

SENATE BILL NO. 24  
INTRODUCED BY BLAYLOCK

IN THE SENATE

DECEMBER 22, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
JANUARY 4, 1993	FIRST READING.
JANUARY 8, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 9, 1993	PRINTING REPORT.  SECOND READING, DO PASS.
JANUARY 11, 1993	ENGROSSING REPORT.  THIRD READING, PASSED. AYES, 48; NOES, 1.  TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 12, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.  FIRST READING.
JANUARY 22, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
JANUARY 25, 1993	SECOND READING, CONCURRED IN.
JANUARY 27, 1993	THIRD READING, CONCURRED IN. AYES, 93; NOES, 4.  RETURNED TO SENATE.

IN THE SENATE

JANUARY 28, 1993	RECEIVED FROM HOUSE.  SENT TO ENROLLING.  REPORTED CORRECTLY ENROLLED.
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## SENATE BILL NO. 24

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE MONTANA HUMAN RIGHTS ACT; AMENDING SECTIONS 2-18-702, 2-18-703, 49-2-303, 49-2-309, AND 49-2-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 2-18-702, MCA, is amended to read:

"2-18-702. Group insurance for public employees and officers. (1) All counties, cities, towns, school districts, and the board of regents shall upon approval by two-thirds vote of their respective officers and employees enter into group hospitalization, medical, health, including long-term disability, accident, and/or group life insurance contracts or plans for the benefit of their officers and employees and their dependents. It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents.

(2) State employees and elected officials, as defined in 2-18-701, may participate in such state employee group

benefit plans as are provided for under part 8 of this chapter.

(3) For state officers and employees, the premiums required from time to time to maintain the insurance in force ~~shall~~ must be paid by the insured officers and employees, and the auditor shall deduct the premiums from the salary or wages of each officer or employee who elects to become insured, on the officer's or employee's written order, and issue ~~his~~ a warrant therefor for the premiums to the insurer.

(4) For the purpose of this section, the plans of health service corporations for defraying or assuming the cost of professional services of licentiates in the field of health or the services of hospitals, clinics, or sanitariums or both professional and hospital services ~~shall~~ must be construed as group insurance and the dues payable under ~~such~~ the plans shall must be construed as premiums ~~therefor~~ for group insurance.

(5) If the board of trustees of a school district implements a self-insured group health plan or if the board of regents implements an alternative to conventional insurance to provide group benefits to its employees, the board shall maintain the alternative plan on an actuarially sound basis."

**Section 2.** Section 2-18-703, MCA, is amended to read:

"2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, shall contribute the amount specified in this section towards the group benefits cost.

(2) For employees defined in 2-18-701, other than members of collective bargaining units, and for members of the legislature, the employer contribution for group benefits shall--be is \$170 per month for the fiscal year ending June 30, 1992, and \$190 per month for the fiscal year ending June 30, 1993, and for each fiscal year thereafter.

When a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution as wages. A portion of the employer contribution for group benefits may be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security Act of 1965, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school

districts and of local government units, the employer's premium contributions may exceed but may not be less than \$10 per month.

(4) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(5) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(6) It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents."

**Section 3.** Section 49-2-303, MCA, is amended to read:

"49-2-303. Discrimination in employment. (1) It is an unlawful discriminatory practice for:

(a) an employer to refuse employment to a person, to bar him a person from employment, or to discriminate against him a person in compensation or in a term, condition, or privilege of employment because of his race, creed,

1 religion, color, or national origin or because of his age,  
 2 physical or mental handicap, marital status, or sex when the  
 3 reasonable demands of the position do not require an age,  
 4 physical or mental handicap, marital status, or sex  
 5 distinction;

6 (b) a labor organization or joint labor management  
 7 committee controlling apprenticeship to exclude or expel any  
 8 person from its membership or from an apprenticeship or  
 9 training program or to discriminate in any way against a  
 10 member of or an applicant to the labor organization or an  
 11 employer or employee because of race, creed, religion,  
 12 color, or national origin or because of his age, physical or  
 13 mental handicap, marital status, or sex when the reasonable  
 14 demands of the program do not require an age, physical or  
 15 mental handicap, marital status, or sex distinction;

16 (c) an employer or employment agency to print or  
 17 circulate or cause to be printed or circulated a statement,  
 18 advertisement, or publication or to use an employment  
 19 application which that expresses, directly or indirectly, a  
 20 limitation, specification, or discrimination as to sex,  
 21 marital status, age, physical or mental handicap, race,  
 22 creed, religion, color, or national origin or an intent to  
 23 make the limitation, unless based upon a bona fide  
 24 occupational qualification;

25 (d) an employment agency to fail or refuse to refer for

1 employment, to classify, or otherwise to discriminate  
 2 against any individual because of sex, marital status, age,  
 3 physical or mental handicap, race, creed, religion, color,  
 4 or national origin, unless based upon a bona fide  
 5 occupational qualification.

6 (2) The exceptions permitted in subsection (1) based on  
 7 bona fide occupational qualifications ~~shall~~ must be strictly  
 8 construed.

9 (3) Compliance with 2-2-302 and 2-2-303, which prohibit  
 10 nepotism in public agencies, may not be construed as a  
 11 violation of this section.

12 (4) The application of a hiring preference as provided  
 13 for in 2-18-111 and 18-1-110 may not be construed to be a  
 14 violation of this section.

15 (5) It is not discrimination on the basis of marital  
 16 status for an employer to make all or part of the premium  
 17 contributions toward group insurance for employees and their  
 18 dependents."

19 **Section 4.** Section 49-2-309, MCA, is amended to read:

20 "49-2-309. Discrimination in insurance and retirement  
 21 plans. (1) It is an unlawful discriminatory practice for any  
 22 a financial institution or person to discriminate solely on  
 23 the basis of sex or marital status in the issuance or  
 24 operation of any type of insurance policy, plan, or coverage  
 25 or in any pension or retirement plan, program, or coverage,

1 including discrimination in regard to rates or premiums and  
2 payments or benefits.

3 (2) This section does not apply to any insurance  
4 policy, plan, or coverage, or to any pension or retirement  
5 plan, program, or coverage in effect prior to October 1,  
6 1985.

7 (3) It is not discrimination on the basis of marital  
8 status for an employer to make all or part of the premium  
9 contributions toward group insurance for employees and their  
10 dependents."

11 **Section 5.** Section 49-2-403, MCA, is amended to read:

12 "49-2-403. Specific limits on justification. (1) Except  
13 as permitted in 49-2-303(3) and--(4) through (5) and  
14 49-3-201(5), sex, marital status, age, physical or mental  
15 handicap, race, creed, religion, color, or national origin  
16 may not comprise justification for discrimination except for  
17 the legally demonstrable purpose of correcting a previous  
18 discriminatory practice.

19 (2) Age or mental handicap may represent a legitimate  
20 discriminatory criterion in credit transactions only as it  
21 relates to a person's capacity to make or be bound by  
22 contracts or other obligations."

23 NEW SECTION. **Section 6.** Effective date. [This act] is  
24 effective on passage and approval.

-End-

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

## SENATE BILL NO. 24

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE MONTANA HUMAN RIGHTS ACT LAWS; AMENDING SECTIONS 2-18-702, 2-18-703, 49-2-303, 49-2-309, AND 49-2-403, AND 49-3-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 2-18-702, MCA, is amended to read:

"2-18-702. Group insurance for public employees and officers. (1) All counties, cities, towns, school districts, and the board of regents shall upon approval by two-thirds vote of their respective officers and employees enter into group hospitalization, medical, health, including long-term disability, accident, and/or group life insurance contracts or plans for the benefit of their officers and employees and their dependents. It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents. THE LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA FIDE GROUP INSURANCE PLANS FROM PROVIDING GREATER OR

ADDITIONAL CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES WITH DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS.

(2) State employees and elected officials, as defined in 2-18-701, may participate in such state employee group benefit plans as are provided for under part 8 of this chapter.

(3) For state officers and employees, the premiums required from time to time to maintain the insurance in force ~~shall~~ must be paid by the insured officers and employees, and the auditor shall deduct the premiums from the salary or wages of each officer or employee who elects to become insured, on the officer's or employee's written order, and issue ~~his a~~ a warrant therefor for the premiums to the insurer.

(4) For the purpose of this section, the plans of health service corporations for defraying or assuming the cost of professional services of licentiates in the field of health or the services of hospitals, clinics, or sanitariums or both professional and hospital services ~~shall~~ must be construed as group insurance and the dues payable under ~~such the plans~~ the plans ~~shall~~ must be construed as premiums therefor for group insurance.

(5) If the board of trustees of a school district implements a self-insured group health plan or if the board

of regents implements an alternative to conventional insurance to provide group benefits to its employees, the board shall maintain the alternative plan on an actuarially sound basis."

**Section 2.** Section 2-18-703, MCA, is amended to read:

"2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, shall contribute the amount specified in this section towards the group benefits cost.

(2) For employees defined in 2-18-701, other than members of collective bargaining units, and for members of the legislature, the employer contribution for group benefits ~~shall--be~~ is \$170 per month for the fiscal year ending June 30, 1992, and \$190 per month for the fiscal year ending June 30, 1993, and for each fiscal year thereafter. When a state employee is terminated to achieve a reduction in force, the continuation of contributions for group benefits beyond the termination date is subject to negotiation under 39-31-305. Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are not eligible for the group benefit contribution. An employee who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution as wages. A portion of the employer contribution for group benefits may be applied to an employee's costs for

participation in Part B of medicare under Title XVIII of the Social Security Act of 1965, as amended, if the state group benefit plan is the secondary payer and medicare the primary payer.

(3) For employees of elementary and high school districts and of local government units, the employer's premium contributions may exceed but may not be less than \$10 per month.

(4) Unused employer contributions for any state employee must be transferred to an account established for this purpose by the department of administration and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member.

(5) Unused employer contributions for any government employee may be transferred to an account established for this purpose by a self-insured government and upon transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

(6) ~~It--is--not--discrimination-on-the-basis-of-marital status-for-an-employer-to-make-all-or-part--of--the--premium contributions-toward-group-insurance-for-employees-and-their dependents.~~ THE LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA FIDE GROUP INSURANCE PLANS FROM PROVIDING GREATER OR ADDITIONAL

1 CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES WITH  
 2 DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH  
 3 FEWER DEPENDENTS."

4 **Section 3.** Section 49-2-303, MCA, is amended to read:

5 **"49-2-303. Discrimination in employment.** (1) It is an  
 6 unlawful discriminatory practice for:

7 (a) an employer to refuse employment to a person, to  
 8 bar him a person from employment, or to discriminate against  
 9 him a person in compensation or in a term, condition, or  
 10 privilege of employment because of his race, creed,  
 11 religion, color, or national origin or because of his age,  
 12 physical or mental handicap, marital status, or sex when the  
 13 reasonable demands of the position do not require an age,  
 14 physical or mental handicap, marital status, or sex  
 15 distinction;

16 (b) a labor organization or joint labor management  
 17 committee controlling apprenticeship to exclude or expel any  
 18 person from its membership or from an apprenticeship or  
 19 training program or to discriminate in any way against a  
 20 member of or an applicant to the labor organization or an  
 21 employer or employee because of race, creed, religion,  
 22 color, or national origin or because of his age, physical or  
 23 mental handicap, marital status, or sex when the reasonable  
 24 demands of the program do not require an age, physical or  
 25 mental handicap, marital status, or sex distinction;

1 (c) an employer or employment agency to print or  
 2 circulate or cause to be printed or circulated a statement,  
 3 advertisement, or publication or to use an employment  
 4 application which that expresses, directly or indirectly, a  
 5 limitation, specification, or discrimination as to sex,  
 6 marital status, age, physical or mental handicap, race,  
 7 creed, religion, color, or national origin or an intent to  
 8 make the limitation, unless based upon a bona fide  
 9 occupational qualification;

10 (d) an employment agency to fail or refuse to refer for  
 11 employment, to classify, or otherwise to discriminate  
 12 against any individual because of sex, marital status, age,  
 13 physical or mental handicap, race, creed, religion, color,  
 14 or national origin, unless based upon a bona fide  
 15 occupational qualification.

16 (2) The exceptions permitted in subsection (1) based on  
 17 bona fide occupational qualifications ~~shall~~ must be strictly  
 18 construed.

19 (3) Compliance with 2-2-302 and 2-2-303, which prohibit  
 20 nepotism in public agencies, may not be construed as a  
 21 violation of this section.

22 (4) The application of a hiring preference as provided  
 23 for in 2-18-111 and 18-1-110 may not be construed to be a  
 24 violation of this section.

25 ~~(5) It--is--not--discrimination-on-the-basis-of-marital~~



~~status-for-an-employer-to-make-all-or-part-of-the-premium contributions-toward-group-insurance-for-employees-and-their dependents. IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN EMPLOYER OR LABOR ORGANIZATION TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS."~~

**Section 4.** Section 49-2-309, MCA, is amended to read:

"49-2-309. Discrimination in insurance and retirement plans. (1) It is an unlawful discriminatory practice for any a financial institution or person to discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or benefits.

(2) This section does not apply to any insurance policy, plan, or coverage, or to any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.

~~(3) It-is-not-discrimination-on-the-basis-of-marital status--for--an-employer-to-make-all-or-part-of-the-premium contributions-toward-group-insurance-for-employees-and-their dependents. IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST~~

MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN EMPLOYER TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS."

**Section 5.** Section 49-2-403, MCA, is amended to read:

"49-2-403. Specific limits on justification. (1) Except as permitted in 49-2-303(3) ~~and--(4)~~ through (5) and 49-3-201(5), sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin may not comprise justification for discrimination except for the legally demonstrable purpose of correcting a previous discriminatory practice.

(2) Age or mental handicap may represent a legitimate discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by contracts or other obligations."

**SECTION 6.** SECTION 49-3-103, MCA, IS AMENDED TO READ:

"49-3-103. Permitted distinctions. (1) Nothing in this chapter prohibits any public ~~or-private~~ employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than

1 age;

2 (b) from observing the terms of a bona fide seniority  
3 system or any bona fide employee benefit plan, such as a  
4 retirement, pension, or insurance plan, that is not a  
5 subterfuge to evade the purposes of this chapter, except  
6 that an employee benefit plan may not excuse the failure to  
7 hire any individual; or

8 (c) from discharging or otherwise disciplining an  
9 individual for good cause; or

10 (d) from providing greater or additional contributions  
11 to a bona fide group insurance plan for employees with  
12 dependents than to those employees without dependents or  
13 with fewer dependents.

14 (2) The application of an employment preference as  
15 provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39,  
16 chapter 29 or 30, by a public employer as defined in  
17 39-29-101 and 39-30-103 may not be construed to constitute a  
18 violation of this chapter."

19 NEW SECTION. **Section 7.** Effective date. [This act] is  
20 effective on passage and approval.

-End-

## SENATE BILL NO. 24

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE MONTANA HUMAN RIGHTS ACT LAWS; AMENDING SECTIONS 2-18-702, 2-18-703, 49-2-303, 49-2-309, AND 49-2-403, AND 49-3-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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**Section 1.** Section 2-18-702, MCA, is amended to read:

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ADDITIONAL CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES WITH DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS.

(2) State employees and elected officials, as defined in 2-18-701, may participate in such state employee group benefit plans as are provided for under part 8 of this chapter.

(3) For state officers and employees, the premiums required from time to time to maintain the insurance in force ~~shall~~ must be paid by the insured officers and employees, and the auditor shall deduct the premiums from the salary or wages of each officer or employee who elects to become insured, on the officer's or employee's written order, and issue ~~his~~ a warrant therefor for the premiums to the insurer.

(4) For the purpose of this section, the plans of health service corporations for defraying or assuming the cost of professional services of licentiates in the field of health or the services of hospitals, clinics, or sanitariums or both professional and hospital services ~~shall~~ must be construed as group insurance and the dues payable under such the plans shall must be construed as premiums therefor for group insurance.

(5) If the board of trustees of a school district implements a self-insured group health plan or if the board

1 of regents implements an alternative to conventional  
2 insurance to provide group benefits to its employees, the  
3 board shall maintain the alternative plan on an actuarially  
4 sound basis."

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6 "2-18-703. Contributions. (1) Each agency, as defined  
7 in 2-18-601, shall contribute the amount specified in this  
8 section towards the group benefits cost.

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10 members of collective bargaining units, and for members of  
11 the legislature, the employer contribution for group  
12 benefits shall--be is \$170 per month for the fiscal year  
13 ending June 30, 1992, and \$190 per month for the fiscal year  
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15 When a state employee is terminated to achieve a reduction  
16 in force, the continuation of contributions for group  
17 benefits beyond the termination date is subject to  
18 negotiation under 39-31-305. Permanent part-time, seasonal  
19 part-time, and temporary part-time employees who are  
20 regularly scheduled to work less than 20 hours a week are  
21 not eligible for the group benefit contribution. An employee  
22 who elects not to be covered by a state-sponsored group  
23 benefit plan may not receive the state contribution as  
24 wages. A portion of the employer contribution for group  
25 benefits may be applied to an employee's costs for

1 participation in Part B of medicare under Title XVIII of the  
2 Social Security Act of 1965, as amended, if the state group  
3 benefit plan is the secondary payer and medicare the primary  
4 payer.

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6 districts and of local government units, the employer's  
7 premium contributions may exceed but may not be less than  
8 \$10 per month.

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10 employee must be transferred to an account established for  
11 this purpose by the department of administration and upon  
12 transfer may be used to offset losses occurring to the group  
13 of which the employee is eligible to be a member.

14 (5) Unused employer contributions for any government  
15 employee may be transferred to an account established for  
16 this purpose by a self-insured government and upon transfer  
17 may be used to offset losses occurring to the group of which  
18 the employee is eligible to be a member or to increase the  
19 reserves of the group.

20 (6) ~~It--is--not--discrimination-on-the-basis-of-marital~~  
21 ~~status-for-an-employer-to-make-all-or-part--of--the--premium~~  
22 ~~contributions-toward-group-insurance-for-employees-and-their~~  
23 ~~dependents. THE LAWS PROHIBITING DISCRIMINATION ON THE BASIS~~  
24 ~~OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA FIDE~~  
25 ~~GROUP INSURANCE PLANS FROM PROVIDING GREATER OR ADDITIONAL~~

1 CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES WITH  
 2 DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH  
 3 FEWER DEPENDENTS."

4 **Section 3.** Section 49-2-303, MCA, is amended to read:

5 "49-2-303. Discrimination in employment. (1) It is an  
 6 unlawful discriminatory practice for:

7 (a) an employer to refuse employment to a person, to  
 8 bar him a person from employment, or to discriminate against  
 9 him a person in compensation or in a term, condition, or  
 10 privilege of employment because of his race, creed,  
 11 religion, color, or national origin or because of his age,  
 12 physical or mental handicap, marital status, or sex when the  
 13 reasonable demands of the position do not require an age,  
 14 physical or mental handicap, marital status, or sex  
 15 distinction;

16 (b) a labor organization or joint labor management  
 17 committee controlling apprenticeship to exclude or expel any  
 18 person from its membership or from an apprenticeship or  
 19 training program or to discriminate in any way against a  
 20 member of or an applicant to the labor organization or an  
 21 employer or employee because of race, creed, religion,  
 22 color, or national origin or because of his age, physical or  
 23 mental handicap, marital status, or sex when the reasonable  
 24 demands of the program do not require an age, physical or  
 25 mental handicap, marital status, or sex distinction;

1 (c) an employer or employment agency to print or  
 2 circulate or cause to be printed or circulated a statement,  
 3 advertisement, or publication or to use an employment  
 4 application which that expresses, directly or indirectly, a  
 5 limitation, specification, or discrimination as to sex,  
 6 marital status, age, physical or mental handicap, race,  
 7 creed, religion, color, or national origin or an intent to  
 8 make the limitation, unless based upon a bona fide  
 9 occupational qualification;

10 (d) an employment agency to fail or refuse to refer for  
 11 employment, to classify, or otherwise to discriminate  
 12 against any individual because of sex, marital status, age,  
 13 physical or mental handicap, race, creed, religion, color,  
 14 or national origin, unless based upon a bona fide  
 15 occupational qualification.

16 (2) The exceptions permitted in subsection (1) based on  
 17 bona fide occupational qualifications ~~shall~~ must be strictly  
 18 construed.

19 (3) Compliance with 2-2-302 and 2-2-303, which prohibit  
 20 nepotism in public agencies, may not be construed as a  
 21 violation of this section.

22 (4) The application of a hiring preference as provided  
 23 for in 2-18-111 and 18-1-110 may not be construed to be a  
 24 violation of this section.

25 (5) ~~it is not discrimination on the basis of marital~~

~~status-for-an-employer-to-make-all-or-part-of-the-premium contributions-toward-group-insurance-for-employees-and-their dependents: IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN EMPLOYER OR LABOR ORGANIZATION TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS."~~

**Section 4.** Section 49-2-309, MCA, is amended to read:

"49-2-309. Discrimination in insurance and retirement plans. (1) It is an unlawful discriminatory practice for any a financial institution or person to discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or benefits.

(2) This section does not apply to any insurance policy, plan, or coverage, or to any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.

~~(3) It-is-not-discrimination-on-the-basis-of-marital status-for-an-employer-to-make-all-or-part-of-the-premium contributions-toward-group-insurance-for-employees-and-their dependents: IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST~~

MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN EMPLOYER TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS."

**Section 5.** Section 49-2-403, MCA, is amended to read:

"49-2-403. Specific limits on justification. (1) Except as permitted in 49-2-303(3) and--(4) through (5) and 49-3-201(5), sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin may not comprise justification for discrimination except for the legally demonstrable purpose of correcting a previous discriminatory practice.

(2) Age or mental handicap may represent a legitimate discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by contracts or other obligations."

**SECTION 6. SECTION 49-3-103, MCA, IS AMENDED TO READ:**

"49-3-103. Permitted distinctions. (1) Nothing in this chapter prohibits any public or-private employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than

1 age;

2 (b) from observing the terms of a bona fide seniority  
3 system or any bona fide employee benefit plan, such as a  
4 retirement, pension, or insurance plan, that is not a  
5 subterfuge to evade the purposes of this chapter, except  
6 that an employee benefit plan may not excuse the failure to  
7 hire any individual; or

8 (c) from discharging or otherwise disciplining an  
9 individual for good cause; or

10 (d) from providing greater or additional contributions  
11 to a bona fide group insurance plan for employees with  
12 dependents than to those employees without dependents or  
13 with fewer dependents.

14 (2) The application of an employment preference as  
15 provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39,  
16 chapter 29 or 30, by a public employer as defined in  
17 39-29-101 and 39-30-103 may not be construed to constitute a  
18 violation of this chapter."

19 NEW SECTION. Section 7. Effective date. [This act] is  
20 effective on passage and approval.

-End-

## SENATE BILL NO. 24

INTRODUCED BY BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE MONTANA HUMAN RIGHTS ACT LAWS; AMENDING SECTIONS 2-18-702, 2-18-703, 49-2-303, 49-2-309, AND 49-2-403, AND 49-3-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 2-18-702, MCA, is amended to read:

"2-18-702. Group insurance for public employees and officers. (1) All counties, cities, towns, school districts, and the board of regents shall upon approval by two-thirds vote of their respective officers and employees enter into group hospitalization, medical, health, including long-term disability, accident, and/or group life insurance contracts or plans for the benefit of their officers and employees and their dependents. It is not discrimination on the basis of marital status for an employer to make all or part of the premium contributions toward group insurance for employees and their dependents. THE LAWS PROHIBITING DISCRIMINATION ON THE BASIS OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA FIDE GROUP INSURANCE PLANS FROM PROVIDING GREATER OR

ADDITIONAL CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES WITH DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS.

(2) State employees and elected officials, as defined in 2-18-701, may participate in such state employee group benefit plans as are provided for under part 8 of this chapter.

(3) For state officers and employees, the premiums required from time to time to maintain the insurance in force ~~shall~~ must be paid by the insured officers and employees, and the auditor shall deduct the premiums from the salary or wages of each officer or employee who elects to become insured, on the officer's or employee's written order, and issue his a warrant therefor for the premiums to the insurer.

(4) For the purpose of this section, the plans of health service corporations for defraying or assuming the cost of professional services of licentiates in the field of health or the services of hospitals, clinics, or sanitariums or both professional and hospital services ~~shall~~ must be construed as group insurance and the dues payable under such the plans shall must be construed as premiums therefor for group insurance.

(5) If the board of trustees of a school district implements a self-insured group health plan or if the board



1 of regents implements an alternative to conventional  
2 insurance to provide group benefits to its employees, the  
3 board shall maintain the alternative plan on an actuarially  
4 sound basis."

5 **Section 2.** Section 2-18-703, MCA, is amended to read:

6 "2-18-703. Contributions. (1) Each agency, as defined  
7 in 2-18-601, shall contribute the amount specified in this  
8 section towards the group benefits cost.

9 (2) For employees defined in 2-18-701, other than  
10 members of collective bargaining units, and for members of  
11 the legislature, the employer contribution for group  
12 benefits ~~shall--be~~ is \$170 per month for the fiscal year  
13 ending June 30, 1992, and \$190 per month for the fiscal year  
14 ending June 30, 1993, and for each fiscal year thereafter.  
15 When a state employee is terminated to achieve a reduction  
16 in force, the continuation of contributions for group  
17 benefits beyond the termination date is subject to  
18 negotiation under 39-31-305. Permanent part-time, seasonal  
19 part-time, and temporary part-time employees who are  
20 regularly scheduled to work less than 20 hours a week are  
21 not eligible for the group benefit contribution. An employee  
22 who elects not to be covered by a state-sponsored group  
23 benefit plan may not receive the state contribution as  
24 wages. A portion of the employer contribution for group  
25 benefits may be applied to an employee's costs for

1 participation in Part B of medicare under Title XVIII of the  
2 Social Security Act of 1965, as amended, if the state group  
3 benefit plan is the secondary payer and medicare the primary  
4 payer.

5 (3) For employees of elementary and high school  
6 districts and of local government units, the employer's  
7 premium contributions may exceed but may not be less than  
8 \$10 per month.

9 (4) Unused employer contributions for any state  
10 employee must be transferred to an account established for  
11 this purpose by the department of administration and upon  
12 transfer may be used to offset losses occurring to the group  
13 of which the employee is eligible to be a member.

14 (5) Unused employer contributions for any government  
15 employee may be transferred to an account established for  
16 this purpose by a self-insured government and upon transfer  
17 may be used to offset losses occurring to the group of which  
18 the employee is eligible to be a member or to increase the  
19 reserves of the group.

20 (6) ~~it--is--not--discrimination-on-the-basis-of-marital~~  
21 ~~status-for-an-employer-to-make-all-or-part--of--the--premium~~  
22 ~~contributions-toward-group-insurance-for-employees-and-their~~  
23 ~~dependents; THE LAWS PROHIBITING DISCRIMINATION ON THE BASIS~~  
24 ~~OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA FIDE~~  
25 ~~GROUP INSURANCE PLANS FROM PROVIDING GREATER OR ADDITIONAL~~

1 CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES WITH  
 2 DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH  
 3 FEWER DEPENDENTS."

4 **Section 3.** Section 49-2-303, MCA, is amended to read:

5 "49-2-303. Discrimination in employment. (1) It is an  
 6 unlawful discriminatory practice for:

7 (a) an employer to refuse employment to a person, to  
 8 bar him a person from employment, or to discriminate against  
 9 him a person in compensation or in a term, condition, or  
 10 privilege of employment because of his race, creed,  
 11 religion, color, or national origin or because of his age,  
 12 physical or mental handicap, marital status, or sex when the  
 13 reasonable demands of the position do not require an age,  
 14 physical or mental handicap, marital status, or sex  
 15 distinction;

16 (b) a labor organization or joint labor management  
 17 committee controlling apprenticeship to exclude or expel any  
 18 person from its membership or from an apprenticeship or  
 19 training program or to discriminate in any way against a  
 20 member of or an applicant to the labor organization or an  
 21 employer or employee because of race, creed, religion,  
 22 color, or national origin or because of his age, physical or  
 23 mental handicap, marital status, or sex when the reasonable  
 24 demands of the program do not require an age, physical or  
 25 mental handicap, marital status, or sex distinction;

1 (c) an employer or employment agency to print or  
 2 circulate or cause to be printed or circulated a statement,  
 3 advertisement, or publication or to use an employment  
 4 application which that expresses, directly or indirectly, a  
 5 limitation, specification, or discrimination as to sex,  
 6 marital status, age, physical or mental handicap, race,  
 7 creed, religion, color, or national origin or an intent to  
 8 make the limitation, unless based upon a bona fide  
 9 occupational qualification;

10 (d) an employment agency to fail or refuse to refer for  
 11 employment, to classify, or otherwise to discriminate  
 12 against any individual because of sex, marital status, age,  
 13 physical or mental handicap, race, creed, religion, color,  
 14 or national origin, unless based upon a bona fide  
 15 occupational qualification.

16 (2) The exceptions permitted in subsection (1) based on  
 17 bona fide occupational qualifications shall must be strictly  
 18 construed.

19 (3) Compliance with 2-2-302 and 2-2-303, which prohibit  
 20 nepotism in public agencies, may not be construed as a  
 21 violation of this section.

22 (4) The application of a hiring preference as provided  
 23 for in 2-18-111 and 18-1-110 may not be construed to be a  
 24 violation of this section.

25 (5) ~~it is not discrimination on the basis of marital~~

~~status-for-an-employer-to-make-all-or-part-of-the-premium contributions-toward-group-insurance-for-employees-and-their dependents.~~ IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN EMPLOYER OR LABOR ORGANIZATION TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS."

**Section 4.** Section 49-2-309, MCA, is amended to read:

"49-2-309. Discrimination in insurance and retirement plans. (1) It is an unlawful discriminatory practice for any a financial institution or person to discriminate solely on the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and payments or benefits.

(2) This section does not apply to any insurance policy, plan, or coverage, or to any pension or retirement plan, program, or coverage in effect prior to October 1, 1985.

~~(3) It-is-not-discrimination-on-the-basis-of-marital status-for-an-employer-to-make-all-or-part-of-the-premium contributions-toward-group-insurance-for-employees-and-their dependents.~~ IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST

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(2) Age or mental handicap may represent a legitimate discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by contracts or other obligations."

**SECTION 6.** SECTION 49-3-103, MCA, IS AMENDED TO READ:

"49-3-103. Permitted distinctions. (1) Nothing in this chapter prohibits any public or-private employer:

(a) from enforcing a differentiation based on marital status, age, or physical or mental handicap when based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors other than

1 age;

2 (b) from observing the terms of a bona fide seniority  
3 system or any bona fide employee benefit plan, such as a  
4 retirement, pension, or insurance plan, that is not a  
5 subterfuge to evade the purposes of this chapter, except  
6 that an employee benefit plan may not excuse the failure to  
7 hire any individual; or

8 (c) from discharging or otherwise disciplining an  
9 individual for good cause; or

10 (d) from providing greater or additional contributions  
11 to a bona fide group insurance plan for employees with  
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14 (2) The application of an employment preference as  
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-End-