Required Review of Proposed Statutory Changes to Montana's Retirement Systems

A Compilation of Reports from the State Administration and Veterans' Affairs Interim Committee 2009-2010

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Legislative Services Division
PO Box 201706
Helena, MT 59620-1706
PHONE: (406) 444-3064
FAX: (406) 444-3036
http://leg.mt.gov/

Prepared By Rachel Weiss
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Pediment above main Capitol entrance.
Cover photo by Gayle Shirley.

State Administration and Veterans' Affairs
Interim Committee Members

Senator Joe Tropila, Presiding Officer
Senator Joe Balyeat
Senator Larry Jent
Senator Dave Lewis

Representative Gordon Hendrick, Vice Presiding Officer
Representative Timothy Furey
Representative Pat Ingraham
Representative Robert Mehlhoff

Committee Staff

Rachel Weiss, Lead Researcher
Dave Bohyer, Lead Staff for the HJR 35 Study
David Niss, Attorney
Fong Hom, Secretary

Legislative Services Division

Susan Byorth Fox, Executive Director
Robert Stutz, Director, Legal Services
David D. Bohyer, Director, Office of Research and Policy Analysis

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Overview of the Reports

▫ Background and Statutory Authority

The State Administration and Veterans' Affairs Interim Committee (the SAVA Committee) is required to "solicit and review" proposed statutory changes to the state's public employee retirement systems. After the review, the SAVA Committee must report to the Legislature on each proposal reviewed. Section 5-5-228(2), MCA, assigns this task to the SAVA Committee and provides guidelines for the content of the reports:

> **5-5-228. State administration and veterans' affairs interim committee.** (1) The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and the entities attached to the agencies for administrative purposes:
>
> (a) department of administration;
>
> (b) department of military affairs; and
>
> (c) office of the secretary of state.
>
> <u>(2) The committee shall:</u>
>
> (a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;
>
> (b) establish principles of sound fiscal and public policy as guidelines;
>
> (c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles;
>
> <u>(d) solicit and review proposed statutory changes to any of the state's public employee retirement systems;</u>
>
> <u>(e) report to the legislature on each legislative proposal reviewed by the committee. The report must include but is not limited to:</u>
>
> <u>(i) a summary of the fiscal implications of the proposal;</u>
>
> <u>(ii) an analysis of the effect that the proposal may have on other public employee retirement systems;</u>
>
> <u>(iii) an analysis of the soundness of the proposal as a matter of public policy;</u>
>
> <u>(iv) any amendments proposed by the committee; and</u>
>
> <u>(v) the committee's recommendation on whether the proposal should be enacted by the legislature.</u>
>
> <u>(f) attach the committee's report to any proposal that the committee considered and that is or has been introduced as a bill during a legislative session; and</u>

(g) publish, for legislators' use, information on the state's public employee retirement systems.

(3) The committee may:

(a) specify the date by which proposals affecting a retirement system must be submitted to the committee for the review contemplated under subsection (2)(d); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request. (emphasis added)

History: En. Sec. 30, Ch. 19, L. 1999; amd. Sec. 15, Ch. 210, L. 2001; amd. Sec. 1, Ch. 2, Sp. L. December 2005.

This document compiles all the reports for each proposal reviewed by the SAVA Committee. Because section 5-5-228(2)(f), MCA, requires that the report on a proposal to amend the retirement systems be attached to any related legislation that is introduced in the legislative session, the reports are formatted as stand-alone documents rather than a single, comprehensive report on all the proposals as a group. As a result, there will be duplication in some of the material presented in the reports.

Additional information related to the review, including the detailed proposals submitted to the SAVA Committee, can be found online at http://leg.mt.gov/css/Committees/interim/2009_2010/State_Administration_and_Veterans_Affairs/Staff_Reports/legislation.asp

A list of Principles and Guidelines for Public Employee Retirement Systems is included in Appendix B. The principles were adopted by the SAVA Committee, as required by section 5-5-228, MCA, at the Committee's December 2009 meeting.

▫ Results

A table containing a brief summary of each proposal and the recommendation of the SAVA Committee can be found in Appendix D of this report. The proposal numbers found throughout this report refer to the numbers assigned in that table.

The SAVA Committee solicited proposals from various retirement system stakeholders, including the retirement boards, groups representing public employees, and other interested parties, in late 2009 and early 2010. Most proposals were presented to the SAVA Committee at its April 22-23, 2010, meeting; proposals from the two retirement boards were presented in June 2010.[1] Altogether, the SAVA Committee reviewed 16 proposals from various system stakeholders and the retirement boards. The retirement systems made nine proposals (including several housekeeping and general revision bills); stakeholders made the rest.

After considering the proposals through the remainder of the interim, the SAVA Committee made recommendations at its final September 2010 meeting. Because of the pressing financial situation facing the state of Montana, the members recommended that many of the proposals that proposed benefit enhancements or increased spending should not be enacted if presented to the 2011 Legislature as bills.

The members did not make a recommendation on one proposal--proposal 5 from the MEA-MFT to create a modified professional retirement option in the Teachers' Retirement System--mainly because of confusion on what such a recommendation might mean for a similarly titled proposal that the SAVA Committee made as part of its work on House Bill No. 659 during the 2009-2010 interim. The SAVA Committee also recommended that the 2011 Legislature should split the funding elements from the benefit changes contained in several proposals from the retirement boards.

Because the SAVA Committee consists of an even number of members, if a motion to make a recommendation on a proposal failed on a tie vote, the proposal received the recommendation that the 2011 Legislature should not enact the proposal. Two of the proposals received this recommendation as the result of a tie vote.

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[1] Copies of memos to stakeholders and the retirement boards requesting proposals for review can be found in Appendices C and D of this report.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.

Proposal 1 - Public safety dispatchers to Sheriffs' Retirement System

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▫ Summary of Proposal

The Association of Public-Safety Communications Officials - International proposes to include public safety dispatchers in the Sheriffs' Retirement System (SRS), which is a 20-year retirement system created for sheriffs, sheriffs' deputies, detention officers hired by sheriffs, and investigators hired by the Department of Justice. The dispatchers currently are members of the Public Employees' Retirement System (PERS), a 30-year system that offers both a defined benefit and a defined contribution plan.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. However, in the 2009 session, House Bill No. 31 (HB 31), a similar bill, was introduced. The fiscal note for HB 31 provides some information. Both employer (ER) and employee (EE) contribution rates would go up for new hires entering SRS and current employees electing to switch to SRS from PERS. The increase is due to the higher statutory contribution rates for SRS compared to PERS.

Currently, the ER rate for PERS is 7.17% for State/University employers. Local government employers pay 7.07% of salary with the state general fund adding another 0.1%. The ER rate for SRS is 10.115%.

Currently, the EE rate for PERS is 6.9% of salary. The EE rate for SRS is 9.245%. (These EE and ER rates might change during the 2011 Legislature due to other retirement-related proposals working their way through the legislative process.)

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The fiscal note for HB 31 stated that it would have a minimal effect on PERS and would increase the amortization period for SRS from 16.3 years to 21.9 years. (Currently, neither SRS nor PERS amortize in any amount of time.)

The proposers predicted there would be savings to local government employers due to decreased employee turnover. High turnover rates can increase hiring and training costs. The 2009 fiscal note for HB 31 detailed savings to the general fund if the legislation were enacted because the state currently pays 0.1% for local government employers who have members in PERS. That rate is not paid into SRS.

- **Effect of Proposal on Other Retirement Systems**

Besides the effect on the PERS amortization period, it is hard to determine what effect, if any, the proposal would have on other retirement systems. However, it could encourage other groups of employees in high-stress positions to attempt to join 20-year public safety systems.

- **Soundness of the Proposal as a Matter of Public Policy**

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. The appropriateness of including dispatchers in a public safety system would be a policy question that falls under Principle IV. This principle governs how benefits should be allocated among beneficiaries, including that pensions should not "unreasonably differentiate" between different groups of employees, though it allows for different benefits based on different jobs if there is a rationale behind the formula. Public safety jobs are often viewed as higher-risk, high-stress jobs that lead to higher rates of burnout and can be physically demanding. Thus, many public service retirement systems have lower retirement ages and higher benefits than general employee retirement systems.

Also, although the SAVA Committee adopted Guideline U, providing that benefit formulas in the public safety retirement systems should be similar, neither it nor

Principle IV addresses how to judge legislation that would change the eligibility requirements for those systems.

Other factors that might be considered when addressing legislation similar to this proposal are:

- Are there other workers in PERS-covered positions that might be considered high-stress emergency positions who might also might want to switch to a 20-year system?
- Current dispatchers wishing to move from PERS to SRS will have to purchase service in SRS because PERS and SRS years of service do not transfer on a one-to-one basis. The costs of purchasing those years of service may be prohibitively expensive.

▫ Amendments Proposed by the SAVA Committee

None.

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HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.

Proposal 2 - Increase retirement multiplier in Judges' Retirement System

▫ Summary of Proposal

The Montana Judges' Association proposes to change the current retirement multiplier in the Judges' Retirement System (JRS). Currently, the multiplier is 3 1/3% for up to 15 years of service and 1.785% for each year of service over 15. The proposal would set the multiplier at 3 1/3% for all years of service up to but not exceeding 30 years. The benefit would not be allowed to exceed the salary of an active judge or justice. As of the 2009 actuarial valuation, the JRS was funded at approximately 148% and the costs related to the multiplier increase would be borne by the system.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. Similar legislation was not introduced in recent legislative sessions, so information could not be gathered from previous fiscal notes.

▫ Effect of Proposal on Other Retirement Systems

Because no other defined benefit public employee retirement system in Montana provides income replacement of 100% on retirement after 30 years of service, this change might encourage members of other systems to try to increase their system's multiplier to provide higher retirement benefits. This effect is known as "ratcheting".

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December

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11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy.

The proposal raises policy questions related to two of the SAVA Committee's principles. The first is Principle I, which provides that pensions should provide the base of financial security in retirement. The SAVA Committee did not provided a definition of "base". Whether or not the changes suggested by this proposal affect the meaning of "base of financial security in retirement" is up to the Legislature to determine. Generally speaking, retirement planning experts discuss retirement funding as a three-legged stool, with an employer-sponsored retirement plan (of any sort) as only one leg. Personal savings and Social Security make up the other two legs. Under the proposal, a member reaching 30 years of service would receive a benefit that replaces 100% of income before factoring in income from the other two "legs", so to speak.

Another policy question relates to Principle II and Guideline E, which provide that pension funding should be a contemporaneous obligation undertaken by the person benefiting from the service (taxpayers) at the time the service is provided by the employee. Guideline E also states that any increase in pension benefits should be accompanied by a "corresponding and equal increase in employer and employee contributions". According to these principles, pension costs should not be shifted to future taxpayers and employees. If the JRS were to experience funding problems in the future because benefits were increased without a corresponding increase in contributions, it could violate that principle by requiring contributions from taxpayers and members who will not receive the benefit of their increased contributions, either in public service from a judge in the case of the taxpayer or in retirement benefits in the case of the member. Alternatively, current taxpayers and employees should not pay for benefits to be received by future employees and taxpayers, which might happen if the JRS continues to be funded well over 100%. Since 2000, the JRS has been funded at more than 100% each year, with the lowest funding level being 130% in 2004. However, the JRS experienced the same market declines in late 2008 as the other retirement systems, making future valuations of the system key in determining the health of its funding and benefit structures.

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▫ Amendments Proposed by the SAVA Committee

None.

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HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.**

Proposal 3 - Revise definition of "compensation" in Firefighters' Unified Retirement System

▫ Summary of Proposal

The Montana Firemen's Association proposes to revise the definition of "compensation" used in the Firefighters' Unified Retirement System (FURS) to include overtime, holiday and shift differential payments, compensatory time payments, and payments in lieu of sick leave. *(Although the written proposal to the SAVA Committee listed additional payments beyond overtime payments, 2009 legislation to accomplish a similar purpose included only overtime. Since the Association indicated that it wasn't seeking to add those additional payments to the definition, this report assumes the proposal would add only overtime payments.)* The proposal would align the definition more closely with those in the Highway Patrol Officers' Retirement System, the Sheriffs' Retirement System, and the Game Wardens' and Peace Officers' Retirement System, all of which are public safety employee systems. The Municipal Police Officers' Retirement System (MPORS) is similar to FURS in that it does not include overtime in the definition of compensation.

The proposers offered to work with the Montana Public Employees' Retirement Administration to address concerns of "salary spiking".

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** A motion to recommend that the Legislature should enact legislation based on this concept failed on a 4-4 vote of the Committee. Per a ruling from the chair, tied votes resulted in a recommendation that the Legislature should not enact the proposal.

Report issued pursuant to 5-5-228, MCA.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. The proposer states that employer and employee contribution rates will stay the same but will be paid on more compensation because of the expanded definition. A similar piece of legislation, House Bill No. 33 (HB 33), was introduced in the 2009 session. The fiscal note for HB 33 projected an increase in the FURS amortization period of 0.2 years. (The fiscal note was based on including only overtime payments.) As of the 2009 actuarial valuation, FURS would amortize its unfunded liability in 12.7 years.

▫ Effect of Proposal on Other Retirement Systems

The proposal covers only FURS; however, MPORS has a similar definition of compensation, one that does not include overtime or the other payments listed above. Changing the definition for FURS but not MPORS might create an incentive for members of MPORS to lobby to include overtime in the MPORS definition of compensation.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. The proposal raises several policy questions related to current principles and guidelines. The differences in the definition of "compensation" between the public safety retirement systems fall under at least one principle and two guidelines. Principle IV discourages provisions that "unreasonably differentiate" between different groups of employees. It does allow for different retirement provisions depending on the rationale behind the provision. For example, public safety retirement systems often have earlier retirement ages and larger benefits to compensate for the demanding, often stressful nature of the job. Determining whether or not there is a rationale for differences between public safety systems in terms of

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defining compensation is a policy question to be faced by the Legislature. However, Guideline U states that the Legislature should strive to ensure that the benefit formulas in the public safety retirement systems are similar, which is what the proposers seek to achieve with changes to the FURS.

Guideline E seeks to outline how benefit increases should be funded, stating that any increase in benefits should be paid for by corresponding and equal increases in contributions from employers and employees. Although the proposal is to increase benefits by broadening the definition of what can be included as compensation, the proposal does not provide for contribution increases from either employer or employee.

▫ Amendments Proposed by the SAVA Committee

None.

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Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.

Proposal 4 - Funding of Optional Retirement Program

▫ Summary of Proposal

The MEA-MFT proposes to increase the employer contribution to the Optional Retirement Program (ORP) of the Montana University System (MUS) by 1% to approximately 7% of salary. The proposal would raise the allowed employer and employee combined contribution to the individual accounts in the ORP to 14% of salary from the current 13%. The proposal suggests the additional cost be financed through a statutory or other ongoing appropriation from the general fund.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. The proposal would require an increase in contributions to the retirement systems from MUS employers. The exact dollar amount of the increase would depend on the size of the MUS payroll. The proposal presented to the SAVA Committee estimated the cost of the 1% employer increase to be less than $3 million in FY 2012; $3.5 million in FY 2013; and around $4 million in both FY 2014 and FY 2015. A similar bill was introduced to the 2009 Legislature. The fiscal note for House Bill No. 87 approximated costs for a 1% increase at $1.88 million for FY 2010; $2 million for FY 2011; $2.2 million for FY 2012; and $2.4 million for FY 2013. Because the ORP is a defined contribution plan, the members would have additional funds to invest. The final effect on members' benefits would depend on their investment choices.

▫ Effect of Proposal on Other Retirement Systems

The PERS also contains a defined contribution plan. Currently, the employee pays 6.9% of salary to the account and the employer contributes 7.17% to the account, of which

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4.19% is credited to member accounts. Increasing employer contributions to one defined contribution system might contribute to "ratcheting" up contributions to the other.

▫ Soundness of the Proposal as a Matter of Public Policy

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The SAVA Committee's guideline E provides that benefit increases should be paid for by a corresponding and equal increase in employer and employee contributions. The proposal would increase only employer contributions.

▫ Amendments Proposed by the SAVA Committee

None.

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HB/SB _____

Recommendation to the 2011 Legislature:
The SAVA Committee did not make a recommendation on this concept.**

Proposal 5 - Modified professional retirement option

▫ Summary of Proposal

The MEA-MFT proposes to create a modified professional retirement option (PRO) for the Teachers' Retirement System (TRS). This analysis is based on the PRO version presented to the SAVA Committee in April 2010. It is likely that the PRO proposal, especially the contribution concept, has been modified since that time based on updated information.

As presented to the SAVA Committee, the PRO would affect new hires only. The current TRS multiplier of 1.67% would apply for new hires retiring with less than 30 years of service. For new hires who retire with 30 or more years of service and 3 or more active membership years immediately preceding retirement, a 2% benefit multiplier for all years of service would apply. (Currently TRS members can retire after 25 years of service, regardless of age.) New hires would pay an additional 2% of salary to TRS; TRS employers would also pay an additional 2% of salary to TRS. The proposal leaves open the determination of where the additional 2% employer contribution would come from GTB-supported county retirement levies or the state general fund.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. The fiscal implications of the proposal depend, in part, on the 2010 valuation, which will affect the amount of contribution increases to be paid by employers

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** A motion to recommend that the Legislature should enact this legislation based on this concept *with* the amendments contained in LC252 failed on a 2-6 vote of the Committee. The Committee did not vote on another recommendation to the Legislature.

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and newly hired employees. The proposal as presented to the SAVA Committee estimated that an additional 2% of salary paid on all employees by the employer would amount to around $14 million per year or $28 million over the biennium. Because previous PRO legislation would have allowed active employees, not just new hires, to be eligible for the 2% multiplier, previous fiscal notes do not reflect the most accurate financial information. It is possible that the cost of providing the benefit for new hires will not require the full 2% employer and employee contribution. In fact, cost analysis done by the TRS actuary in 2008 estimated that the change in the normal cost rate for the PRO (for new hires and current employees) would be 0.61%. Using that figure, the cost of the proposal might be less than suggested by the proposers during the April presentation.

▫ **Effect of Proposal on Other Retirement Systems**

The TRS is the only Montana retirement system with a 25-year retirement provision. It also has a lower multiplier than PERS and the public safety retirement systems, making it unlikely that leapfrogging or ratcheting will occur if this PRO or another version of it were enacted. PERS already has an enhanced multiplier for employees with 25 or more years of service.

▫ **Soundness of the Proposal as a Matter of Public Policy**

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Policy questions to be considered about this proposal are found in Principles I and II. Principle I provides that a pension should provide the "base of financial security in retirement". The SAVA Committee did not provide a definition for "base", so the Legislature should determine if the current level of benefits provided through TRS satisfy its definition of "base". Principle II provides that funding of pensions should be a contemporary obligation. The principle is

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fleshed out by Guideline E, which explains that pension costs should not be shifted to future taxpayers and that any increase in pension benefits should be accompanied by a corresponding and equal increase in employer and employee contributions. The proposal as presented to the SAVA Committee included 2% contribution increases on both employer and employee. Depending on how the proposal changes through the legislative process, the Legislature might want to consider how proposed increases match the standards the SAVA Committee set out in Principle II and Guideline E.

▫ **Amendments Proposed by the SAVA Committee**

None.

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HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.

Proposal 6 - Revise composition of Public Employees' Retirement Board

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▫ Summary of Proposal

The Association of Montana Retired Public Employees (AMRPE) proposes to adjust the composition of the Public Employees' Retirement Board (PERB) that governs most of the state's retirement systems. Currently the board has seven members, all appointed by the governor. Three members must be active public employees, one of whom must be a member of the defined contribution plan. One member is a retired public employee. Two are members-at-large. One member must have experience in investment management, counseling, or financial planning or similar experience. The proposal would reduce the "active" members from three to two and increase the retired public employee members from one to two.

▫ Fiscal Implications of the Proposal

The proposal does not increase or decrease the size of the PERB, so there should be no additional cost or savings.

▫ Effect of Proposal on Other Retirement Systems

The proposal is unlikely to affect the other retirement systems governed by the Teachers' Retirement Board or the Board of Regents.

▫ Soundness of the Proposal as a Matter of Public Policy

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SAVA Committee has set for retirement plan policy. The SAVA Committee's principles and guidelines do not specifically address the membership of the boards governing the retirement systems. Instead, Guideline C provides only tangential guidance by stating that the Legislature should review the management of the state's public retirement systems and the investment of the systems' assets, which "management" would include the composition of the PERB.

▫ Amendments Proposed by the SAVA Committee

None.

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HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.

Proposal 7 - Risk-managed defined contribution plan

▫ Summary of Proposal

TIAA-CREF, a financial-services company that administers the Optional Retirement Program (ORP) of the Montana University System (MUS), proposes to create a risk-managed defined contribution plan. The general design is similar to that of the ORP, though the specifics of contribution rate, investment choices, distribution options, and other design features are flexible and could be changed to address the particular needs of a retirement system's members. The proposal did not specify a particular system to redesign but, instead, highlighted the flexibility of the plan design for various types of employees.

▫ Fiscal Implications of the Proposal

The cost and sources of funding would depend on plan design and eligibility.

▫ Effect of Proposal on Other Retirement Systems

The effect of the proposal on other retirement systems is impossible to gauge unless a particular system or systems were singled out to be changed.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. The proposal might involve Principles I, II, and III, although any determination of the soundness of the proposal would depend heavily on the specific structure of the plan. Principle I specifies that a pension should provide a "base" of financial security in retirement. Principle II provides

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Report issued pursuant to 5-5-228, MCA.

that pension funding should be a contemporary obligation. Principle III provides that investments should be governed by the prudent expert rule.

▫ Amendments Proposed by the SAVA Committee

None.

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Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should enact legislation based on this concept.

Proposal 8 - General revisions for Public Employees' Retirement Board systems

▫ Summary of Proposal

The Public Employees' Retirement Board (PERB) proposes a biennial cleanup/housekeeping bill. The revisions reflect PERB and court decisions interpreting state and federal law, eliminate outdated statutory provisions, address new areas of concern, replace incorrect or changed terminology, and clarify the intent of the statute for the reader. It can affect all systems governed by the PERB.

▫ Fiscal Implications of the Proposal

Housekeeping measures generally do not have provisions in them that would affect costs or savings. The 2009 housekeeping measure had a fiscal note reflecting no cost or savings from the measure.

▫ Effect of Proposal on Other Retirement Systems

A housekeeping measure is unlikely to affect other non-PERB-administered retirement systems.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Guideline P provides that the Legislature should support retirement administrators in their efforts to comply with standards for system administration set out by the Public Pension Coordinating Council.

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Updating the retirement systems' statutes should help the PERB in their efforts to comply with those standards and others.

▫ Amendments Proposed by the SAVA Committee

None.

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Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should enact legislation based on this concept.

Proposal 9 - Rewrite of Volunteer Firefighters' Compensation Act

▫ Summary of Proposal

The Public Employees' Retirement Board (PERB) proposes a rewrite of the statutes governing the Volunteer Firefighters' Compensation Act (VFCA). The changes would bring the system up to date with current processes and changes to fire company organizations. It would also streamline procedures for determining eligibility for benefits.

▫ Fiscal Implications of the Proposal

According to the proposer, the rewrite shouldn't affect the funding of the system. There was no similar legislation in recent sessions, so information from past fiscal notes is not available to use as a reference.

▫ Effect of Proposal on Other Retirement Systems

The proposal is not intended to affect other retirement systems, including the Firefighters' Unified Retirement System (FURS).

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Guideline N provides that the Legislature should ensure that plan participants are informed about plan provisions. The PERB intends that a rewrite should assist volunteer firefighters in understanding and applying for the benefits available to them.

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▫ Amendments Proposed by the SAVA Committee

None.

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Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.

Proposal 10 - Employer contributions on working retirees

▫ Summary of Proposal

The proposal by the Public Employees' Retirement Board (PERB) would require employer contributions on compensation paid to working retirees in the Public Employees' Retirement System (PERS), the Firefighters' Unified Retirement System (FURS), and the Sheriffs' Retirement System (SRS). Currently, agencies hiring retirees receiving benefits from the retirement systems do not have to pay employer contributions for those working retirees. Because agencies would otherwise be required to pay those contributions for new hires who are not retirees receiving benefits from the retirement systems, the source of the contributions would generally be the agency's regular funds budgeted for new hires. Working retirees do not pay employee contributions and would not be required to do so under the proposal.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. A similar bill, House Bill No. 12 (HB 12) was introduced in the 2009 session. The fiscal note for HB 12 estimated the changes would reduce the amortization period of the unfunded liability of the PERS by about 0.2 years. The impact on the other two systems was negligible because of the small number of retirees involved. The note estimated that the PERS trust would receive around $168,000 in additional contributions and that it would have no net impact on the general fund balance.

▫ Effect of Proposal on Other Retirement Systems

The proposal should not affect other retirement systems because these three are the only systems that currently allow working retirees.

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Report issued pursuant to 5-5-228, MCA.

▫ **Soundness of the Proposal as a Matter of Public Policy**

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Guideline W states that the Legislature should encourage retirees who return to work to return to active retirement plan membership. The bill does not require working retirees to return to active plan membership, but it does provide for employer contributions to the system to be paid on those working retirees.

▫ **Amendments Proposed by the SAVA Committee**

None.

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Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

Proposal 11 - Benefit and funding changes for Public Employees' Retirement System

▫ Summary of Proposal

The Public Employees' Retirement Board (PERB) proposes several changes to the statutes governing benefits and eligibility for the Public Employees' Retirement System (PERS). It also proposes employer and employee contribution increases.

The proposal would increase the time period used to calculate the highest average compensation for the benefit formula from 3 to 5 years. Another benefit formula change proposed would be a phased-in multiplier. The multiplier scale would be 1.5% for 5-10 years of service, 1.7857% for at least 10 but less than 30 years of service, and 2% for 30 or more years. In terms of eligibility, it would also raise the retirement eligibility age from 60 years of age with 5 years of service to 65 years of age with 5 years of service.

The proposal is to increase employer and employee contributions 1% per year, for up to 6 years, depending on the funding of the PERS. The employer contributions would be paid on all compensation paid to PERS-eligible employees. The increase in employee contributions would apply to new hires only. The proposal at the time of the SAVA Committee review did not specify who would be responsible for deciding if contributions should go up and what criteria should be used to make that determination.

Additional funding would come from PERS-covered employers and employees.

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Report issued pursuant to 5-5-228, MCA.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. The fiscal impact of the proposal would likely increase the funded level of PERS, but the timing and amount of the change would depend on many factors, including level of contribution increases, turnover in PERS-covered positions, investment returns, and results of the latest actuarial valuation, among other things.

Currently, employees in PERS contribute 6.9% of salary to the plan. Employers pay 7.17% of salary into PERS, with the state picking up 0.1% of the contribution paid by local governments and 0.37% for school districts. If all increases proposed were implemented, after 6 years, employees would pay 12.9% of salary and employers would pay 13.17%. (The proposal did not provide for increases in the state contributions for school district and local government employees.)

▫ Effect of Proposal on Other Retirement Systems

The proposal does not propose changes to other retirement systems, but, just as increasing benefits for one systems may encourage higher benefits in other systems, so might reducing benefits and increasing contributions play a role in effecting similar changes in other systems.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Principle II provides that pension funding should be a contemporary obligation undertaken by the employee and the people benefiting from the service (taxpayers) at the time the service is provided by the employee. According to the principle, pension costs should not be shifted to future taxpayers, but should be paid for during the time the employee is providing the service. In the same vein, current taxpayers (and employees) should not pay more than is needed to fund pension benefits in the future for current employees. The Legislature will need to weigh the final provisions of the proposal against this principle to determine whether or not it is being followed.

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Report issued pursuant to 5-5-228, MCA.

▫ Amendments Proposed by the SAVA Committee

The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

* This report summarizes the SAVA Committee's recommendation to the Legislature as of September 2010. The report is not a summary of a bill, but of a proposal presented to the SAVA Committee during the interim. The specifics of the proposal may have changed during the subsequent drafting and legislative processes.

Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

Proposal 12 - Benefit and funding changes for Sheriffs' Retirement System

▫ Summary of Proposal

The Public Employees' Retirement Board (PERB) proposes certain benefit and funding changes to the Sheriffs' Retirement System (SRS). The proposal would increase the time period used to calculate the highest average compensation (HAC) piece of the retirement benefit formula from 3 to 5 years. It also would increase funding from the general fund and provide for a state contribution to SRS, similar to other public safety retirement systems.

▫ Fiscal Implications of the Proposal

The fiscal implications of the proposal would depend on the size of the proposed increase in employer contributions and the results of calculations by actuaries to determine the long-term effect of modifying the HAC calculation.

▫ Effect of Proposal on Other Retirement Systems

The proposal does not include changes to other retirement systems, but, just as increasing benefits for one system may encourage higher benefits in other systems, so might enacting benefit reductions for new hires and increasing contributions encourage similar changes in other systems. Alternatively, in improved financial times, future Legislatures could still modify the HAC to conform with the formulas in other retirement systems. (The PERB has proposed a similar HAC change for the Game Wardens' and Peace Officers' Retirement System.)

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Report issued pursuant to 5-5-228, MCA.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Principle II provides that pension funding should be a contemporary obligation undertaken by the employee and the people benefiting from the service (taxpayers) at the time the service is provided by the employee. An increase in contributions and a reduction in benefits that will be paid to a system member upon retirement increases the likelihood (but certainly does not guarantee) that benefits will be paid for by the employer and employee contributions.

Principle IV discourages provisions that "unreasonably differentiate" between different groups of employees. It does allow for different retirement provisions depending on the rationale behind the provision. For example, public safety retirement systems often have earlier retirement ages and larger benefits to compensate for the demanding, often stressful nature of the job. Determining whether or not there is a rationale for differences between public safety systems in terms of defining HAC is a policy question to be faced by the Legislature. However, Guideline U states that the Legislature should strive to ensure that the benefit formulas in the public safety retirement systems are similar.

▫ Amendments Proposed by the SAVA Committee

The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

* This report summarizes the SAVA Committee's recommendation to the Legislature as of September 13, 2010. The report is not a summary of a bill, but of a proposal presented to the SAVA Committee during the interim. The specifics of the proposal may have changed during the subsequent drafting and legislative processes.

Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

Proposal 13 - Benefit and funding changes for Game Wardens and Peace Officers' Retirement System

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▫ Summary of Proposal

The Public Employees' Retirement Board (PERB) proposes certain benefit and funding changes to the Game Wardens' and Peace Officers' Retirement System (GWPORS). The proposal would increase the time period used to calculate the highest average compensation (HAC) piece of the retirement benefit formula from 3 to 5 years. It also would increase employer contributions into the system.

▫ Fiscal Implications of the Proposal

The fiscal implications of the proposal would depend on the size of the proposed increase in employer contributions and the results of calculations by actuaries to determine the long-term effect of modifying the HAC calculation.

▫ Effect of Proposal on Other Retirement Systems

The proposal does not include changes to other retirement systems, but, just as increasing benefits for one system may encourage higher benefits in other systems, so might enacting benefit reductions for new hires and increasing contributions encourage similar changes in other systems. Alternatively, in improved financial times, future Legislatures could still modify the HAC to conform with the formulas in other retirement systems. (The PERB has proposed a similar HAC change for the SRS.)

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Report issued pursuant to 5-5-228, MCA.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Principle II provides that pension funding should be a contemporary obligation undertaken by the employee and the people benefiting from the service (taxpayers) at the time the service is provided by the employee. An increase in contributions and a reduction in benefits that will be paid to a system member upon retirement increases the likelihood (but certainly does not guarantee) that benefits will be paid for by the employer and employee contributions.

Principle IV discourages provisions that "unreasonably differentiate" between different groups of employees. It does allow for different retirement provisions depending on the rationale behind the provision. For example, public safety retirement systems often have earlier retirement ages and larger benefits to compensate for the demanding, often stressful nature of the job. Determining whether or not there is a rationale for differences between public safety systems in terms of defining HAC is a policy question to be faced by the Legislature. However, Guideline U states that the Legislature should strive to ensure that the benefit formulas in the public safety retirement systems are similar.

▫ Amendments Proposed by the SAVA Committee

The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

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Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

Proposal 14 - Proposals for actuarial funding of Teachers' Retirement System

▫ Summary of Proposal

The Teachers' Retirement Board (TRB) proposes several changes to help the funding of the Teachers' Retirement System (TRS). Many of the changes were conceptual in nature when they were presented to The SAVA Committee. The concepts may have changed during the drafting and subsequent legislative processes.

The proposals include an increased employer contribution rate, changing statutes governing working retirees, changing statutes governing 10% cap exemptions for salary increases that will be counted towards a retirement benefit, applying the full actuarial reduction for early retirement, and changing the actuarial interest rate for buybacks.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. The fiscal impact of the proposal would likely increase the funded level of the TRS, but the timing and amount of the change would depend on many factors including level of employer and possibly employee contribution increases, turnover in TRS-covered positions, future investment returns, and the results of the latest actuarial valuation, among other things.

▫ Effect of Proposal on Other Retirement Systems

The proposal is not intended to change other retirement systems, but modifications in one state system can often influence or inspire changes to another.

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Report issued pursuant to 5-5-228, MCA.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Principle II provides that pension funding should be a contemporary obligation undertaken by the employee and the people benefiting from the service (taxpayers) at the time the service is provided by the employee. According to the principle, pension costs should not be shifted to future taxpayers, but should be paid for during the time the employee is providing the service. Guideline E, in part, provides that any increase in pension benefits should be accompanied by a "corresponding and equal increase in employer and employee contributions". The Legislature should weigh the final provisions of the proposal against Principle II and Guideline E to determine the soundness of the proposal as a matter of public policy.

Guideline V and W address early retirement (the Legislature should resist changes that would encourage early retirement) and working retiree provisions (working retirees should return to active plan membership). Some of the proposed changes would attempt to address certain methods used by a few employers to skirt existing laws regulating working retirees. Also, the proposed changes would assist TRS in monitoring working retirees. Another proposed change would apply a full actuarial reduction for early retirement, thus decreasing the benefits given to early retirees. The current method essentially subsidizes early retirement, which can be costly to a retirement system.

▫ Amendments Proposed by the SAVA Committee

The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.

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Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should enact legislation based on this concept.

Proposal 15 - General revisions to Teachers' Retirement System

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▫ **Summary of Proposal**

The Teachers' Retirement Board (TRB) proposes its biennial "housekeeping" measure. A housekeeping proposal will address any possible IRS rule changes or changes related to a request for a determination letter, clarifications to the amendments to the Family Law Order provisions, definitions, and other statutory clarifications.

▫ **Fiscal Implications of the Proposal**

Housekeeping measures generally do not have provisions in them that would affect costs or savings. The 2009 housekeeping measure had a fiscal note reflecting no cost or savings from the measure.

▫ **Effect of Proposal on Other Retirement Systems**

A housekeeping measure is unlikely to affect other non-TRB-administered retirement systems.

▫ **Soundness of the Proposal as a Matter of Public Policy**

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Guideline P provides that the Legislature should support retirement administrators in their efforts to comply with standards for system administration set out by the Public Pension Coordinating Council. Updating the retirement systems' statutes should help the TRB in their efforts to comply with those standards and others.

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Report issued pursuant to 5-5-228, MCA.

¤ Amendments Proposed by the SAVA Committee

None.

* This report summarizes the SAVA Committee's recommendation to the Legislature as of September 13, 2010. The report is not a summary of a bill, but of a proposal presented to the SAVA Committee during the interim. The specifics of the proposal may have changed during the subsequent drafting and legislative processes.

Report issued pursuant to 5-5-228, MCA.

HB/SB _____

Recommendation to the 2011 Legislature:
The 2011 Legislature should not enact legislation based on this concept.**

Proposal 16 - Increase University System supplemental contribution

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▫ Summary of Proposal

The proposal from the Teachers' Retirement Board (TRB) would increase the supplemental contribution rate for the Montana University Systems' Option Retirement Program (ORP). The supplemental rate is required to be paid to the Teachers' Retirement System (TRS) employers in the University System in order to amortize the past service liability for University System employees participating in TRS. The law requires the liability to be amortized by July 1, 2033. To comply with this requirement, the TRB proposes and increase from the current rate of 4.72%. The rate will depend on the results of the actuarial valuation for 2010, which will not be complete until mid-fall.

▫ Fiscal Implications of the Proposal

Current actuarial analysis of this proposal was not available during the SAVA Committee's review. The fiscal implications will depend on the size of the rate increase. The increase will be paid by employers in the University System.

▫ Effect of Proposal on Other Retirement Systems

If the increase is not made or is not sufficient to amortize the past service liability of University System employees remaining in TRS, the unfunded liability of the teachers' system might increase because less money will be coming into the system to amortize the unfunded liability.

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** A motion to recommend that the Legislature should enact legislation based on this concept failed on a 4-4 vote of the committee. Per a ruling from the chair, tied votes resulted in a recommendation that the Legislature should not enact the proposal.

Report issued pursuant to 5-5-228, MCA.

▫ Soundness of the Proposal as a Matter of Public Policy

In this section, proposals are measured against the Principles and Guidelines for Public Employee Retirement Systems (as adopted by the SAVA Committee at its December 11, 2009, meeting) to outline how the proposals meet or fall short of the standards the SAVA Committee has set for retirement plan policy. Principle II and Guideline E provide that the Legislature should require contemporaneous funding of pension plans to ensure that costs are not shifted to future taxpayers. Previous Legislatures provided for the supplemental rate and set a date by which the liability should be amortized--measures that help ensure the costs of paying for benefits earned by members are not shifted to future taxpayers who did not receive the benefits of the employees' service. If the past service liability does not amortize within a certain period, at some point costs will be shifted to future taxpayers, violating Principle II and Guideline E.

▫ Amendments Proposed by the SAVA Committee

None.

* This report summarizes the SAVA Committee's recommendation to the Legislature as of September 13, 2010. The report is not a summary of a bill, but of a proposal presented to the SAVA Committee during the interim. The specifics of the proposal may have changed during the subsequent drafting and legislative processes.

** A motion to recommend that the Legislature should enact legislation based on this concept failed on a 4-4 vote of the committee. Per a ruling from the chair, tied votes resulted in a recommendation that the Legislature should not enact the proposal.

Report issued pursuant to 5-5-228, MCA.

Appendix A

Memo to Committee Regarding Proposal Review

Review of stakeholder proposals' to amend statewide retirement systems

By Rachel Weiss
For consideration by the
State Administration and Veterans' Affairs Interim Committee (SAVA)
April 22-23, 2010

<u>Background</u>

As discussed at SAVA's June 2009 organizational meeting, state law requires SAVA to "solicit and review" proposed changes to the statutes governing any of Montana's statewide public employee retirement systems. SAVA decided to review proposals from organizations outside state government -- i.e., retirement system stakeholders -- at its April 22-23rd meeting. This paper is designed to help SAVA understand its obligations and discuss options regarding these stakeholder proposals.

(Proposals from the Teachers' Retirement System Board and the Montana Public Employees' Retirement Administration (MPERA) will be reviewed at SAVA's June 2010 meeting.)

Section 5-5-228(2), MCA, lists SAVA's responsibilities regarding proposals to change the retirement systems. The underlined text indicates the provisions that relate directly to this the required review.

5-5-228. State administration and veterans' affairs interim committee. (1) The state administration and veterans' affairs interim committee has administrative rule review, draft legislation review, program evaluation, and monitoring functions for the public employee retirement plans and for the following executive branch agencies and the entities attached to the agencies for administrative purposes:
(a) department of administration;
(b) department of military affairs; and
(c) office of the secretary of state.
<u>(2) The committee shall:</u>
(a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;
(b) establish principles of sound fiscal and public policy as guidelines;
(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles;
<u>(d) solicit and review proposed statutory changes to any of the state's public employee retirement systems;</u>
<u>(e) report to the legislature on each legislative proposal reviewed by the committee. The report must include but is not limited to:</u>
<u>(i) a summary of the fiscal implications of the proposal;</u>
<u>(ii) an analysis of the effect that the proposal may have on other public employee retirement systems;</u>
<u>(iii) an analysis of the soundness of the proposal as a matter of public policy;</u>
<u>(iv) any amendments proposed by the committee; and</u>
<u>(v) the committee's recommendation on whether the proposal should be enacted by the legislature.</u>

(f) attach the committee's report to any proposal that the committee considered and that is or has been introduced as a bill during a legislative session; and
(g) publish, for legislators' use, information on the state's public employee retirement systems.
(3) The committee may:
(a) specify the date by which proposals affecting a retirement system must be submitted to the committee for the review contemplated under subsection (2)(d); and
(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request.

Essentially, SAVA must do four things:

1) solicit and review proposed statutory changes;
2) report to the legislature on each proposal reviewed;
3) include in the report a recommendation from SAVA on whether or not the proposed legislation should be enacted by the legislature; and
4) attach the report on the specific proposal if it is introduced in the 2011 legislative session.

Most importantly, *although SAVA should make a recommendation on whether or not the proposal should be enacted, SAVA does not have to request a bill draft to jump-start the bill drafting process.* SAVA can request a bill draft for any proposal, but is not required to do so. Instead, the stakeholders may, prior to the general election, line up a holdover senator or unopposed legislative candidate to submit a bill draft request for the proposal. Or, after the general election, the stakeholder may persuade any legislator or legislative committee to request a bill draft.

Action by past SAVA committees

Past SAVA committees (or previous retirement plan review committees) have carried out the review duty in a wide range of ways. Some have included the reviews in a comprehensive written report presented to the Legislature at the end of the interim. Others have merely reviewed proposals in a meeting and, if considered advisable by the committee, requested legislation.

During the 2007-2008 interim, SAVA solicited and considered proposals from stakeholders to revise the retirement system-related statutes. Eventually, SAVA requested bill drafts for most, but not all, of the stakeholders' proposals.

For various reasons, the 2007-2008 SAVA members, sitting as a committee, did not review any drafts of the bills they requested on behalf of the stakeholders. The committee did not summarize the fiscal implications, analyze the potential effects to other retirement systems, or analyze the soundness of any of the stakeholders' proposals. Consequently, SAVA did not prepare a report on the proposals that were ultimately introduced as legislation.

Because previous SAVA committees, including the 2007-2008 SAVA, voiced concerns about and were limited by the lack of funds to pay for actuarial cost analysis, HB2 enacted in 2009 appropriated $50,000 to SAVA for this purpose.

Duties and Options

SAVA is statutorily required to complete the required review of legislative proposals that affect the retirement systems, but especially proposals for which SAVA requests draft legislation. After hearing from the stakeholders during the April 22-23 meeting SAVA *should* discuss the relative merits and detractions of each proposals. Whenever the members consider a proposal to be sufficiently advisable, the committee should formally (by motion) request a bill draft.

Regardless of the committee's view of the proposal, the statute requires SAVA to make a recommendation to the 2011 Legislature on whether or not the proposal should be enacted. This recommendation can take place at the April 2010 meeting, or at a later meeting should SAVA wish to receive actuarial analysis or see a draft of a bill.

On behalf of the committee and based on the members' discussion of the proposal, staff will draft a report that contains the required information. The report will be made available to the 2011 Legislature, other legislators and legislative committees, and the public, and will accompany each SAVA-reviewed bill through the 2011 Legislative Session.

In addition SAVA *may:*

- Request the retirement systems' actuaries to analyze the actuarial impact of any of the proposals. To do accomplish this task, SAVA should vote to have proposing stakeholder(s) work with committee staff to draft language that will be forwarded to the actuaries for review. The resulting analysis would be presented at a later SAVA meeting, at which time SAVA would decide on a recommendation to the 2011 Legislature and could request the proposal be drafted as a committee bill.

- Request draft legislation to be developed for the 2011 Legislature. If SAVA requests a bill draft, the members can assign one of their own as the bill's sponsor or notify the proposing stakeholder that the stakeholder must find a sponsor for the resulting bill.

- Take no further action beyond the required report.

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Appendix B

Principles and Guidelines for Public Employee Retirement Systems

Principles and Guidelines for Public Employee Retirement Systems

As adopted by the State Administration and Veterans' Affairs Interim Committee
December 11, 2009

Principles

I. Pensions should provide the base of financial security in retirement.
II. Pension funding should be a contemporary obligation.
III. Pension investments should be governed by the Prudent Expert Rule.
IV. Pension benefits should be equitably allocated among beneficiaries.

Guidelines

A. The legislature should approve all changes of benefits.
B. The legislature should approve the funding of the state's retirement systems.
C. The legislature should regularly review the management of the state's public retirement systems and the investment of the systems' assets.
D. The legislature should maintain permanent, pension-review bodies to analyze the problems of the state's public retirement systems on an ongoing basis and to make recommendations for state legislative actions.
E. The legislature should require contemporaneous funding of pension benefits to ensure that pension costs are not shifted to future taxpayers or future employees, including that any increase in pension benefits be accompanied by a corresponding and equal increase in employer and employee contributions.
F. The legislature should require a fiscal note when establishing or amending pension plan benefit provisions and the fiscal note should state whether the proposed revisions follow the principles and guidelines established under 5-5-228, MCA.
G. The legislature should ensure that the full, long-term costs of early retirement programs and incentives have been calculated before such a program is adopted in order to allow the legislature to provide for the costs.
H. The legislature should ensure that post-retirement benefit adjustments are independently funded and have a ceiling on the percentage of increase for a single year.

I. The legislature should provide strict guidelines for disability coverage and should provide for periodic, follow-up screenings of disabled retirees.

J. The legislature should make available but not pay for health insurance for retired employees. Health insurance is not a benefit available through the retirement systems administered by the Public Employees' Retirement Board or the Teachers' Retirement Board.

K. The legislature should establish strict fiduciary standards and conflict of interest laws to govern the conduct of trustees as they manage the assets of the retirement system.

L. The legislature should continue to require annual actuarial reports that use uniform actuarial assumptions to evaluate the financial soundness of the state's public retirement systems.

M. The legislature should provide for reciprocity of benefits for workers who shift jobs within the state and its political subdivisions and portability for those who shift jobs across state lines.

N. The legislature should ensure that pension plan participants are fully informed of plan provisions, including benefits, service and vesting requirements, assets and liabilities, investment performance and risk, actuarial assumptions and data, fiduciary requirements, and selection of plan trustees.

O. The legislature should support coordination of state and local government retirement systems.

P. The legislature should encourage and support the efforts of state retirement system administrators to comply with the principles of pension system administration established by the Public Pension Coordinating Council.

Q. The legislature should not index postretirement benefit increases.

R. The legislature should not enact one-time, *ad hoc* benefit increases.

S. The legislature should require that public employees belong to a retirement plan.

T. The legislature should authorize local governments to enroll rural firefighters under the Firefighters' Unified Retirement System, provided the local government pays the cost.

U. The legislature should strive to ensure that retirement benefit formulas in the public safety retirement plans are similar.

V. The legislature should resist changes to retirement benefit formulas or retirement eligibility criteria that would encourage early retirement.

W. The legislature should encourage retirees who return to work to also return to active retirement plan membership.

Cl0425 9349rwfa.

Appendix C
Memos to Stakeholders and Retirement Boards

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

State Administration and Veterans' Affairs Interim Committee

61st Montana Legislature

November 13, 2009

TO: Interested persons and stakeholders in public employee retirement systems
FROM: Rachel Weiss, Staff Researcher
RE: Proposals to revise public employee retirement systems

The State Administration and Veterans' Affairs Interim Committee (SAVA) directed me to notify all non-state-agency stakeholders in the state's public employee retirement systems that SAVA will review proposed revisions to the retirement systems at SAVA's April 22-23, 2010, meeting. In order to allow committee members and others to review the proposals, SAVA established March 31, 2010, as the date by which proposals must be submitted for SAVA review this interim.

SAVA is required by section 5-5-228(2) to conduct this review of proposed changes to the retirement systems. Section 5-5-228(3) gives SAVA the authority to set a deadline by which those proposals must be submitted to the committee for review. According to this section, SAVA shall:

> (d) solicit and review proposed statutory changes to any of the state's public employee retirement systems;
> (e) report to the legislature on each legislative proposal reviewed by the committee. The report must include but is not limited to:
> (i) a summary of the fiscal implications of the proposal;
> (ii) an analysis of the effect that the proposal may have on other public employee retirement systems;
> (iii) an analysis of the soundness of the proposal as a matter of public policy;
> (iv) any amendments proposed by the committee; and
> (v) the committee's recommendation on whether the proposal should be enacted by the legislature.
> (f) attach the committee's report to any proposal that the committee considered and that is or has been introduced as a bill during a legislative session; and
> (g) publish, for legislators' use, information on the state's public employee retirement systems.
> (3) The committee may:
> (a) specify the date by which proposals affecting a retirement system must be submitted to the committee for the review contemplated under subsection (2)(d); and
> (b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the committee may request.

If the proposer has identified a holdover or unopposed state senator or an unopposed state representative who will formally request legislation to implement the proposal, legislative staff can assist that legislator to initiate the formal bill-request and bill-drafting process.

Any non-state-agency stakeholder or interested person that wishes to submit a proposal for SAVA's consideration can do so by completing a copy of the form "Proposal for Retirement System Legislation" that accompanies this memo. Please submit one form for each proposal you submit and provide as much detail and any analysis you have on the proposal, as SAVA's review duties extend beyond merely providing a forum at which to discuss general proposals. The form must be returned to legislative staff by March 31, 2010. It includes contact information for returning the form to SAVA.

Make as many copies of the form as you need and feel free to distribute it to other stakeholders. A copy of the form is posted at SAVA's web page: http://www.leg.mt.gov/sava.

If you have questions please contact me at 406-444-5367 or at rweiss@mt.gov.

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PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

State Administration and Veterans' Affairs Interim Committee

61st Montana Legislature

January 15, 2010

To: Department of Administration
Office of the Secretary of State
Department of Military Affairs
Office of the Commissioner of Political Practices
Public Employees' Retirement Board
Teachers' Retirement System
Board of Veterans' Affairs
Governor's Office of Budget and Program Planning

From: Rachel Weiss, Research Analyst
Legislative Services Division

Re: Request for agency legislative proposals for 2011 session

The State Administration and Veterans' Affairs Interim Committee (SAVA) is required by Section 5-5-228, MCA, to review draft legislation proposed by the executive branch agencies for which it has oversight duties. This review also includes legislation proposed by entities that are administratively attached to those agencies.

SAVA is currently scheduled to meet on June 24-25, 2010, and would like to conduct its review of agency legislative drafts at that time. To ensure that committee members have time to receive and read the proposals before the meeting, SAVA requests that those proposals be forwarded to it by **May 28, 2010.**

Although the proposals do not need to be presented in bill draft format, they should include a specific description of the statutory changes sought, why the change is necessary, and any other general information the agency feels is relevant. Attached to this memo is a form to guide submissions. An agency executive budget worksheet may be submitted in lieu of the form.

Proposals can be emailed to rweiss@mt.gov or mailed to:

Rachel Weiss, Legislative Services Division
Capitol Building, Room 110
PO Box 201706
Helena, MT 59620

If you have any questions or need additional information, please do not hesitate to contact me at 444-5367 or rweiss@mt.gov.

Thank you for your time.

Cl0425 0014rwxa.

Appendix D
Table of Proposals and Recommendations

List of Retirement Plan Legislative Concepts Received from Stakeholders, MPERA, and TRS
as of September 13, 2010

SAVA No.	Proposer/Stakeholder	Summary of Proposal	SAVA Recommendation
1	Assoc. of Public-Safety Communication Officials, Intl.	Include public safety dispatchers in SRS	The 2011 Legislature should not enact legislation based on this concept.
2	Montana Judges Assoc.	Increase retirement multiplier for JRS from 1.785% to 3 1/3% for years 15 through 30	The 2011 Legislature should not enact legislation based on this concept.
3	Montana State Firemens' Assoc.	Change definition of "compensation" in FURS	The 2011 Legislature should not enact legislation based on this concept.*
4	MEA-MFT	Competitive compensation and adequate funding of the Montana University System (MUS) Optional Retirement Program (ORP)	The 2011 Legislature should not enact legislation based on this concept.
5	MEA-MFT	Modified professional retirement option (PRO) for TRS, as defined in the proposal	The Committee did not make a recommendation on this concept.**
6	Assoc. of Montana Retired Public Employees (AMRPE)	Reduce "active employee" members of PERB from 3 to 2; increase "retired public employee" members from 1 to 2	The 2011 Legislature should not enact legislation based on this concept.
7	TIAA-CREF	Risk-managed defined contribution plan	The 2011 Legislature should not enact legislation based on this concept.
8	Public Employees' Retirement Board	General revisions (housekeeping)	The 2011 Legislature should enact legislation based on this concept.
9	Public Employees' Retirement Board	Rewrite of VFCA	The 2011 Legislature should enact legislation based on this concept.

SAVA No.	Proposer/Stakeholder	Summary of Proposal	SAVA Action/Recommendation
10	Public Employees' Retirement Board	Require employer contributions on compensation paid to working retirees in PERS, GWPORS, and SRS	The 2011 Legislature should not enact legislation based on this concept.
11	Public Employees' Retirement Board	Benefit and funding changes to PERS	The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.
12	Public Employees' Retirement Board	Benefit and funding changes to SRS	The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.
13	Public Employees' Retirement Board	Benefit and funding changes to GWPORS	The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.
14	Teachers' Retirement Board	Proposals for actuarial funding of TRS: increase employer contribution rate; amend statutes relating to working retirees; repeal all or most exceptions to the 10% cap in increase in earned compensation rate; full actuarial reduction for early retirement; and actuarial interest rate on buy backs.	The 2011 Legislature should amend the bill to remove the funding provisions. The funding provisions should be considered in a stand-alone bill.
15	Teachers' Retirement Board	General revisions (housekeeping)	The 2011 Legislature should enact legislation based on this concept.
16	Teachers' Retirement Board	Increase University supplemental contribution rate	The 2011 Legislature should not enact legislation based on this concept.*

List of possible recommendations

- The 2011 Legislature should enact legislation based on this concept.
- The 2011 Legislature should not enact legislation based on this concept.
- The 2011 Legislature should enact legislation based on this concept *if* the following changes are included: [SAVA's suggested changes].

* A motion to recommend that the Legislature should enact legislation based on this concept failed on a 4-4 vote of the committee. Per a ruling from the chair, tied votes resulted in a recommendation that the Legislature should not enact the proposal.

** A motion to recommend that the Legislature should enact legislation based on this concept *with* the amendments contained in LC252 failed on a 2-6 vote of the committee. The committee did not vote on another recommendation to the Legislature.

Cl0425 0271rwxb.