on or after that operative date the~~
 10 ~~commissioner's 1961 standard industrial mortality table or~~
 11 ~~any industrial mortality table adopted after 1980 by the~~
 12 ~~national association of insurance commissioners that is~~
 13 ~~approved by the commissioner by rule for use in determining~~
 14 ~~the minimum standard of valuation for such policies;~~

15 (c) for individual annuity and pure endowment
 16 contracts, excluding any disability and accidental death
 17 benefits in such policies, the 1937 standard annuity
 18 mortality table or, at the option of the insurer, the
 19 annuity mortality table for 1949, ultimate, or any
 20 modification of either of these tables approved by the
 21 commissioner;

22 (d) for group annuity and pure endowment contracts,
 23 excluding any disability and accidental death benefits in
 24 such policies, the group annuity mortality table for 1951,
 25 any modification of such table approved by the commissioner,

1 or, at the option of the insurer, any of the tables or
 2 modifications of tables specified for individual annuity and
 3 pure endowment contracts;

4 (a) (i) for total and permanent disability benefits in
 5 or supplementary to ordinary policies or contracts:

6 (A) for policies or contracts issued on or after
 7 January 1, 1966, the tables of period 2 disablement rates
 8 and the 1930 to 1950 termination rates of the 1952
 9 disability study of the society of actuaries, with due
 10 regard to the type of benefit, ~~or any tables of disablement~~
 11 ~~rates and termination rates adopted after 1980 by the~~
 12 ~~national association of insurance commissioners that are~~
 13 ~~approved by the commissioner by rule for use in determining~~
 14 ~~the minimum standard of valuation for such policies;~~

15 (B) for policies or contracts issued on or after
 16 January 1, 1961, and prior to January 1, 1965, either such
 17 tables or, at the option of the insurer, the class 3
 18 disability table (1926); and

19 (C) for policies issued prior to January 1, 1961, the
 20 class 3 disability table (1926);

21 (ii) any such table shall, for active lives, be
 22 combined with a mortality table permitted for calculating
 23 the reserves for life insurance policies;

24 (f) (i) for accidental death benefits in or
 25 supplementary to policies:

(A) for policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such policies;

(B) for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the intercompany double indemnity mortality table; and

(C) for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table;

(ii) either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(g) for group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner."

Section 2. Section 33-2-524, MCA, is amended to read:

"33-2-524. Individual and group annuity and pure endowment contracts -- valuation. (1) The Except as provided in [section 3], the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this section, as defined herein, and for all annuities and pure endowments purchased

on or after that operative date, under group annuity and pure endowment contracts is the commissioner's reserve valuation methods defined in 33-2-525 and the following tables and interest rates:

(a) for individual annuity and pure endowment contracts issued prior to July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of this table approved by the commissioner and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts;

(b) for individual single premium immediate annuity contracts issued on or after July 1, 1979, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any individual annuity mortality table adopted after 1980 by the national association of insurance commissioners that is approved by the commissioner by rule for use in determining the minimum standard of valuation for such contracts or any modification of this--table such tables approved by the commissioner and 7 1/2% interest;

(c) for individual annuity and pure endowment contracts issued on or after July 1, 1979, other than single premium immediate annuity contracts, excluding any

1 disability and accidental death benefits in such contracts,
 2 the 1971 individual annuity mortality table or any
 3 individual annuity mortality table adopted after 1980 by the
 4 national association of insurance commissioners that is
 5 approved by the commissioner by rule for use in determining
 6 the minimum standard of valuation for such contracts or any
 7 modification of this ~~table~~ such tables approved by the
 8 commissioner and 5 1/2% interest for single premium deferred
 9 annuity and pure endowment contracts and 4 1/2% interest for
 10 all other such individual annuity and pure endowment
 11 contracts;

12 (d) for all annuities and pure endowments purchased
 13 prior to July 1, 1979, under group annuity and pure
 14 endowment contracts, excluding any disability and accidental
 15 death benefits purchased under such contracts, the 1971
 16 group annuity mortality table or any modification of the
 17 table approved by the commissioner and 6% interest;

18 (e) for all annuities and pure endowments purchased on
 19 or after July 1, 1979, under group annuity and pure
 20 endowment contracts, excluding any disability and accidental
 21 death benefits purchased under such contracts, the 1971
 22 group annuity mortality table or any group annuity mortality
 23 table adopted after 1980 by the national association of
 24 insurance commissioners that is approved by the commissioner
 25 by rule for use in determining the minimum standard of

1 valuation for such annuities and pure endowments or any
 2 modification of this ~~table~~ such tables approved by the
 3 commissioner and 7 1/2% interest.

4 (2) After March 17, 1973, any insurer may file with
 5 the commissioner a written notice of its election to comply
 6 with the provisions of subsection (1) after a specified date
 7 before January 1, 1979, which shall be the operative date of
 8 subsection (1) for such insurer. An insurer may elect a
 9 different operative date for individual annuity and pure
 10 endowment contracts from that elected for group annuity and
 11 pure endowment contracts. If an insurer makes no such
 12 election, the operative date of this section for such
 13 insurer shall be January 1, 1979."

14 NEW SECTION. Section 3. Interest rates --
 15 determination of minimum standard valuation. (1) The
 16 calendar year statutory valuation interest rates as
 17 established in this section must be used in determining the
 18 minimum standard for the valuation of:

19 (a) all life insurance policies issued in a particular
 20 calendar year on or after the operative date of [section 8 &
 21 OF HOUSE BILL 522];

22 (b) all individual annuity and pure endowment
 23 contracts issued in a particular calendar year on or after
 24 January 1, 1984;

25 (c) all annuities and pure endowments purchased in a

1 particular calendar year on or after January 1, 1984, under
2 group annuity and pure endowment contracts; and

3 (d) the net increase, if any, in a particular calendar
4 year after January 1, 1984, in amounts held under guaranteed
5 interest contracts.

6 (2) Except as provided in subsection (3), the calendar
7 year statutory valuation interest rates are determined as
8 follows and the results rounded to the nearer 1/4 of 1%,
9 when R1 is the lesser of R and .09, R2 is the greater of R
10 and .09, R is the reference interest rate established in
11 [section 5], and W is the weighting factor established in
12 [section 4]:

13 (a) for life insurance:

14 Interest rate = $.03 + W(R1 - .03) + (W/2)(R2 - .09)$;

15 (b) for single-premium immediate annuities and for
16 annuity benefits involving life contingencies arising from
17 other annuities with cash settlement options and from
18 guaranteed interest contracts with cash settlement options:

19 Interest rate = $.03 + W(R - .03)$;

20 (c) for other annuities with:

21 (i) cash settlement options and guaranteed interest
22 contracts with cash settlement options, valued on an issue
23 year basis, except as stated in subsection (2)(b), the
24 formula for life insurance stated in subsection (2)(a)
25 applies to annuities and guaranteed interest contracts with

1 guarantee durations in excess of 10 years and the formula
2 for single-premium immediate annuities stated in subsection
3 (2)(b) applies to annuities and guaranteed interest
4 contracts with guarantee durations of 10 years or less;

5 (ii) no cash settlement options and for guaranteed
6 interest contracts with no cash settlement options, the
7 formula for single-premium immediate annuities stated in
8 subsection (2)(b) applies; and

9 (iii) cash settlement options and guaranteed interest
10 contracts with cash settlement options valued on a
11 change-in-fund basis, the formula for single-premium
12 immediate annuities stated in subsection (2)(b) applies.

13 (3) If the calendar year statutory valuation interest
14 rate for any life insurance policies issued in any calendar
15 year differs from the corresponding actual rate for similar
16 policies issued in the immediately preceding calendar year
17 by less than 1/2 of 1%, the calendar year statutory
18 valuation interest rate for such life insurance policies is
19 equal to the corresponding actual rate for the immediately
20 preceding calendar year. For purposes of this subsection,
21 the calendar year statutory valuation interest rate for life
22 insurance policies issued in a calendar year must be
23 determined for 1980 (using the reference interest rate
24 defined for 1979) and must be determined for each subsequent
25 calendar year regardless of when [section 8] becomes

1 operative.

2 **NEW SECTION.** Section 4. Interest rate weighting
3 factor. (1) The weighting factors referred to in the
4 formulas stated in [section 3] are as follows:

5 (a) (i) for life insurance:

6	Guarantee	
7	Duration in	Weighting
8	Years	Factors
9	10 or less	.50
10	More than 10 but not more than 20	.45
11	More than 20	.35

12 (ii) for life insurance, the guarantee duration is the
13 maximum number of years the life insurance can remain in
14 force on a basis guaranteed in the policy or under options
15 to convert to plans of life insurance with premium rates or
16 nonforfeiture values, or both, that are guaranteed in the
17 original policy;

18 (b) .80 for single premium immediate annuities and for
19 annuity benefits involving life contingencies arising from
20 other annuities with cash settlement options and guaranteed
21 interest contracts with cash settlement options;

22 (c) for other annuities and for guaranteed interest
23 contracts, except as stated in subsection (1)(b), according
24 to the guarantee duration established in subsection (2) and
25 the type of plan established in subsection (3):

1 (i) for annuities and guaranteed interest contracts
2 valued on an issue year basis:

3	Guarantee	Weighting Factor		
4	Duration in	for Plan Type		
5	Years	A	B	C
6	5 or less	.80	.60	.50
7	More than 5 but not more than 10	.75	.60	.50
8	More than 10 but not more than 20	.65	.50	.45
9	More than 20	.45	.35	.35

10 Plan Type

11	(ii)	A	B	C
12	for annuities and guaranteed interest			
13	contracts valued on a change-in-fund			
14	basis, the factors shown in			
15	subsection (1)(c)(i) increased by:	.15	.25	.05

16 Plan Type

17	(iii)	A	B	C
18	for annuities and guaranteed interest			
19	contracts valued on an issue year			
20	basis (other than those with no cash			
21	settlement options) that do not			
22	guarantee interest on considerations			
23	received more than 1 year after issue			
24	or purchase and for annuities and			
25	guaranteed interest contracts valued			

1 on a change-in-fund basis that do not
 2 guarantee interest rates on
 3 considerations received more than 12
 4 months beyond the valuation date, the
 5 factors set forth in subsection
 6 (1)(c)(i) or derived in subsection
 7 (1)(c)(ii) increased by: .05 .05 .05
 8 (2) For other annuities with cash settlement options
 9 and guaranteed interest contracts with cash settlement
 10 options, the guarantee duration is the number of years for
 11 which the contract guarantees interest rates in excess of
 12 the calendar year statutory valuation interest rate for life
 13 insurance policies with guarantee duration in excess of 20
 14 years. For other annuities with no cash settlement options
 15 and for guaranteed interest contracts with no cash
 16 settlement options, the guarantee duration is the number of
 17 years from the date of issue or date of purchase to the date
 18 annuity benefits are scheduled to commence.
 19 (3) Plan types used in subsection (1)(c) are:
 20 (a) Plan Type A--No withdrawal is permitted or at any
 21 time policyholder may withdraw funds only:
 22 (i) with an adjustment to reflect changes in interest
 23 rates or asset values since receipt of the funds by the
 24 insurance company;
 25 (ii) without such adjustment but in installments over 5

1 years or more; or
 2 (iii) as an immediate life annuity.
 3 (b) Plan Type B--(i) Before expiration of the interest
 4 rate guarantee, no withdrawal is permitted or a policyholder
 5 may withdraw funds only:
 6 (A) with an adjustment to reflect changes in interest
 7 rates or asset values since receipt of the funds by the
 8 insurance company;
 9 (B) without such adjustment but in installments over 5
 10 years or more.
 11 (ii) At the end of the interest rate guarantee, funds
 12 may be withdrawn without such adjustment in a single sum or
 13 installments over less than 5 years.
 14 (c) Plan Type C--A policyholder may withdraw funds
 15 before expiration of the interest rate guarantee in a single
 16 sum or installments over less than 5 years either:
 17 (i) without adjustment to reflect changes in interest
 18 rates or asset values since receipt of the funds by the
 19 insurance company; or
 20 (ii) subject only to a fixed surrender charge
 21 stipulated in the contract as a percentage of the fund.
 22 (4) (a) An insurer may elect to value guaranteed
 23 interest contracts with cash settlement options and
 24 annuities with cash settlement options on either an issue
 25 year basis or on a change-in-fund basis. Guaranteed interest

contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis.

(b) As used in subsection (4):

(i) issue year basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract; and

(ii) change-in-fund basis of valuation is a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

~~NEW SECTION.~~ Section 5. Reference interest rate. (1)

The reference interest rate referred to in the formulas in [section 3] is:

(a) for all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's corporate bond yield average--monthly average corporates;

(b) for single-premium immediate annuities and for

annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(c) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(d) for other annuities with cash settlement options and guaranteed interest contracts with cash settlement options valued on a year-of-issue basis, except as stated in subsection (1)(b), with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's corporate bond yield average--monthly average corporates;

(e) for other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase,

1 of Moody's corporate bond yield average--monthly average
2 corporates; or

3 (f) for other annuities with cash settlement options
4 and guaranteed interest contracts with cash settlement
5 options valued on a change-in-fund basis, except as stated
6 in subsection (1)(b), the average over a period of 12
7 months, ending on June 30 of the calendar year of the change
8 in the fund, of Moody's corporate bond yield
9 average--monthly average corporates.

10 (2) If Moody's corporate bond yield average--monthly
11 average corporates is no longer published by Moody's
12 investors service, inc., or if the national association of
13 insurance commissioners determines that Moody's corporate
14 bond yield average--monthly average corporates as published
15 by Moody's investors service, inc., is no longer appropriate
16 for the determination of the reference interest rate, then
17 an alternative method for determination of the reference
18 interest rate adopted by the national association of
19 insurance commissioners and approved by the commissioner may
20 be substituted.

21 Section 6. Section 33-2-525, MCA, is amended to read:

22 "33-2-525. Commissioner's reserve valuation method.

23 (1) Except as otherwise provided in subsection (3), (4) and
24 33-2-526(3), reserves according to the commissioner's
25 reserve valuation method, for the life insurance and

1 endowment benefits of policies providing for a uniform
2 amount of insurance and requiring the payment of uniform
3 premiums, shall be the excess, if any, of the present value,
4 at the date of valuation, of such future guaranteed benefits
5 provided for by such policies, over the then present value
6 of any future modified net premiums therefor. The modified
7 net premiums for any such policy shall be such uniform
8 percentage of the respective contract premiums for such
9 benefits that the present value, at the date of issue of the
10 policy, of all such modified net premiums shall be equal to
11 the sum of the then present value of such benefits provided
12 for by the policy and the excess of (a) over (b), as
13 follows:

14 (a) a net level annual premium equal to the present
15 value, at the date of issue, of such benefits provided for
16 after the first policy year, divided by the present value,
17 at the date of issue of an annuity of one per annum payable
18 on the first and each subsequent anniversary of such policy
19 on which a premium falls due; provided, however, that such
20 net level annual premium shall not exceed the net level
21 annual premium on the 19-year premium whole life plan for
22 insurance of the same amount at an age 1 year higher than
23 the age at issue of such policy;

24 (b) a net 1-year term premium for such benefits
25 provided for in the first policy year.

~~(21) (a) For every life insurance policy issued on or after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year, for which no comparable additional benefit is provided in the first year for such excess, and that provides an endowment benefit, a cash surrender value, or a combination of both in an amount greater than such excess premium, the reserve according to the commissioner's reserve valuation method, as of any policy anniversary occurring on or before the assumed ending date as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium, is, except as otherwise provided in 33-2-526, the greater of the reserve as of such policy anniversary calculated as described in subsection (1) or the reserve as of such policy anniversary calculated as described in subsection (1) with the following exceptions:~~
~~(i) the value defined in subsection (1)(a) is reduced by 15% of the amount of such excess first-year premium;~~
~~(ii) all present values of benefits and premiums are determined without reference to premiums or benefits provided for in the policy after the assumed ending date;~~
~~(iii) the policy is assumed to mature on such assumed ending date as an endowment; and~~
~~(iv) the cash surrender value provided on such assumed~~

~~ending date is considered an endowment benefit.~~
~~(b) In making the comparisons in subsection (21)(a), the mortality and interest bases stated in 33-2-523 and [section 3] must be used.~~
~~(2)(3) Reserves according to the commissioner's reserve valuation method for the following shall be calculated by a method consistent with the principles of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums:~~
~~(a) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;~~
~~(b) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended;~~
~~(c) disability and accidental death benefits in all policies and contracts; and~~
~~(d) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits~~

provided by all other annuity and pure endowment contracts.

~~(3)~~~~(4)~~ (a) Subsection ~~(3)~~ ~~(4)~~(b) applies to any annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

(b) Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations required by the terms of such contract that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or

rates specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values."

Section 7. Section 33-2-526, MCA, is amended to read:

"33-2-526. Limits -- options -- minimum reserves. (1)

In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in 33-2-525 and subsection (3) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) Reserves for any category of policies, contracts, or benefits as established by the commissioner may be calculated at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) If in any contract year the gross premium charged by any life insurer on any policy or contract is less than

1 the valuation net premium for the policy or contract
 2 calculated by the method used in calculating the reserve
 3 thereon, but using the minimum valuation standards of
 4 mortality and rate of interest, the minimum reserve required
 5 for such policy or contract shall be the greater of either
 6 the reserve calculated according to the mortality table,
 7 rate of interest, and method actually used for such policy
 8 or contract or the reserve calculated by the method actually
 9 used for such policy or contract but using the minimum
 10 standards of mortality and rate of interest and replacing
 11 the valuation net premium by the actual gross premium in
 12 each contract year for which the valuation net premium
 13 exceeds the actual gross premium. The minimum valuation
 14 standards of mortality and rate of interest referred to in
 15 this section are those standards stated in 33-2-524 and
 16 [section 3].

17 (4) For every life insurance policy issued after
 18 December 30, 1986, for which the gross premium in the first
 19 policy year exceeds that of the second year, for which no
 20 comparable additional benefit is provided in the first year
 21 for such excess, and that provides an endowment benefit, a
 22 cash surrender value, or a combination of both in an amount
 23 greater than such excess premium, subsections (1) through
 24 (3) of this section must be applied as if the method
 25 actually used in calculating the reserve for such policy

1 were the method described in 33-2-525(1). The minimum
 2 reserve at each policy anniversary of such a policy must be
 3 the greater of the minimum reserve calculated in accordance
 4 with 33-2-525 and the minimum reserve calculated in
 5 accordance with this section."

6 NEW SECTION. Section 8. Undeterminable reserves --
 7 rules by commissioner. If a plan of life insurance provides
 8 for future premium determination the amounts of which are to
 9 be determined by the insurance company based on current
 10 estimates of future experience, or if a plan of life
 11 insurance or annuity is of such a nature that the minimum
 12 reserves cannot be determined by the methods described in
 13 33-2-525 and 33-2-526, the reserves that are held under any
 14 such plan must, as determined by regulations promulgated by
 15 the commissioner:

16 (1) be appropriate in relation to the benefits and the
 17 pattern of premiums for that plan; and

18 (2) be computed by a method which is consistent with
 19 the principles of 33-2-521 through 33-2-526 and 33-2-531
 20 through 33-2-535 and [sections 3 through 5].

21 NEW SECTION. Section 9. Codification instruction.
 22 Sections 3 through 5 and 8 are intended to be codified as an
 23 integral part of Title 33, chapter 2, part 5, and the
 24 provisions of Title 33 apply to sections 3 through 5 and 8.

-End-