EXHIBIT 6
DATE 1/20/09
HB 170

Montana Public Employees' Retirement Board
Table Summarizing HB 170 - the Board's IRS Tax Qualification Legislation

Bill Section and Current MCA Section	IRC/Federal Requirements Reference	Proposed Change	Reason *Plan Compliance means that tax counsel has recommended the change in order for the system[s] to be in compliance with federal law Notes *MPERA's retirement systems have always been in compliance with applicable IRS statutes. However, many of those requirements have not been specifically outlined in Montana code. The IRS wants to see specific requirements in statute so it is clear that we are in compliance.
Bill Section 1 5-2-304(4)	Revenue Ruling 2006-43 IRC 414(h)	Shorten window from 180 to 90 days for legislators to elect whether to continue participation in their current public employee retirement system.	*Plan Compliance The IRS discourages multiple and lengthy election windows. MPERA proposes a 90 day window for all elections
Bill Section 2 19-2-303	IRC 401(a)(31)(A), 401(c)(8), 402(f)(1), 402(f)(2)(A) IRC 402 CFR 1.401(a)(31)-1	Defining terms used in Title 19, Chapter 2, Part 10 and in our Special Tax Notices. Terms are "direct rollover", "distribute", "eligible rollover distribution", and "eligible retirement plan"	*Plan Compliance These terms are used in legal documents provided to members and should be clarified for both our members and staff in order to ensure proper usage.
Bill Section 3 19-2-602(4)	IRC 408A(d), 408A(e)	Use of the term "eligible rollover distribution" rather than listing out various distribution options "Eligible rollover distribution" includes Roth IRA options.	*Plan Compliance *Roth IRAs were added to the distribution options in 2007. The preferred term "eligible rollover distribution" includes Roth IRAs. This subsection should either (1) reference the definition of "eligible rollover distribution" in 19-2-303; or (2) include Roth IRAs. Otherwise, removal of the term 'Roth IRA' from this section could mislead the reader into believing distribution to a Roth IRA is no longer an option.

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Bill Section 4 19-2-902(2)	IRC 411()(11)(A)	Vested member with actuarial present value of benefits equal to or less than $5,000; default was lump sum payment; congress has changed default to a monthly benefit option.	*Plan Compliance We have always required member's to request lump sum, otherwise a monthly benefit is paid. We have been and remain in compliance. Statute reworded to reflect change.
Bill Section 5 19-2-907(2)	IRC 414(p) IRC 401(a)(13)(B)	Reference Section 414(p) IRC This section of federal law addresses Qualified Domestic Relations Orders (QDROs)	*Plan Compliance; reference applicable IRC section Specific documentation that Family Law Orders (FLOs) are required to comply with IRC Qualified Domestic Relations Order (QDRO) laws.
Bill Section 5 19-2-907(4) and (6)	IRC 414(p) IRC 401(a)(13)(B)	Distribute alternate payee's share of a Defined Contribution member's account immediately upon approval of Family Law Order (FLO)	Option offered in the Pension Protection Act of 2006 - Board determined to adopt this option for its plan participants with Family Law Orders (FLOs). Immediate release reduces administrative costs and gives alternate payee immediate access to their portion of the member's account. This option is already available in the 457(b) plan and works well. .

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Bill Section 6 19-2-1001	IRC 415(n)	1) Recognize that if employer has more than 1 DB or more than 1 DC plan, the plans are treated as a single DB and a single DC plan, with Title 19 plans given priority over non-Title 19 plans and the Title 19 plan with the highest given priority among other Title 19 plans. 2) Retroactive recognition of permissive service purchases and requiring compliance with 415 limits 3) Amend definition of "salary" to comply with various federal laws 4) Amend law to comply with benefit limitations as those limits are impacted by COLAs.	*Plan Compliance *1) Plans are treated as one for purposes of determining compliance with contribution and benefit limits contained in IRC 415. 2) Permissive service requirements have changed several times in the last few years. Tax counsel would like to document that we have been in compliance back to 1997, the first time the IRS ruled on the issue. 3) The definition of "salary" for testing of IRC 415 limits has been expounded upon by the IRS. Proposed new language will capture those changes. 4) Federal law requires that COLA [GABA] increases be taken into consideration when testing for IRC 415 benefit limits.

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Bill Section 7 19-2-1002	Exclusive Benefit Rule Mont Const Art VIII, section 15	Additional 100% vested and exclusive benefit language	*Plan Compliance *Proposed language is consistent with existing statutes and constitutional provisions. Tax counsel believes it needs to be added to our IRC compliance section (Title 19, Chapter 2, and Part 10).
Bill Section 8 19-2-1005	IRC 401(a)(9)	Including COLAs [GABA] in compensation limits per IRC	*Plan Compliance Same as 19-2-1002, MCA.
Bill Section 9 New section on Eligible Rollover Distribution limits	IRC 415	This is new language required by the IRS to ensure we do not allow members to rollover account distributions that are not eligible to be rolled over.	Rollovers are used to delay taxation of retirement benefits. The IRS has a significant interest in ensuring they receive taxes on retirement monies at the appropriate times.
Bill Section 10 New section on interest rate crediting	29 USC section 623(i)(10)(B)(i) of the federal Age Discrimination in Employment Act (ADEA) IRC 411(b)	Federal law requires that credited interest be limited in a manner that will not violate the ADEA	*Plan Compliance Interest rates can not benefit a certain age group
Bill Section 11 19-3-315(3)		Update IRC citation	Accuracy

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Bill Section 12 19-3-412	Revenue Ruling 2006-43	Optional Membership Election Periods Reduced to 90 days Elections are irrevocable	*Plan Compliance with Pick-up Rulings *This is a significant change to current statute recommended by tax counsel. The IRS appears to be strictly limiting retirement systems elections and shortening the election window to ensure a defined benefit retirement system member receives a "defined" benefit.
Bill Sections 13, 16, 17 & 18 19-3-1501, 19-5-701, 19-7-1001 & 19-8-801	IRC 401(a)(9) Treasury Reg 1.401(a)(9)-6	Amend language in (1)(a) Limit the options available to members who choose a contingent annuitant significantly younger than themselves.	*Plan Compliance 100% joint and survivor is not available to a member whose non-spouse beneficiary has a greater than 10 year adjusted age difference
Bill Sections 13, 16, 17, & 18 19-3-1501, 19-5-701, 19-7-1001 & 19-8-801	IRC 401(a)(9) Treasury Reg 1.401(a)(9)-6	Amend language in (5) and (6) Clarify that pop-up is available if member and contingent annuitant divorce or if contingent annuitant dies; clarify pop-up options	Plan Compliance and consistency between retirement systems Currently systems are not consistent with respect to pop-up options; federal law limits the options that are available when a retiree's contingent annuitant dies or the member and contingent annuitant divorce.
Bill Section 14 19-3-2123	IRC 408A(d) and (e)	Delete terms that duplicate definition of "eligible retirement plan"	*Plan Compliance Roth IRAs are eligible retirement plans now
Bill Section 15 19-3-2126	IRC 401(a)(31)(B)	Recognize refund limit of $1000 and need to comply with 401(a)(31)(B)	*Plan Compliance and Consistency with Defined Benefit Retirement Plan

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Bill Section 19 19-9-301	Revenue Ruling 2006-43	Increase window from 30 to 90 days for employees of new MPORS employers to elect whether to join MPORS or stay in PERS.	*Plan Compliance, consistency and education MPERA proposes a 90 day window for all elections. More time is needed to educate employees of differences between PERS & MPORS
Bill Sections 20 and 21 19-9-1206 and 19-9-1208		Amend language to permit proportionate interest for distributions taking place at other than fiscal year end	Board of Investments has agreed to provide interest rates more frequently than annually Change will permit MPERA to credit interest that better reflects that being earned at the time of the distribution
Bill Section 22 19-13-210	Compliance with state law processes	Amend language to clarify that city's adopt by ordinance while rural fire districts adopt by resolution	Ensure Correct Process for Joining Firefighters Unified Retirement System
Bill Section 23 19-13-301(3)	Revenue Ruling 2006-43	Shorten window from 6 months to 90 days for part-paid firefighters to elect whether to become a member of MPORS	*Plan Compliance The IRS is discouraging multiple and lengthy election windows. MPERA proposes a 90 day window for all elections
Bill Section 23 19-13-301(7)	Consistency with current state law	Amend language in (7)(a) Change age from 45 to 35	Compliance with 7-33-3107 Firefighters must be hired into a paid position prior to age 35 to join FURS; change permits those 35 and older to join PERS

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Bill Section 23 19-13-301(7)	Revenue Ruling 2006-43	Amend language in (7)(b) Increase window from 30 to 90 days for employees of new MPORS employers to elect whether to join MPORS or stay in PERS.	*Plan Compliance MPERA proposes a 90 day window for all elections. More time is needed to educate employees of differences between PERS & FURS

EXHIBIT 6
DATE 1/20/09
HB 170

2009 Legislative Session
House State Administration>
January 20, 2009
Melanie Symons Legal Counsel
Montana Public Employees' Retirement Board

House Bill 170

An Act Generally Revising Statutes Governing Various State Retirement Systems in Order to Ensure that those Systems Constitute Qualified Retirement Plans under the Internal Revenue Code

House Bill 170 is a unique general revisions bill that addresses statutory amendments required to ensure the retirement systems administered by the Public Employees' Retirement Board remain tax qualified plans under the Internal Revenue Code. The proposed legislation was reviewed and accepted by the State Administration and Veterans' Affairs Interim Committee

As I mentioned last week during the hearing on House Bill 124 by Representative Mehlhoff, the retirement systems administered by the Board are tax-qualified retirement systems under 401(a) of the federal Internal Revenue Code. Contributions into tax-qualified retirement systems, and the earnings associated with those contributions, are tax-deferred. If a system is determined by the IRS to not be qualified, the contributions and earnings for that system will be immediately subject to taxation.

The federal government is currently in the middle of Cycle C filing, the process by which the IRS reviews public retirement systems for qualification purposes. The Board submitted its Cycle C filings in October 2008, with the assistance of tax counsel. During this process, tax counsel advised that the changes proposed in this legislation are required to ensure continued compliance with federal law, including the Pension Protection Act of 2006, and a tax qualified status for our plans.

Some of this bill is similar to House Bill 59, the Teachers' Retirement System qualifications bill. As Mr. David Senn stated during the hearing on HB 59, the IRS is no no longer satisfied with general statements of compliance. Instead, they are requiring governmental retirement plans to include specific information in statute and to verify in statute that these requirements have been and continue to be met. This is the reason for the many retroactive provisions. We are merely documenting that our plans have always been in compliance with these requirements and have always been qualified 401(a) retirement plans

The table distributed to the Committee at the start of the hearing provides a section-by-section summary of Board's proposed changes. If the same change is required in multiple retirement systems, those sections are grouped together and addressed as one.

I will highlight some of the changes the Board believes significant. If you have questions regarding any of the other changes, I will be available for questions.

Bill Sections 1, 12, 19, 23 - Optional Membership Election Windows As I mentioned last week when testifying against HB 124, the Board has been advised by tax counsel that the IRS may not look favorably on multiple elections or lengthy election windows available to our retirement system members. The Board was advised to limit the elections and to shorten the election window time periods from 180 to 90 days.

The window for police officers currently in PERS actually increases from 30 to 90 days.

Legislators will have 90 rather than 180 days to determine whether to be covered by a retirement system while serving. Legislative employees will have 90 days rather than 300 to determine whether to participate in PERS.

Bill Sections 5 - Immediate Distribution of DC Account to Alternate Payee Retirement accounts are marital assets that can be divided when the member and his or her spouse divorce. A Family Law Order, or FLO, is required to award the ex-spouse or alternate payee, a portion of a member's retirement account. Currently, alternate payee's do not receive their portion of the member's account until a "distributable event" occurs. Distributable events are the member's termination of employment, retirement, or death.

The Pension Protection Act of 2006 permits alternate payees of **Defined Contribution** plan members to receive their portion of the member's account upon approval of the Family Law Order. The Board believes immediate distribution to be best for the plan and member alike as it will reduce administrative fees and may provide an option other than the sale of the family home in order to fairly divide the marital assets.

Bill Sections 6, 8, and 9 - Limitations on Maximum Contributions and Benefits and Limitations on Eligible Rollover Distributions Section 415 of the Internal Revenue Code contains compensation, contribution, and benefit maximums that can not be exceeded in a qualified plan. If an employer participates in more than one qualified plan, the plans must be considered together when testing for these limits. If a member purchases service or rolls over money from other eligible plans, those amounts must be be included. Cost of living increases, or GABA, must be considered when testing for benefit limitations. The language in these two sections is essentially for use by tax counsel and actuaries when testing for these limits. As Mr. Senn stated last week, few if any of our members are impacted by these limits. However, we must ensure we are in compliance for qualification purposes.

Bill Sections 13, 16, 17, and 18 - Option 2, the 100% joint and survivor annuity is not available to members who name a contingent annuitant who is more than 10 years younger than the member. The actuarial table that must be used in determining the benefit results in a maximum permissible benefit that can be met by option 3 only.

Bill Sections 13, 16, 17, and 18 - When a retired member's contingent annuitant dies or the retired member and the contingent annuitant divorce and the contingent

annuitant is not awarded any portion of the member's retirement benefit, the member has several options. The member may revert or "pop-up" to his original option 1 or life only benefit; name a new contingent annuitant and retain the same option, or select a different option and name a new contingent annuitant. These are the only options available under federal law.

Bill Section 20 and 21. These sections pertain to the DROP, or Deferred Retirement Option Plan, available to police officers in the Municipal Police Officers' Retirement Plan. Currently, a police officer's DROP account earns interest at the close of each fiscalyear based on the system's annual investment earnings for that year. Since the Board received only annual investment earnings reports from the Board of Investments, retiring members received the last rate reported, regardless whether the rate had increased or decreased at the time of retirement. The interest rates earned in the last few years ranged from nearly 17% to 0%. This amendment would change the interest credited to the actuarially assumed rate of return, 8% for all DROP members. They will continue to receive the 3% GABA on their account after participating in DROP for one year.

The Board urges a do pass on this bill. I will be available for questions.
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