SENATE BILL NO. 24

INTRODUCED BY BLAYLOCK

IN THE SENATE

DECEMBER 22, 1992

JANUARY 9, 1993

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.

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

SENT TO ENROLLING.

RECEIVED FROM HOUSE.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 24 2 INTRODUCED BY BLAYLOCK 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT 5 OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE 6 7 MONTANA HUMAN RIGHTS ACT; AMENDING SECTIONS 2-18-702. 2-18-703, 49-2-303, 49-2-309, AND 49-2-403, MCA; AND 8 9 **PROVIDING AN IMMEDIATE EFFECTIVE DATE."** 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 2-18-702, MCA, is amended to read: 13 2-18-702. Group insurance for public employees and 14 officers. (1) All counties, cities, towns, school districts, and the board of regents shall upon approval by two-thirds 15 vote of their respective officers and employees enter into 16 17 group hospitalization, medical, health, including long-term 18 disability, accident, and/or group life insurance contracts or plans for the benefit of their officers and employees and 19 their dependents. It is not discrimination on the basis of 20 21 marital status for an employer to make all or part of the 22 premium contributions toward group insurance for employees 23 and their dependents. 24 (2) State employees and elected officials, as defined

25 in 2-18-701, may participate in such state employee group

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

3 (3) For state officers and employees, the premiums 4 required from time to time to maintain the insurance in 5 force shall must be paid by the insured officers and employees, and the auditor shall deduct the premiums from 6 7 the salary or wages of each officer or employee who elects 8 to become insured, on the officer's or employee's written 9 order, and issue his a warrant therefor for the premiums to 10 the insurer.

11 (4) For the purpose of this section, the plans of 12 health service corporations for defraying or assuming the 13 cost of professional services of licentiates in the field of 14 health or the services of hospitals, clinics, or sanitariums 15 or both professional and hospital services shall must be 16 construed as group insurance and the dues payable under such 17 the plans shall must be construed as premiums therefor for 18 group insurance.

19 (5) If the board of trustees of a school district 20 implements a self-insured group health plan or <u>if</u> the board 21 of regents implements an alternative to conventional 22 insurance to provide group benefits to its employees, the 23 board shall maintain the alternative plan on an actuarially 24 sound basis."

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

SB24 INTRODUCED BILL 1 *2-18-703. Contributions. (1) Each agency, as defined in 2-18-601, shall contribute the amount specified in this 2 3 section towards the group benefits cost.

4 (2) For employees defined in 2-18-701, other than 5 members of collective bargaining units, and for members of the legislature, the employer contribution for group 6 7 benefits shall--be is \$170 per month for the fiscal year 8 ending June 30, 1992, and \$190 per month for the fiscal year 9 ending June 30, 1993, and for each fiscal year thereafter. When a state employee is terminated to achieve a reduction 10 11 in force, the continuation of contributions for group 12 benefits beyond the termination date is subject to 13 negotiation under 39-31-305. Permanent part-time, seasonal 14 part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are 15 16 not eligible for the group benefit contribution. An employee 17 who elects not to be covered by a state-sponsored group benefit plan may not receive the state contribution as 18 19 wages. A portion of the employer contribution for group benefits may be applied to an employee's costs for 20 21 participation in Part B of medicare under Title XVIII of the Social Security Act of 1965, as amended, if the state group 22 23 benefit plan is the secondary payer and medicare the primary 24 payer.

25 (3) For employees of elementary and high school

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districts and of local government units, the employer's 1 premium contributions may exceed but may not be less than 2 3 \$10 per month.

4 (4) Unused employer contributions for any state employee must be transferred to an account established for 5 this purpose by the department of administration and upon 6 7 transfer may be used to offset losses occurring to the group of which the employee is eligible to be a member. 8

9 (5) Unused employer contributions for any government employee may be transferred to an account established for 10 this purpose by a self-insured government and upon transfer 11 may be used to offset losses occurring to the group of which 12 the employee is eligible to be a member or to increase the 13 14 reserves of the group.

15 (6) 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 dependents." 18

Section 3. Section 49-2-303, MCA, is amended to read: 19 "49-2-303. Discrimination in employment. (1) It is an 20 unlawful discriminatory practice for: 21

(a) an employer to refuse employment to a person, to 22 23 bar him a person from employment, or to discriminate against 24 him a person in compensation or in a term, condition, or 25 privilege of employment because of his race, creed.

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

(b) a labor organization or joint labor management 6 committee controlling apprenticeship to exclude or expel any 7 person from its membership or from an apprenticeship or 8 9 training program or to discriminate in any way against a member of or an applicant to the labor organization or an 10 employer or employee because of race, creed, religion, 11 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 mental handicap, marital status, or sex distinction; 15

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

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

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employment, to classify, or otherwise to discriminate
 against any individual because of sex, marital status, age,
 physical or mental handicap, race, creed, religion, color,
 or national origin, unless based upon a bona fide
 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
 i6 status for an employer to make all or part of the premium
 i7 contributions toward group insurance for employees and their
 i8 dependents."
 i9 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 <u>a</u> 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,

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

3 (2) This section does not apply to any insurance 4 policy, plan, <u>or coverage</u>, or <u>to</u> 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."

Section 5. Section 49-2-403, MCA, is amended to read: 11 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 the legally demonstrable purpose of correcting a previous 17 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 <u>NEW SECTION.</u> Section 6. Effective date. [This act] is
24 effective on passage and approval.

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SB 0024/02

APPROVED	ΒY	COMM.	ΟN
BUSINESS	å	INDUST	۲۶

1	SENATE BILL NO. 24
2	INTRODUCED BY BLAYLOCK
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4	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT
5	OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR
6	DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE
7	MONTANA HUMAN RIGHTS ACT LAWS; AMENDING SECTIONS 2-18-702,
8	2-18-703, 49-2-303, 49-2-309, AND 49-2-403, <u>AND 49-3-103,</u>
9	MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section 2-18-702, MCA, is amended to read:
13	"2-18-702. Group insurance for public employees and
14	officers. (1) All counties, cities, towns, school districts,
15	and the board of regents shall upon approval by two-thirds
16	vote of their respective officers and employees enter into
17	group hospitalization, medical, health, including long-term
18	disability, accident, and/or group life insurance contracts
19	or plans for the benefit of their officers and employees and
20	their dependents. It-is-not-discrimination-on-the-basis-of
21	marital-status-for-an-employer-to-make-all-orpartofthe
22	premiumcontributionstoward-group-insurance-for-employees
23	and-their-dependents. THE LAWS PROHIBITING DISCRIMINATION ON
24	THE BASIS OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA
25	FIDE GROUP INSURANCE PLANS FROM PROVIDING GREATER OR

ADDITIONAL CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES 1 2 WITH DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH 3 FEWER DEPENDENTS. 4

(2) State employees and elected officials, as defined 5 in 2-18-701, may participate in such state employee group 6 benefit plans as are provided for under part 8 of this 7 chapter.

(3) For state officers and employees, the premiums В required from time to time to maintain the insurance in 9 10 force shall must be paid by the insured officers and 11 employees, and the auditor shall deduct the premiums from 12 the salary or wages of each officer or employee who elects 13 to become insured, on the officer's or employee's written 14 order, and issue his a warrant therefor for the premiums to 15 the insurer.

(4) For the purpose of this section, the plans of 16 17 health service corporations for defraying or assuming the 18 cost of professional services of licentiates in the field of 19 health or the services of hospitals, clinics, or sanitariums 20 or both professional and hospital services shall must be 21 construed as group insurance and the dues payable under such 22 the plans shall must be construed as premiums therefor for 23 group insurance.

24 (5) If the board of trustees of a school district 25 implements a self-insured group health plan or if the board

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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."

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.

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

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.

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.

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

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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 bar him a person from employment, or to discriminate against 8 9 him a person in compensation or in a term, condition, or privilege of employment because of his race, creed, 10 religion, color, or national origin or because of his age, 11 physical or mental handicap, marital status, or sex when the 12 13 reasonable demands of the position do not require an age, physical or mental handicap, marital status, or 14 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 training program or to discriminate in any way against a 19 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 mental handicap, marital status, or sex when the reasonable 23 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. advertisement, or publication or to use an employment 3 4 application which that expresses, directly or indirectly, a limitation, specification, or discrimination as to sex, 5 6 marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to 7 8 make the limitation, unless based upon a bona fide 9 occupational qualification;

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

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

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

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

25 (5) <u>It--is--not--discrimination-on-the-basis-of-marital</u>

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1 status-for-an-employer-to-make-all-or-part--of--the--premium 2 contributions-toward-group-insurance-for-employees-and-their dependents. IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST 3 MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN 4 5 EMPLOYER OR LABOR ORGANIZATION TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN 6 7 FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES 8 WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS."

9 Section 4. Section 49-2-309, MCA, is amended to read: 10 "49-2-309. Discrimination in insurance and retirement 11 plans. (1) It is an unlawful discriminatory practice for any 12 a financial institution or person to discriminate solely on 13 the basis of sex or marital status in the issuance or 14 operation of any type of insurance policy, plan, or coverage 15 or in any pension or retirement plan, program, or coverage, including discrimination in regard to rates or premiums and 16 17 payments or benefits.

18 (2) This section does not apply to any insurance
19 policy, plan, or coverage, or to any pension or refirement
20 plan, program, or coverage in effect prior to October 1,
21 1985.

<u>1t-is-not-discrimination-on-the--basis-of--marital</u>
 <u>status-for-an--employer-to-make-all-or-part-of-the-premium</u>
 <u>contributions-toward-group-insurance-for-employees-and-their</u>
 <u>dependents-</u><u>IT</u><u>IS</u><u>NOT</u><u>A</u><u>VIOLATION</u><u>OF</u><u>THE</u><u>PROHIBITION</u><u>AGAINST</u>

1	MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN
2	EMPLOYER TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A
3	BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS
4	THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER
5	DEPENDENTS."
6	Section 5. Section 49-2-403, MCA, is amended to read:
7	*49-2-403. Specific limits on justification. (1) Except
8	as permitted in 49-2-303(3) and (4) through (5) and
9	49-3-201(5), sex, marital status, age, physical or mental
10	handicap, race, creed, religion, color, or national origin
11	may not comprise justification for discrimination except for
12	the legally demonstrable purpose of correcting a previous
13	discriminatory practice.
14	(2) Age or mental handicap may represent a legitimate
15	discriminatory criterion in credit transactions only as it
16	relates to a person's capacity to make or be bound by
17	contracts or other obligations."
18	SECTION 6. SECTION 49-3-103, MCA, IS AMENDED TO READ:
19	"49-3-103. Permitted distinctions. (1) Nothing in this
20	chapter prohibits any public or-private employer:
21	(a) from enforcing a differentiation based on marital
22	status, age, or physical or mental handicap when based on a
23	bona fide occupational qualification reasonably necessary to
24	the normal operation of the particular business or where the
25	differentiation is based on reasonable factors other than

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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
11 12	to a bona fide group insurance plan for employees with dependents than to those employees without dependents or
12	dependents than to those employees without dependents or
12 13	dependents than to those employees without dependents or with fewer dependents.
12 13 14	dependents than to those employees without dependents or with fewer dependents. (2) The application of an employment preference as
12 13 14 15	<pre>dependents than to those employees without dependents or with fewer dependents. (2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39,</pre>
12 13 14 15 16	<pre>dependents than to those employees without dependents or with fewer dependents. (2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in</pre>
12 13 14 15 16 17	<pre>dependents than to those employees without dependents or with fewer dependents. (2) The application of an employment preference as provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, chapter 29 or 30, by a public employer as defined in 39-29-101 and 39-30-103 may not be construed to constitute a</pre>

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INTRODUCED BY BLAYLOCK 2 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR 5 6 DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE 7 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, 8 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 9 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 2-18-702, MCA, is amended to read: "2-18-702. Group insurance for public employees and 13 14 officers. (1) All counties, cities, towns, school districts, 15 and the board of regents shall upon approval by two-thirds 16 vote of their respective officers and employees enter into 17 group hospitalization, medical, health, including long-term 18 disability, accident, and/or group life insurance contracts 19 or plans for the benefit of their officers and employees and 20 their dependents. It-is-not-discrimination-on-the-basis-of 21 marital-status-for-an-employer-to-make-all-or--part--of--the 22 premium--contributions--toward-group-insurance-for-employees and-their-dependents: THE LAWS PROHIBITING DISCRIMINATION ON 23 24 THE BASIS OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA 25 FIDE GROUP INSURANCE PLANS FROM PROVIDING GREATER OR

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1 ADDITIONAL CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES 2 WITH DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH 3 FEWER DEPENDENTS. 4 (2) State employees and elected officials, as defined 5 in 2-18-701, may participate in such state employee group benefit plans as are provided for under part 8 of this 7 chapter. (3) For state officers and employees, the premiums

8 9 required from time to time to maintain the insurance in 10 force shall must be paid by the insured officers and 11 employees, and the auditor shall deduct the premiums from 12 the salary or wages of each officer or employee who elects 13 to become insured, on the officer's or employee's written 14 order, and issue his a warrant therefor for the premiums to 15 the insurer.

16 (4) For the purpose of this section, the plans of 17 health service corporations for defraving or assuming the 18 cost of professional services of licentiates in the field of 19 health or the services of hospitals, clinics, or sanitariums 20 or both professional and hospital services shall must be 21 construed as group insurance and the dues payable under such 22 the plans shall must be construed as premiums therefor for 23 group insurance.

24 (5) If the board of trustees of a school district 25 implements a self-insured group health plan or if the board

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THIRD READING

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."

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 members of collective bargaining units, and for members of 10 the legislature, the employer contribution for group 11 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 negotiation under 39-31-305. Permanent part-time, seasonal 18 19 part-time, and temporary part-time employees who are regularly scheduled to work less than 20 hours a week are 20 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 wages. A portion of the employer contribution for group 24 benefits may be applied to an employee's costs for 25

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.

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)<u>it--is--not--discrimination-on-the-basis-of-marital</u>21<u>status-for-an-employer-to-make-all-or-part--of--the--premium</u>22<u>contributions-toward-group-insurance-for-employees-and-their</u>23<u>dependenter</u> THE LAWS PROHIBITING DISCRIMINATION ON THE BASIS24OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA FIDE25<u>GROUP INSURANCE PLANS FROM PROVIDING GREATER OR ADDITIONAL</u>

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

Section 3. Section 49-2-303, MCA, is amended to read: ۸

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

7 (a) an employer to refuse employment to a person, to bar him a person from employment, or to discriminate against 8 him a person in compensation or in a term, condition, or 9 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 limitation, specification, or discrimination as to sex, 5 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 occupational qualification; 9

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

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

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status-for-an-employer-to-make-all-or-part--of--the--premium 1 2 contributions-toward-group-insurance-for-employees-and-their 3 dependents. IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN 4 EMPLOYER OR LABOR ORGANIZATION TO PROVIDE GREATER OR 5 6 ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES 7 WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS." 8

Section 4. Section 49-2-309, MCA, is amended to read: 9 10 "49-2-309. Discrimination in insurance and retirement plans. (1) It is an unlawful discriminatory practice for any 11 a financial institution or person to discriminate solely on 12 13 the basis of sex or marital status in the issuance or operation of any type of insurance policy, plan, or coverage 14 15 or in any pension or retirement plan, program, or coverage, 16 including discrimination in regard to rates or premiums and 17 payments or benefits.

18 (2) This section does not apply to any insurance
19 policy, plan, or coverage, or to any pension or retirement
20 plan, program, or coverage in effect prior to October 1,
21 1985.

 22
 (3) It-is-not-discrimination-on-the--basis-of--marital

 23
 status--for--an--employer-to-make-all-or-part-of-the-premium

 24
 contributions-toward-group-insurance-for-employees-and-their

 25
 dependents: IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST

1 MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN EMPLOYER TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A 2 BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS 3 THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER 4 5 DEPENDENTS." 6 Section 5. Section 49-2-403, MCA, is amended to read: #49-2-403. Specific limits on justification. (1) Except 7 and 8 49-3-201(5), sex, marital status, age, physical or mental 9 10 handicap, race, creed, religion, color, or national origin may not comprise justification for discrimination except for 11 the legally demonstrable purpose of correcting a previous 12 13 discriminatory practice. (2) Age or mental handicap may represent a legitimate 14 15 discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by 16 contracts or other obligations." 17 SECTION 6. SECTION 49-3-103, MCA, IS AMENDED TO READ: 18 19 "49-3-103. Permitted distinctions. (1) Nothing in this 20 chapter prohibits any public or-private employer: (a) from enforcing a differentiation based on marital 21 status, age, or physical or mental handicap when based on a 22

the normal operation of the particular business or where thedifferentiation is based on reasonable factors other than

bona fide occupational qualification reasonably necessary to

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23

1 age; (b) from observing the terms of a bona fide seniority 2 system or any bona fide employee benefit plan, such as a 3 retirement, pension, or insurance plan, that is not a 4 subterfuge to evade the purposes of this chapter, except 5 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 (d) from providing greater or additional contributions 10 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 provided for in 2-18-111, 10-2-402, 18-1-110, and Title 39, 15 chapter 29 or 30, by a public employer as defined in 16 39-29-101 and 39-30-103 may not be construed to constitute a 17 violation of this chapter." 18 19 NEW SECTION. Section 7. Effective date. [This act] is effective on passage and approval. 20

-End-

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SENATE BILL NO. 24 1 2 INTRODUCED BY BLAYLOCK 3 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT PAYMENT a OF PREMIUMS TOWARD GROUP INSURANCE FOR EMPLOYEES AND THEIR 5 DEPENDENTS IS NOT MARITAL STATUS DISCRIMINATION UNDER THE 6 7 MONTANA HUMAN RIGHTS ACT LAWS: AMENDING SECTIONS 2-18-702. 8 2-18-703. 49-2-303. 49-2-309. AND 49-2-403. AND 49-3-103. 9 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 Section 1. Section 2-18-702, MCA, is amended to read: "2-18-702. Group insurance for public employees and 13 14 officers. (1) All counties, cities, towns, school districts, 15 and the board of regents shall upon approval by two-thirds 16 vote of their respective officers and employees enter into group hospitalization, medical, health, including long-term 17 18 disability, accident, and/or group life insurance contracts 19 or plans for the benefit of their officers and employees and 20 their dependents. It-is-not-discrimination-on-the-basis-of 21 marital-status-for-an-employer-to-make-all-or--part--of--the 22 premium--contributions--toward-group-insurance-for-employees 23 and-their-dependents. THE LAWS PROHIBITING DISCRIMINATION ON 24 THE BASIS OF MARITAL STATUS IN TITLE 49 DO NOT PROHIBIT BONA FIDE GROUP INSURANCE PLANS FROM PROVIDING GREATER OR 25

ADDITIONAL CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES
 WITH DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH
 FEWER DEPENDENTS.
 4 (2) State employees and elected officials, as defined

4 (2) State employees and elected officials, as defined 5 in 2-18-701, may participate in such state employee group 6 benefit plans as are provided for under part 8 of this 7 chapter.

8 (3) For state officers and employees, the premiums 9 required from time to time to maintain the insurance in 10 force shall must be paid by the insured officers and 11 employees, and the auditor shall deduct the premiums from 12 the salary or wages of each officer or employee who elects 13 to become insured, on the officer's or employee's written .order, and issue his a warrant therefor for the premiums to 14 15 the insurer.

16 (4) For the purpose of this section, the plans of 17 health service corporations for defraying or assuming the 18 cost of professional services of licentiates in the field of 19 health or the services of hospitals, clinics, or sanitariums 20 or both professional and hospital services shall must be 21 construed as group insurance and the dues payable under such 22 the plans shall must be construed as premiums therefor for 23 group insurance.

24 (5) If the board of trustees of a school district25 implements a self-insured group health plan or if the board



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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."

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 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.

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

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PEWER DEPENDENTS." 3 Section 3. Section 49-2-303, MCA, is amended to read: 4 **#49-2-303.** Discrimination in employment. (1) It is an 5 unlawful discriminatory practice for: 6 (a) an employer to refuse employment to a person, to 7 bar him a person from employment, or to discriminate against R him a person in compensation or in a term, condition, or 9 privilege of employment because of his race, creed, 10 religion, color, or national origin or because of his age, 11 physical or mental handicap, marital status, or sex when the 12 reasonable demands of the position do not require an age, 13 physical or mental handicap, marital status, or sex 14 15 distinction: (b) a labor organization or joint labor management 16 committee controlling apprenticeship to exclude or expel any 17 person from its membership or from an apprenticeship or 18 training program or to discriminate in any way against a 19 member of or an applicant to the labor organization or an 20 employer or employee because of race, creed, religion, 21 color, or national origin or because of his age, physical or 22 mental handicap, marital status, or sex when the reasonable 23 24 demands of the program do not require an age, physical or

CONTRIBUTIONS FOR INSURANCE BENEFITS TO EMPLOYEES WITH

DEPENDENTS THAN TO EMPLOYEES WITHOUT DEPENDENTS OR WITH

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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 application which that expresses, directly or indirectly, a 4 limitation, specification, or discrimination as to sex, 5 6 marital status, age, physical or mental handicap, race, creed, religion, color, or national origin or an intent to 7 make the limitation, unless based upon a bona fide 8 9 occupational gualification;

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

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

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

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

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

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1 status-for-an-employer-to-make-all-or-part--of--the--premium 2 contributions-toward-group-insurance-for-employees-and-their 3 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 5 OB ADDITIONAL CONTRIBUTIONS TO A BONA FIDE GROUP INSURANCE PLAN ĸ FOR EMPLOYEES WITH DEPENDENTS THAN TO THOSE EMPLOYEES 7 в WITHOUT DEPENDENTS OR WITH FEWER DEPENDENTS."

9 Section 4. Section 49-2-309, MCA, is amended to read: 10 *49-2-309. Discrimination in insurance and retirement 11 plans. (1) It is an unlawful discriminatory practice for any a financial institution or person to discriminate solely on 12 13 the basis of sex or marital status in the issuance or 14 operation of any type of insurance policy, plan, or coverage 15 or in any pension or retirement plan, program, or coverage, 16 including discrimination in regard to rates or premiums and 17 payments or benefits.

18 (2) This section does not apply to any insurance
19 policy, plan, or coverage, or to any pension or retirement
20 plan, program, or coverage in effect prior to October 1,
21 1985.

<u>11-is-not-discrimination-on-the--basis--of--marital</u>
 <u>status--for--an--employer-to-make-all-or-part-of-the-premium</u>
 <u>contributions-toward-group-insurance-for-employees-and-their</u>
 <u>dependents:</u> <u>IT IS NOT A VIOLATION OF THE PROHIBITION AGAINST</u>

MARITAL STATUS DISCRIMINATION IN THIS SECTION FOR AN 1 EMPLOYER TO PROVIDE GREATER OR ADDITIONAL CONTRIBUTIONS TO A 2 BONA FIDE GROUP INSURANCE PLAN FOR EMPLOYEES WITH DEPENDENTS 3 4 THAN TO THOSE EMPLOYEES WITHOUT DEPENDENTS OR WITH FEWER 5 DEPENDENTS." 6 Section 5. Section 49-2-403, MCA, is amended to read: 7 "49-2-403. Specific limits on justification, (1) Except 8 as permitted in 49-2-303(3) and -+4+ through (5) and 9 49-3-201(5), sex, marital status, age, physical or mental handicap, race, creed, religion, color, or national origin 10 11 may not comprise justification for discrimination except for the legally demonstrable purpose of correcting a previous 12 13 discriminatory practice. 14 (2) Age or mental handicap may represent a legitimate 15 discriminatory criterion in credit transactions only as it relates to a person's capacity to make or be bound by 16 17 contracts or other obligations." 18 SECTION 6. SECTION 49-3-103, MCA, IS AMENDED TO READ:

19 *49-3-103. Permitted distinctions. (1) Nothing in this
20 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

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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- <u>; or</u>
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	affective on another and another (12)

20 effective on passage and approval.

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-End-

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