

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2381

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10/22/03

Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2381

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2381

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 02-10-03

Tape Number	Side A	Side B	Meter #
1	XXXX		0-1640
Committee Clerk Signature <i>Lisa Van Berkem</i>			

Minutes: Vice-Chairman Klein opened the hearing on SB 2381. Senator Mutch was absent.

SB 2381 relates to the insurance commissioner's rulemaking authority regarding variable life contracts.

Senator Every introduced the bill. He described the bill as taking away the authority from the securities commissioner and giving it to the insurance commissioner.

Testimony in support of SB 2381.

Constance Hofland, attorney with the law firm of Zuger Kirmis & Smith of Bismarck, representing the American Council of Life Insurers in support of SB 2381. See attached testimony. She also proposed amendments, see attached.

Senator Klein: Are we looking at an attempt to streamline these variable life contracts.

Constance: Yes, and also to avoid a possible extra layer of regulation.

Karl Rakow, ND Association of Insurance Financial Advisors, spoke in support of SB 2381. He stated that it would be simpler to have life contracts handled by the insurance commissioner.

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Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 2381

Hearing Date 02-10-03

Senator Klein: Is there a problem now?

Karl: Two organizations are duplicating the duties and it could be done by one, the insurance commissioner.

Pat Ward, State Farm, spoke in support of the bill. He stated that the bill would put ND up to par with 45 other states.

Senator Krebsbach: Why was it set up the way it is now?

Pat: I'm not sure how that happened.

Testimony in opposition to SB 2381.

Karen Tyler, ND Securities Commissioner, spoke in opposition. See testimony.

Senator Heitkamp: Do you approve of the bill with the proposed amendments?

Karen: No.

Hearing was closed, no action taken at this time.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2381

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 02-11-03

Tape Number	Side A	Side B	Meter #
2	xxx		2000
Committee Clerk Signature <i>Lisa Van Berkum</i>			

Minutes: Chairman Mutch opened the committee discussion on SB 2381. All Senators were present. SB 2381 relates to the rulemaking authority of the securities commissioner for variable life contracts.

There was brief discussion from the committee.

Senator Klein moved a DO NOT PASS. Senator Espegard seconded.

Roll Call Vote: 6 yes. 1 no. 0 absent.

Carrier: Senator Klein

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Date: 2-11-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2381

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By Klein Seconded By Espgaard

Senators	Yes	No	Senators	Yes	No
Sen. Jerry Klein, Vice Chairman	X				
Sen. Karen Krebsbach	X				
Sen. Dave Nething	X				
Sen. Joel Heitkamp	X				
Sen. Mike Every		X			
Sen. Duane Espgaard	X				
Sen. Duane Mutch, Chairman	X				

Total (Yes) 6 No 1

Absent _____

Floor Assignment Klein

If the vote is on an amendment, briefly indicate intent:

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Dennis Hall 10/22/03
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REPORT OF STANDING COMMITTEE (410)
February 11, 2003 4:43 p.m.

Module No: SR-26-2341
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

**SB 2381: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends
DO NOT PASS (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2381 was
placed on the Eleventh order on the calendar.**

(2) DESK, (3) COMM

Page No. 1

SR-26-2341

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2003 TESTIMONY

SB 2381

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SB 2381

Testimony of North Dakota Securities Commissioner Karen Tyler

Before the Senate Industry, Business and Labor Committee

February 10, 2003

Mr Chairman and Members of the Committee, I am Karen Tyler, the North Dakota Securities Commissioner. I am here this morning to testify in opposition to Senate Bill 2381.

Referring to lines 7 and 8 of the bill:

"Notwithstanding any other provisions of law" such as the provisions in the North Dakota Securities Act, "the Commissioner has sole authority" as opposed to the joint authority the Securities Commissioner and the Insurance Commissioner currently employ, "to regulate the issuance and sale of variable life contracts". This language eliminates the registration and enforcement authority currently held by the North Dakota Securities Commissioner as it pertains to the sale of Variable Life Products.

Variable products are investment contracts and as such fall under the definition of Security in the North Dakota Century Code. Variable products are sold first and foremost as investment alternatives and the insurance component of the product is secondary. Attached to your copy of this testimony are photo copies from a sales piece

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for a variable life product. The only place insurance is identified is in the name of the product. In reviewing this sales literature with a client, the agent is discussing money manager selection, the concepts of diversification and asset allocation, and how to structure an investment portfolio. This portfolio could potentially include exposure to both stocks and bonds. The literature further elaborates that in the stock segment of the product's sub accounts, one might incorporate large cap, mid and small cap, and international stocks. And in the bond segment of the product's sub accounts, one might incorporate both short and long term maturities and utilize both investment grade and high-yield debt instruments. This literature addresses investment concepts and investment products, and is to be used by an agent in providing investment advice.

The majority of the premium paid by the investor is allocated to the mutual fund sub accounts of the variable product. Also attached to your copy of this testimony are graphs representing the allocation of premiums for a hypothetical \$250000 variable life policy sold to a 50 year old male who falls in the preferred risk category.

Because agents who sell variable products are selling securities and providing investment advice, it is required that they hold a series 6 securities license and register with our agency. The Series 6 license ensures that at least a minimum level of securities related education and qualification has been achieved. The registration requirement makes the agent part of a national information depository that allows for the public disclosure of, among other things, employment history, licensing status, disciplinary history and any legal action against the agent.

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The Insurance Department, in issuing the Variable Line license, relies on these aforementioned safeguards that are enforced by the Securities Department. By Administrative Rule established by the Insurance Department, the Insurance Department will verify with our agency that the Series 6 license has been obtained and that the applicant's registration is in good standing, before issuing the variable insurance license.

Contrary to the Insurance Industry's argument that Variable products are the subject of duplicative and inefficient regulation, we take the position that in the state of North Dakota, we employ an effective regulatory partnership. The Insurance Department regulates the insurance company that issues the variable product. The Securities Department regulates the broker-dealer through which the variable product must be sold. The Insurance Department registers the variable product. The Securities Department registers and regulates the agents that sell the variable product.

A primary motivation for the Insurance Industry in their campaign to change this regulatory structure is the possible elimination of an agent registration fee. Currently our agency generates approximately \$500,000 dollars per biennium through the registration of Series 6 licensed agents who are subsequently licensed to sell variable products.

The North Dakota Securities Commissioner holds jurisdiction over the agents who sell variable products, and as with the sale of any security by a registered agent, the North

Dakota Securities Commissioner can assist investors who have been subject to abusive sales practices. Investors who are sold variable products should not be denied the same level of protections afforded to investors in every other class of security.

Mr Chairman and Members of the Committee, I respectfully recommend a "do not pass" on Senate Bill 2381.

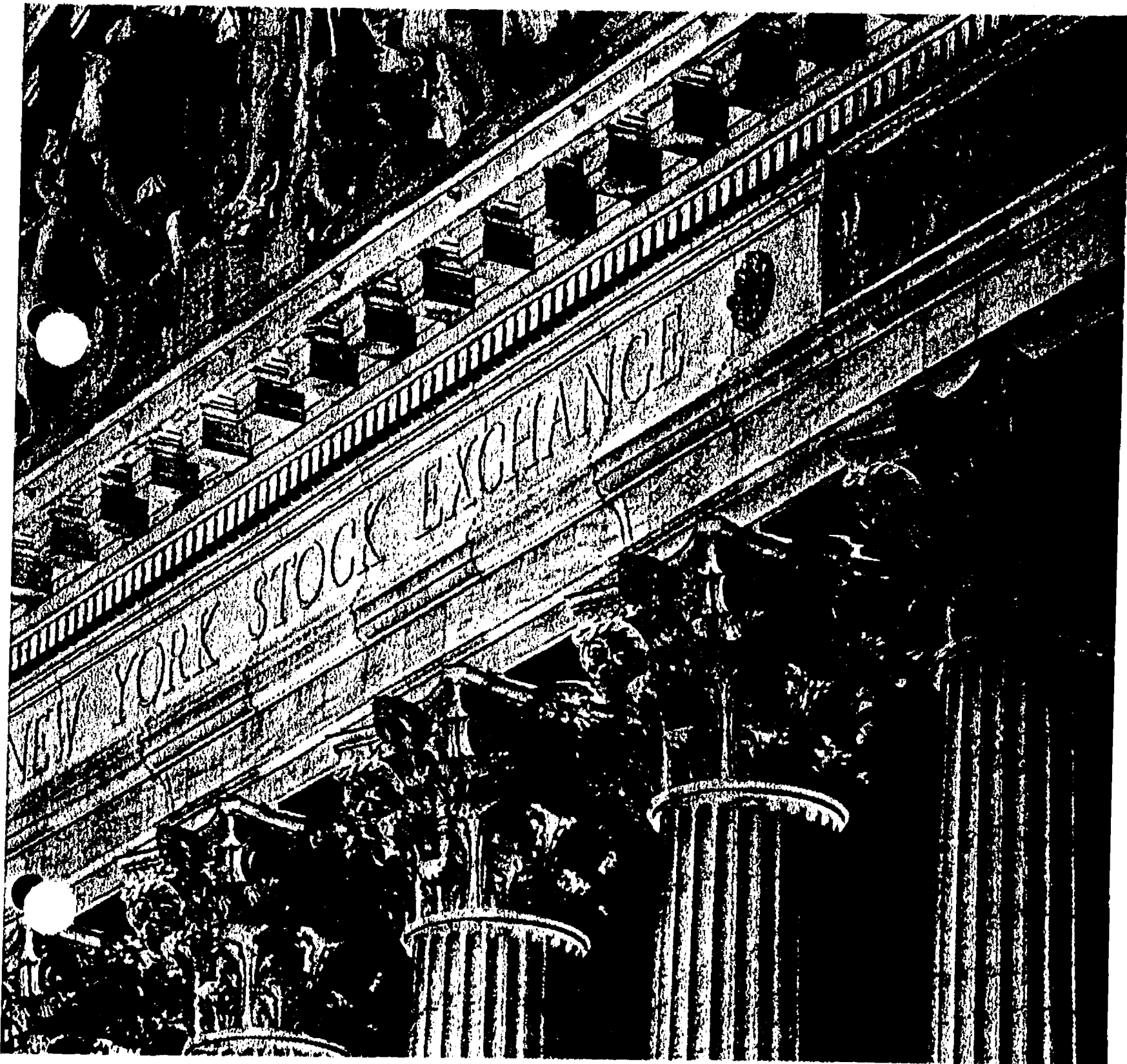
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DISCOVER YOUR INVESTMENT OPTIONS IN YOUR VARIABLE LIFE INSURANCE POLICY



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12/22/83
Date

RIGHT MANAGERS

Our role is to find proven managers for your investment program. With thousands of investment management firms available, selecting the right ones can be especially challenging. We have developed a multi-level, objective, analytical process to identify the firms that are best suited to meet specific investment goals.

Comprehensive Selection Process

Step 1

We select our managers from a universe of firms that have strong brand recognition with most investors, and from institutional firms not typically available to individual investors. We utilize rigorous criteria in our dynamic selection process, evaluating the quality of their organization, performance history and reputation.

Step 2

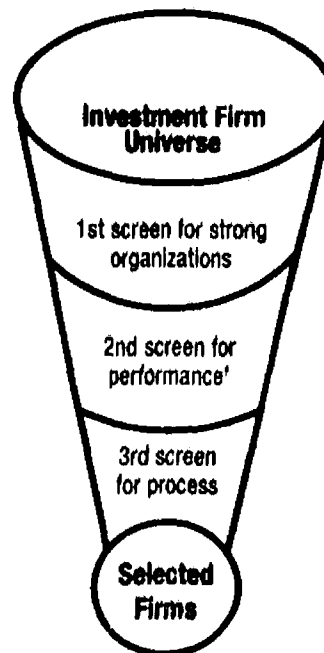
Once we have identified the established organizations, we apply a second level of analytical screens to evaluate investment performance, including:

- Historically-strong performance over time, compared to peers and benchmarks in the same style¹
- The value added through consistently applied "active management" strategies

Step 3

The final step involves in-depth reviews with the organization's key people to determine the quality of their investment process, including:

- Depth of expertise and decision-making process
- Consistency and validity of portfolio construction techniques
- Risk management and sell disciplines
- Historic adherence to stated investment styles



What Does This Mean to You?

Professional money management provided by some of the strongest and most respected investment management teams in the business.

- Not a Deposit • Not FDIC Insured • Not Insured by any Federal Government Agency
- Not Guaranteed by any Bank or Savings Association • May Go Down in Value

¹ Past performance is no guarantee of future results.

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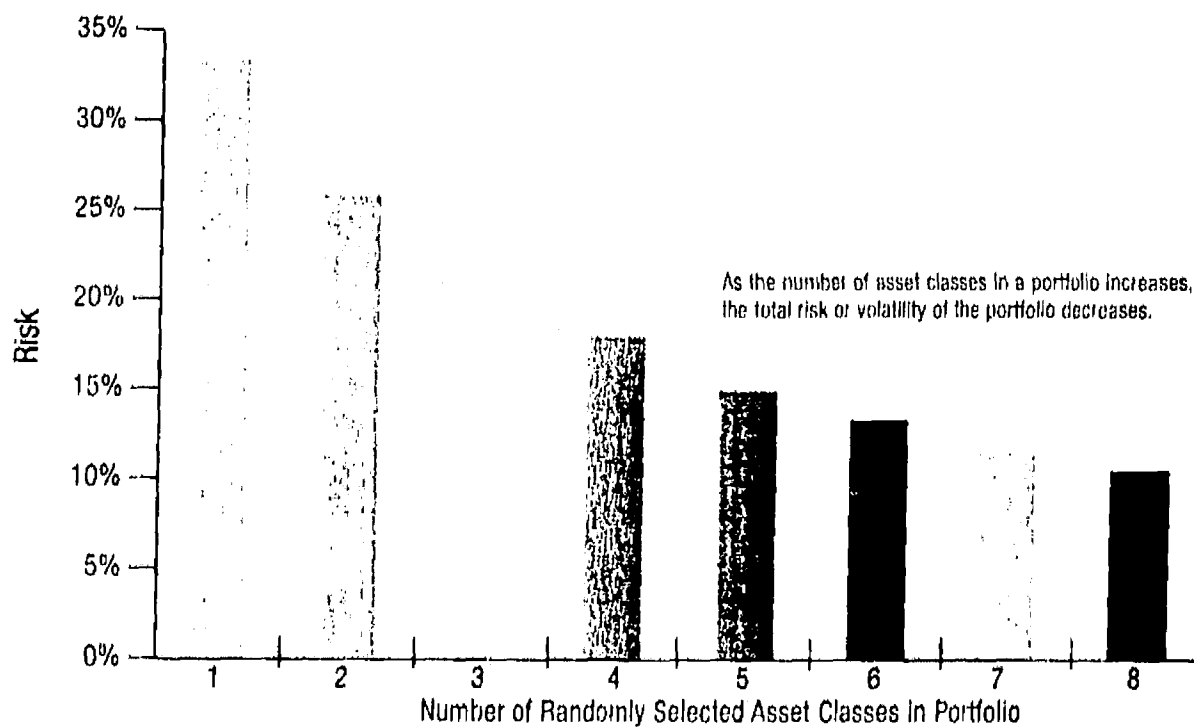
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WHY DIVERSIFICATION IS IMPORTANT TO YOU

Maintaining a diversified approach to investing, especially during market volatility, is one of the best ways to manage your portfolio. The process of determining your optimal mix of investments is known as asset allocation.

Diversification Among Asset Classes Helps Reduce Portfolio Risk



Note: Diversification does not eliminate the risk of experiencing investment losses. Standard deviation measures the fluctuation of returns around the arithmetic average return of the investment. The higher the standard deviation, the greater the variability (and thus risk) of the investment returns. The portfolios used in this chart were created from equally weighted combinations of the following randomly selected asset classes: small company stocks, large company stocks, international stocks, long-term government bonds, business real estate, long-term corporate bonds, Treasury bills, international bonds.

Source: Ibbotson, *Presentation Materials*, 2002 Ibbotson Associates, Inc. All rights reserved. Used with permission.

Foreign investments have special risks that are typically not associated with domestic investing, such as fluctuations in currency exchange rates, the impact of political events, or diplomatic events. There may also be differing accounting standards and different regulation of securities markets.

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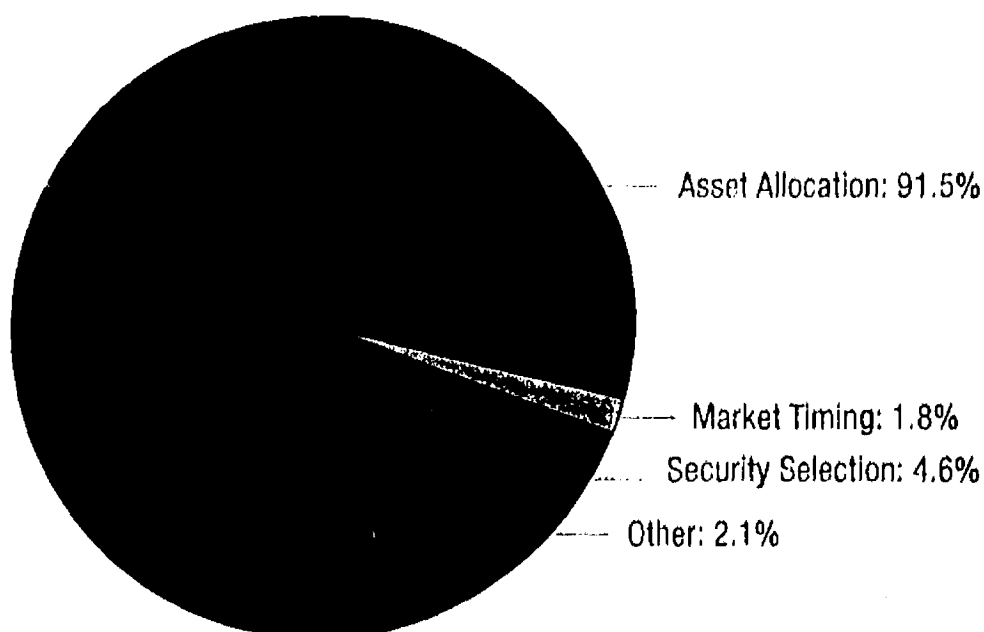
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THE BENEFITS OF ASSET ALLOCATION

Asset allocation is the process of dividing an investment portfolio among different asset classes, such as stocks, bonds, and cash. The goal is to balance risk and return according to the investor's investment objectives, risk tolerance, and time horizon. Asset allocation is a key component of a long-term investment strategy and can help to reduce the volatility of a portfolio's returns.

Portfolio Performance Variability Factors



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INVESTMENT

Equitable's variable life products provide a wide array of investment options to help you implement the strategies of diversification and asset allocation.

We offer a variety of selections in the three major asset classes – stocks, bonds and cash (money market), as well as choices in investment objectives – growth, value, blend, and passively managed index funds.

ASSET CLASS	DESCRIPTION
Stocks	Companies with market capitalization in excess of \$5 billion.
	Companies with market capitalization between \$100 million and \$7 billion.
	Focus primarily on companies organized or headquartered outside the U.S.
Bonds	Any government or investment grade corporate bond that has a maturity, or average maturity (in the case of a fixed-income fund) of less than 10 years.
	A fund that invests in high-yield, fixed-income securities (so-called "junk bonds"), which generally involve greater volatility of price, and risk of principal and income, than high-quality fixed-income securities.
Cash	A fund consisting of high-quality, short-term debt securities that seeks to maintain a stable net asset value.

ADDITIONAL INVESTMENT OPTIONS

	Balanced funds invest in both equity and fixed-income securities with the intention of conserving principal, providing income and achieving long-term growth of both principal and income.
	These options pay a guaranteed rate of interest for a specified time.

INVESTING STYLES

Value:	A style of investing that focuses on companies that may be temporarily out of favor or have earnings or assets that are not fully reflected in their stock prices.
Growth:	A style of investing that emphasizes companies with strong earnings growth. Growth investing is generally considered to be more aggressive than value investing.
Blend:	Equity securities of large capitalization companies that have a mix of both 'growth' and 'value' stock characteristics.
Sector ¹	funds invest in only a subset of the overall equity market, such as the Technology or Health Care sector.
Index	funds invest in stocks listed in a particular index, (i.e., S&P 500 Index, Russell 3000 Growth Index).

The Choice Is Yours

Equitable also offers you the unique opportunity to choose between management approaches — single (one investment firm oversees the option) and multiple (a combination of firms).

Your financial professional will be glad to work with you to develop an overall asset allocation that reflects your objectives, time frame and tolerance toward risk. Once you identify your asset allocation, review the investment options carefully to determine which options are best suited to meet your particular needs.

¹ Stocks of small-sized companies may have less liquidity than those of larger companies and may be subject to greater price volatility than the overall stock market. Small company stocks involve greater risk than is customarily associated with more established companies.

² Foreign investments have special risks that are typically not associated with domestic investing, such as fluctuations in currency exchange and the impact of political, social, or diplomatic events. There may also be differing accounting standards and different regulation of securities markets.

³ An investment in money market funds is neither insured nor guaranteed by the U.S. government or any other government agency. Although these funds seek to preserve their assets and maintain liquidity, or seek to preserve the value of their investment at \$1.00 per share, it is possible to lose money.

⁴ Investing in a non-diversified portfolio is subject to a greater degree of volatility than a diversified portfolio.

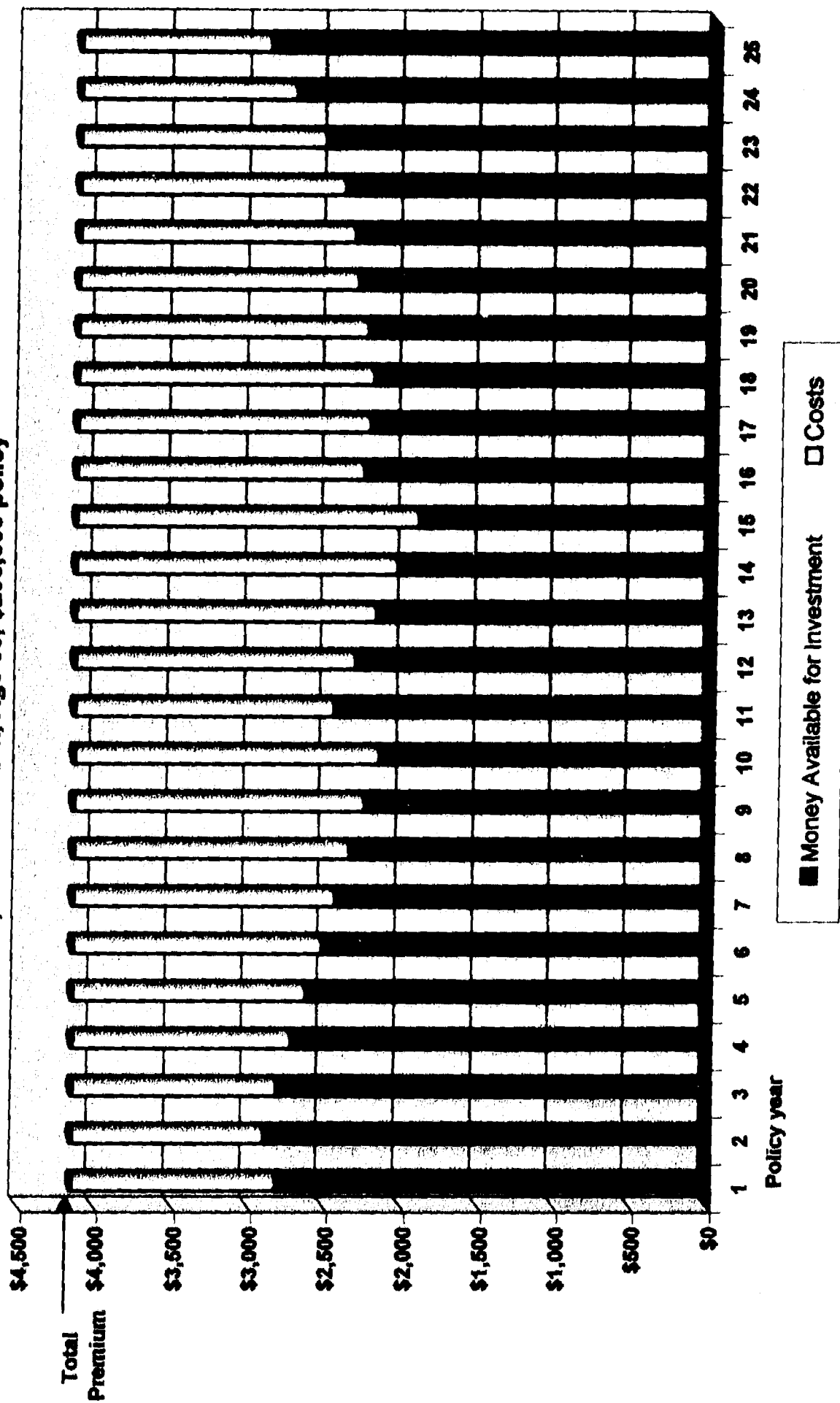
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Variable Life Insurance Example Male, Preferred Risk, Age 50, \$250,000 policy

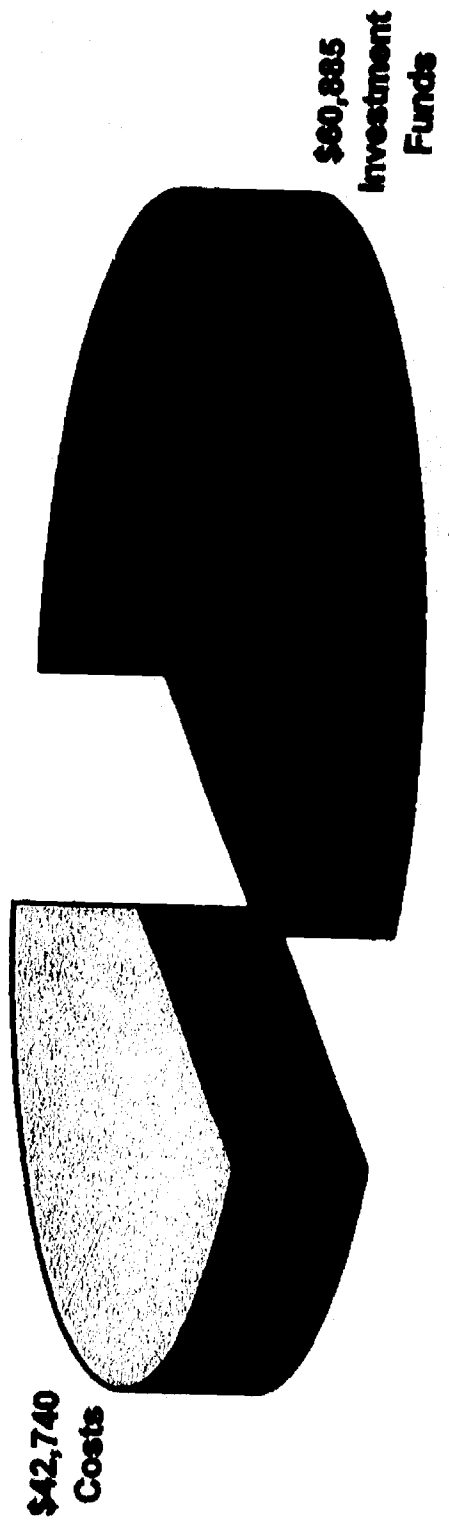


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Variable Life Example: 25 Year Totals



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AMENDMENT TO SB 2381

Amendments
proposed by
American Council of
Life Insurers

Page 1, line 8, overstrike "to implement"

Page 1, line 9, overstrike "sections 26.1-33-13 through 26.1-33-16" and insert
immediately thereafter "governing the issuance and sale of variable life contracts"

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Date

10/22/03

SUPPORT

2-10-03

Testimony of Constance Hofland Requesting Amendment of SB 2381 in the
Industry, Business and Labor Committee

My name is Constance Hofland. I am an attorney with the law firm of Zuger Kirmis & Smith of Bismarck. I represent the American Council of Life Insurers in support of SB 2381.

Senate Bill 2381 gives the Insurance Commissioner sole authority to regulate the issuance and sale of variable life contracts. The purpose of this bill is to avoid duplicate regulation of the same product and provide uniformity.

With the proposed change, the North Dakota Insurance Commissioner's jurisdiction over variable life contracts would be exclusive. Variable contracts are heavily regulated in today's broad marketplace. Variable life contracts are currently subject to the jurisdiction of all state insurance departments, as well as the Securities Exchange Commission and the NASD.

Variable contracts possess important characteristics of both insurance and securities. For over thirty years, their securities characteristics have been subject to federal securities regulation, while their insurance characteristics have been subject to state insurance regulation. In the manufacture and distribution of variable contracts, therefore, life insurers satisfy multiple state and federal layers of regulation.

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For example, variable contract separate accounts and the products they fund must be registered under the Investment Company Act of 1940 and the Securities Act of 1933, which are administered by the U.S. Securities and Exchange Commission. The disclosure in the prospectuses of variable contract products are filed with and reviewed by the SEC. Advertisements must satisfy several detailed regulations under the federal securities laws, and must also be filed with the SEC.

Variable contracts subject to the federal securities laws can only be sold by registered representatives of a broker-dealer who is a member of the National Association of Securities Dealers (NASD). The NASD's rules of conduct strictly govern the activity of the securities salespersons, and also impose detailed standards concerning advertising, supervision and suitability of individual securities transactions. All advertisements used to a NASD licensed salesperson must be filed with and approved by the NASD Advertising Department.

In addition, state insurance departments also have comprehensive authority over life insurers and the products they issue.

Therefore, life insurers must satisfy multiple, comprehensive state and federal regulatory structures in developing and selling variable life contracts. The financial services market in which variable contracts are distributed is extremely

competitive and fast-moving. The delay and added expense caused by regulatory conflicts can significantly burden the marketability and competitiveness of variable contracts. Also, life insurers can get caught in between inconsistent interpretations. Multiple layering of regulators is contrary to the goal of uniformity.

All but 5 of the 50 states grant the Insurance Commissioner exclusive jurisdiction to regulate variable life contracts. The states that currently do not are Oregon, North Dakota, Wisconsin, Indiana, and Virginia.

The proposed modification would help avoid a disruption of the coordinated system of state and federal regulation that has existed for decades. The exclusive jurisdiction will avoid possible imposition of a fourth layer of regulation on variable life contracts.

Giving the Insurance Commissioner sole authority to regulate the issuance and sale of variable life contracts will avoid submitting these products to additional state regulation, which would provide no added regulatory value, but rather just create expensive, unnecessary burdens for life insurers and sales persons.

We urge a do pass vote on SB3281 to streamline regulation of variable life contracts and prevent further duplicative layers of regulation of a single product.