

**DRAFT**

**WORK PLAN AND MEETING SCHEDULE FOR THE  
STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE  
2011-2012**

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## **INTRODUCTION TO THE COMMITTEE AND ITS DUTIES**

The State Administration and Veterans' Affairs Interim Committee (SAVA) is one of several committees designated by statute to oversee state agencies, conduct interim studies as assigned by the Legislative Council, research emerging topics of interest to the Committee members, and prepare draft legislation for the 2013 legislative session.

This work plan details the agency oversight and study duties assigned to the Committee and proposes a meeting schedule to keep the Committee on track to ensure that work is completed by September, 2012. This is a preliminary document, designed to allow for committee discussion, revision, and adoption.

The work plan and meeting schedule, once adopted, will serve as a list of the Committee's goals and objectives for the interim and as a guide for the Committee members, staff, agency personnel, stakeholders, and the public. If a need arises that significantly changes the Committee's goals or objectives, members should take formal action to revise this plan and the meeting schedule.

### **Part I: Statutory Duties of SAVA**

Section 5-5-215, MCA, outlines the statutory duties of each interim committee, including SAVA:

- 5-5-215. Duties of interim committees.** (1) Each interim committee shall:
- (a) review administrative rules within its jurisdiction;
  - (b) subject to 5-5-217(3), conduct interim studies as assigned;
  - (c) monitor the operation of assigned executive branch agencies with specific attention to the following:
    - (i) identification of issues likely to require future legislative attention;
    - (ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
    - (iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
  - (d) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
  - (e) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work.
- (2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.
- (3) The legislative services division shall keep accurate records of the activities and proceedings of each interim committee.

Section 5-5-228, MCA, assigns to SAVA rule and draft legislation review, program evaluation, and monitoring functions for:

- the public employee retirement plans;
- the Department of Administration;
- the Department of Military Affairs;
- the Office of the Secretary of State; and
- entities attached to the above agencies for administrative purposes.

#### **A. Agency monitoring**

Agency monitoring is required by 5-5-215, MCA, and includes the following general duties discussed below.

##### Rule Review

Legal staff for SAVA regularly reviews and summarizes rulemaking notices for the agencies monitored by the Committee and will provide the Committee with information pertaining to this process. The Montana Administrative Procedure Act (MAPA) allows interim committees to:

- obtain an agency's rulemaking records to review for compliance;
- submit written recommendations to the agency for the adoption, amendment, or rejection of a rule;
- require that a rulemaking hearing be held;
- participate in proceedings; and
- review the conduct of administrative proceedings.

##### Program Monitoring

SAVA is required to monitor the operations of agencies within its jurisdiction, giving specific attention to:

- identification of issues likely to require future legislative attention;
- opportunities to improve existing laws governing an agency's operations;
- determining whether the experiences that Montanans have with an agency can be improved upon through legislative action; and
- reviewing legislation proposed by an agency.

##### Review of Draft Legislation

The duty to review legislative proposals from agencies gives the Legislature another opportunity to monitor agencies and allows staff to start drafting early so there is more time after the election to focus on legislators' requests for legislation. If SAVA authorizes legislative staff to draft legislation implementing an agency proposal, the bill that results must be preintroduced so it will be available for hearings at the beginning of the 63rd legislative session.

The Committee generally receives agency bill proposals for review in late spring or early summer. SAVA is not required to authorize legislative staff to draft an agency proposal, and the Committee's authorization is not an endorsement of the bill. A request simply gets the proposal into the drafting system so it can be drafted and ready for preintroduction. The agency must then find a legislator to carry the bill during the legislative session.

In 2010, SAVA authorized the drafting of 30 proposals for legislation, including four requests generated by its own work during the interim. Of the 30 bill drafts requested, 25 were introduced and 18 were passed and became law.

#### *Proposals for Retirement Plan Legislation*

SAVA is required by 5-5-228(2)(d) through (2)(f) to review any proposed changes to the state's public employee retirement plans, report to the Legislature on each legislative proposal reviewed, and attach the Committee's report to any legislation that has been introduced for the session. In the 2009-2010 interim, SAVA reviewed 16 retirement-related proposals.

Past SAVA interim committees have taken different approaches to reviewing proposed retirement plan legislation. The 2009-2010 SAVA Committee received a House Bill No. 2 (2009) appropriation of \$50,000 to fund actuarial services to analyze retirement-related proposals. That Committee did not use the appropriation but did review the proposals and make recommendations. Other recent SAVA Committees did not review the proposals for reasons including lack of time between the availability of actuarial data and the end of interim work and the level of resources necessary to review and report effectively on each piece of legislation. Members of this Committee should consider how they intend to comply with the statute. The Committee may wish to review the statutory requirements and past difficulties with the process and consider options for revision.

#### Required Reports

By September 1 of each year preceding a regular legislative session, an entity required to report to the Legislature must provide a written report to the appropriate interim committee.<sup>1</sup> The following reports are required by agencies for which SAVA has oversight:

#### *Department of Administration*

- Employee Incentive Program Report, section 2-18-1103, MCA
- Information technology activities of Department, section 2-17-512, MCA
- State of Montana Strategic Information Technology Plan, sections 2-17-521 and 2-17-522, MCA
- Capitol Complex Advisory Council report, section 2-17-804, MCA
- Information on Economic Development Effect, section 32-11-306, MCA
- Montana Land Information Act report, section 90-1-404, MCA

#### *Department of Military Affairs*

- Montana Board of Veterans Affairs biennial report, section 10-2-102, MCA
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#### *Office of the Secretary of State*

- Operation of the filing office, section 30-9A-527, MCA

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<sup>1</sup>Section 5-11-210, MCA.

*Board of Investments*

- Retirement System Trust Fund investments, sections 5-11-210 and 17-6-230, MCA

*Public Employees' Retirement Board*

- Periodic actuarial investigation into the actuarial experiences of the retirement systems and plans, sections 5-11-210 and 19-2-405, MCA
- Report of Board's work during fiscal year, sections 5-11-210 and 19-2-407, MCA

*Teachers' Retirement Board*

- Required to provide copies of required report to Office of Budget and Program Planning detailing fiscal transactions for two fiscal years preceding report due date and annual valuation of assets and liabilities of retirement system, Sections 5-11-210 and 19-20-201, MCA

In addition, the Department of Administration is to report on the progress of the 9-1-1 system as it deems necessary,<sup>2</sup> and the Office of the Secretary of State will provide a report on the Youth Voting Act at the request of the Legislature.<sup>3</sup>

The 62nd Legislature passed House Bill No. 142, which adds a statutory duty for interim committees to review statutorily established advisory councils and required reports of assigned agencies to make recommendations to the next Legislature on retention or elimination of any advisory council or report required under 5-11-210. The following are the advisory councils for which SAVA has oversight duties:

- State Employee Group Benefits Advisory Council;
- Capitol Complex Advisory Council;
- Electronic Government Advisory Council;
- 9-1-1 Advisory Council;
- Employee Investment Advisory Council; and
- Land Information Advisory Council.

**B. Interim Study Activities**

The Legislative Council did not assign any studies requested by resolution to SAVA. This will give the Committee some flexibility to study topics of interest to Committee members. Possible topics of study as submitted by Committee members include:

1. Examination of agency use of policy rather than rule for internal management that does not affect private rights or procedures available to the public (rules implementing the state personnel classification plan, the state wage and salary plan, or the statewide

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<sup>2</sup>Section 10-4-102, MCA.

<sup>3</sup>Section 13-22-108, MCA.

accounting, budgeting, and human resource system). Potential areas of concern surrounding the use of policy rather than rule include lack of legislative oversight of policies, limited notice and comment opportunities for interested parties in the development of policies, and potential for diminished enforcement under policies as compared with rules.

2. Exploration of funding ideas for the retirement systems other than increased employee/employer contributions. An example is House Bill No. 632, sponsored by Rep. Janna Taylor, to use the expendable portion of the coal severance tax, which currently goes to the General Fund, to fund the unfunded actuarial liability of the Public Employees' Retirement System, the Sheriffs' Retirement System, the Game Wardens' and Peace Officers' Retirement System, and the Teachers' Retirement System. HB 632 failed to pass second reading in the Senate.
3. Study of issues surrounding the state broadband pay plan. Areas of interest include whether pay plans are being followed (this may be best achieved with a request for a legislative audit) and how the plans address bonus and incentive pay.
4. Review of how other states are addressing pension problems. Staff could provide the Committee with outside reports, and the Committee can identify specific topics for additional study.

This section will be updated as the Committee decides on how to focus interim study activities.

### **C. Other Interim Activities**

The Committee may want to receive periodic written or oral updates on topics that were the subject of recent legislation or on issues that may emerge during the interim. As issues emerge that the Committee wants to follow, the members will need to replace other issues or activities in the work plan. The amount of staff and Committee time is limited, as are the other available Committee resources.

Individual members of the Committee may seek additional information from staff or other parties on issues that fall under the Committee's jurisdiction. These may be issues brought up by constituents, emerging issues in Montana or other states, or other items the member would like to review. If the full Committee is not interested in pursuing further information on a topic, an individual member may submit a research request. Rules adopted by the Legislative Council state that a staff member may provide a maximum of 16 hours of research for an individual's request that is not included in the Committee's work plan unless the presiding officer of the interim committee approves additional research time.

## **Part II: Proposed Meeting Schedule and Work Plan**

The Committee should consider adopting the following meeting schedule for the remainder of

the 2011-2012 interim:

1. Friday, June 24, 2011
2. Thursday, October 20, 2011
3. Friday, January 27, 2012
4. Thursday, April 19, 2012
5. Wednesday & Thursday, June 7-8, 2012
6. Wednesday & Thursday, August 8-9, 2012
7. Thursday, September 6, 2012 (if necessary)

The proposed meeting schedule covers eight meeting days and wraps up in August 2012, with an optional meeting in September 2012, if the Committee needs to address any final business.

**Part III: SAVA Work Plan Decision Matrix**

The Committee needs to decide how to allocate its time among the various functions it must perform during the interim. The following chart is designed to help focus the discussion to determine the Committee's priorities.

<b>Agency Monitoring:</b> Decide the level of oversight of agencies.		
<p><b><u>Significant Involvement</u></b></p> <ul style="list-style-type: none"> <li>• Each agency division gives a 30- to 45-minute presentation at one or more meetings.</li> <li>• SAVA members specify followup reports on specific programs.</li> <li>• Agency presentations on any statutorily required report.</li> </ul>	<p><b><u>Moderate Involvement</u></b></p> <ul style="list-style-type: none"> <li>• Agencies provide a 20- to 30-minute presentation including all divisions.</li> <li>• SAVA members designate subjects on which they would like the agencies to report.</li> <li>• Agency presentations on any statutorily required report.</li> </ul>	<p><b><u>Minimal Involvement</u></b></p> <ul style="list-style-type: none"> <li>• Agencies introduce staff and present an overview of agency functions in one 30-minute presentation.</li> <li>• Agency presentations on any statutorily required report.</li> </ul>

<b>Rule Review:</b> Decide the level of involvement in the rule review process.		
<p><b><u>Significant Involvement</u></b></p> <ul style="list-style-type: none"> <li>Request a written or oral report by legal staff at each meeting on all proposed or adopted rules/notices for each agency monitored.</li> <li>Request copies of rules from agencies for legislators' personal review.</li> <li>Seek public comment on rules of concern.</li> </ul>	<p><b><u>Moderate Involvement</u></b></p> <ul style="list-style-type: none"> <li>Receive brief written descriptions of each rule prior to meetings.</li> <li>Legal staff will note issues of concern.</li> <li>Review in committee topics that: <ul style="list-style-type: none"> <li>1) legislators flag as important or of concern; or</li> <li>2) a committee member has asked to be placed on the agenda.</li> </ul> </li> </ul>	<p><b><u>Minimal Involvement</u></b></p> <ul style="list-style-type: none"> <li>Receive brief written descriptions of each rule prior to meetings.</li> <li>Legal staff will note issues of concern.</li> </ul>
<b>Retirement Plan Legislation:</b> Decide the level of review and recommendation for retirement proposals.		
	<p><b><u>Moderate Involvement</u></b></p> <ul style="list-style-type: none"> <li>Examine process and timeline for reviewing and making recommendations about retirement proposals.</li> <li>Hear presentation and make recommendations to Legislature on each proposal.</li> </ul>	<p><b><u>Minimal Involvement</u></b></p> <ul style="list-style-type: none"> <li>Hear presentation and make recommendations to Legislature on each proposal.</li> </ul>
<b>Legislation Review:</b> Decide the level of oversight and review for agency legislation.		
<p><b><u>Significant Involvement</u></b></p> <p>Work throughout the interim with agencies on potential legislative proposals, using presentations to help members become familiar with issues.</p>	<p><b><u>Moderate Involvement</u></b></p> <p>Provide time at two meetings for initial concept review. The second meeting would allow for followup briefings and comments for complex legislation.</p>	<p><b><u>Minimal Involvement</u></b></p> <p>Hear an agency presentation on each request submitted to the Governor's Office before deciding which proposals to authorize for early drafting.</p>



<b>HB 142: Decide extent of advisory council and report review and recommendation</b>		
<p><b><u>Significant Involvement</u></b></p> <ul style="list-style-type: none"> <li>Hear presentations from all advisory councils for which SAVA has oversight.</li> <li>Request presentations summarizing report from all entities required to report to SAVA.<sup>4</sup></li> <li>Make recommendations for all advisory councils and all required reports.</li> </ul>	<p><b><u>Moderate Involvement</u></b></p> <ul style="list-style-type: none"> <li>Hear presentations from all advisory councils for which SAVA has oversight and from all entities required to report to SAVA.</li> <li>Make recommendations for all advisory councils and all required reports.</li> </ul>	<p><b><u>Minimal Involvement</u></b></p> <ul style="list-style-type: none"> <li>Hear presentations from selected advisory councils and entities required to report to SAVA.</li> <li>Make recommendations only about selected advisory councils and reports.</li> </ul>
<b>Member Issues: Topics of interest to Committee members</b>		
<p><b><u>Significant Involvement</u></b></p> <ul style="list-style-type: none"> <li>Identify and prioritize member issues at first meeting. Have staff create study plan for issues that will take multiple meetings.</li> <li>Receive staff briefings, presentations by experts, panel discussions, public comments, etc., as necessary.</li> <li>Report outcome of study to Legislature and draft related legislation.</li> </ul>	<p><b><u>Moderate Involvement</u></b></p> <ul style="list-style-type: none"> <li>Identify and prioritize member issues at first meeting.</li> <li>Address member issues with presentations by an identified expert.</li> <li>Instruct staff to prepare briefing papers or draft legislation as issues arise.</li> </ul>	<p><b><u>Minimal Involvement</u></b></p> <ul style="list-style-type: none"> <li>Address member issues with staff providing copies of relevant outside reports.</li> <li>No staff briefing papers or white papers.</li> </ul>

#### **Part IV: Subcommittees and Meetings Outside of Helena**

When making plans for the interim, it is not uncommon for Committee members to want to form subcommittees or hold meetings outside of Helena. This section should help Committee members understand the differing priorities they will have to weight when making decisions on travel and subcommittees.

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<sup>4</sup>Generally these reports are not due until September 2012. If the Committee does not meet in September 2012, the Committee may wish to make recommendations based on an overview of the last available report or make recommendations only if reports are available.

### **A. Subcommittees: To Delegate or Not to Delegate**

According to section 5-5-211(7), MCA, an interim study may create a subcommittee. Nonlegislative members may serve on a subcommittee and, if appointed, they must be paid a salary and reimbursed as if they were members of the Legislature. If the nonlegislative member is a "full-time salaried officer or employee of the state or a political subdivision of the state," the person is entitled to reimbursement for travel expenses only.

Although the current draft work plan does not include the use of a subcommittee, the members may decide that their goals for the interim would best be served by creating a subcommittee to study a particular issue. If so, the Committee should consider several points when making this decision.

#### Appointment of a subcommittee may be advisable if:

- An assigned study would be so detailed that it would limit the other work SAVA wants to accomplish in an interim if the subcommittee was not assigned.
- Policy issues and options exist that require extensive discussion, debate, and public input that is not feasible for the full SAVA Committee to accomplish based on workload and time and resource limits.
- SAVA members are willing to delegate policy formation or option review and recommendation to a subcommittee.

#### A subcommittee should NOT be appointed if:

- The full Committee wants to be included in discussions and debate on the issue.
- The full Committee wishes to be included or take an active role in the activities of or presentations to a subcommittee.
- Interest in the issue or workload would require that the subcommittee be composed of three members or less or five members or more of the Committee.
- Committee review of the subcommittee's decisions would result in extensive duplication of presentations, information-gathering, or witness participation or would delay action, such as the drafting of legislation.

If the Committee decides to delegate a study or part of its work to a subcommittee, members should remember that:

- From a staffing perspective, a subcommittee meeting represents the same amount of work as a regular committee meeting.
- A subcommittee works best when it has *specific* instructions from the full committee and is really only necessary if the task cannot be performed by the full committee.
- Subcommittees can only make recommendations to the full committee, not act as if it were the full committee.
- Because public comment and testimony is welcome at all meetings and because the full committee must deliberate on the work of the subcommittee, expect that even though a matter may have had a full hearing at a subcommittee meeting, the same testimony and information will likely be presented to the full committee. In other words, *subcommittees often create duplication for committee members, staff, agency personnel, and the public.*

**B. Travel Outside Helena**

Holding a meeting outside of Helena does not usually present substantial additional costs in lodging, travel, and per diem expenses for Committee members. However, it does present an additional cost for staff lodging, travel, and per diem, and at times for adequate meeting space. Additionally, although not a cost to the Committee, when the Committee travels out of Helena, so must interested persons and state agency staff based in Helena. This should be kept in mind when planning to conduct a committee meeting outside of Helena.

Most importantly, meetings outside of Helena cannot be streamed live via the web as they can in Helena, nor will the meetings be available as part of Televisions Montana's (TVMT) programming. So even though a meeting might attract people who may not be willing or able to travel to Helena, it will also exclude the people who would normally watch or listen live or use the audio and visual resources to review a meeting at a later date.

If the Committee decides to travel, it should be sure that the information and testimony it is gathering cannot be presented in any other manner and that the whole agenda that would normally be conducted in Helena can be conducted on the road.

If the purpose of traveling is to receive additional public comment on an issue, the Committee might consider having a stakeholder organization arrange a meeting or series of meetings to which the full Committee and other local legislators will be invited to attend. The Committee will not be responsible for the agenda, logistics, or coordination of the event, nor will the stakeholder meeting replace a normal meeting, but the Committee will still have the opportunity to hear public testimony on a certain issue.

Finally, when conducting meetings outside of Helena, members are responsible for their own meals, lodging, and transportation, just as if the meeting were in Helena. The Committee staff cannot make travel arrangements for the members.

**Part V: SAVA Meeting Plan Summary**

The following is a tentative schedule of Committee activities for each of the meetings planned for the 2011-2012 interim. This schedule will likely change as the Committee makes decisions at the June 24th meeting and as new issues emerge during the interim.

Proposed Date	Activity	Tasks/Policy Decisions
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June 24, 2011	<ul style="list-style-type: none"> <li>• Organizational</li> <li>• Agency monitoring</li> <li>• Topics of interest to committee</li> </ul>	<ul style="list-style-type: none"> <li>• Review, adopt work plan</li> <li>• Review, adopt meeting dates</li> <li>• Elect officers</li> <li>• Agency introductions</li> <li>• Review of options</li> <li>• Selection of topics</li> <li>• Directions to staff</li> </ul>
October 20, 2011	<ul style="list-style-type: none"> <li>• Agency monitoring</li> <li>• Topics of interest</li> <li>• Other issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review overview</li> <li>• Agency presentations as necessary/requested</li> <li>• Discuss time line for review of agency and stakeholder legislative proposals and drafts</li> <li>• Review/make recommendations for half of advisory councils (HB142)</li> <li>• As outlined in study plan</li> </ul>
January 27, 2012	<ul style="list-style-type: none"> <li>• Agency monitoring</li> <li>• Topics of interest</li> <li>• Other issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• Review/make recommendations for other half of advisory councils (HB142)</li> <li>• Adopt principles/guidelines for PERS</li> <li>• As outlined in study plan</li> </ul>

<p>April 19, 2012</p>	<ul style="list-style-type: none"> <li>• Agency monitoring</li>   <li>• Topics of interest</li> <li>• Other issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• PERS/TRS presentations on proposals to alter retirement systems</li>   <li>• As outlined in study plan</li> </ul>
<p>June 7-8, 2012</p>	<ul style="list-style-type: none"> <li>• Agency monitoring</li>                       <li>• Topics of interest</li> <li>• Other issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• Agency presentations on proposed, nonretirement-related legislation</li> <li>• Committee authorization for drafting agency legislation</li> <li>• Final committee action on Committee-commissioned proposals</li> <li>• Final review and action on agency and Committee retirement-related legislation</li> <li>• Stakeholder presentations on retirement-related legislation</li> <li>• Begin HB 142 review/recommendation for reports required in 5-11-210, MCA</li>   <li>• As outlined in study plan</li> </ul>

August 8-9, 2012	<ul style="list-style-type: none"> <li>• Agency monitoring</li>   <li>• Topics of interest</li> <li>• Other issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• Continue HB 142 review/recommendation for reports required in 5-11-210, MCA</li> <li>• Review nonagency retirement plan proposals</li> <li>• Review of final report</li>   <li>• As outlined in study plan</li> </ul>
September 6, 2012 (optional)	<ul style="list-style-type: none"> <li>• Agency monitoring</li>   <li>• Topics of interest</li> <li>• Other issues</li> </ul>	<ul style="list-style-type: none"> <li>• Rule review as necessary</li> <li>• Agency presentations as necessary/requested</li> <li>• Final recommendations on all retirement-related legislation</li> <li>• Final HB 142 review/recommendation for reports required in 5-11-210, MCA</li>   <li>• As outlined in study plan</li> </ul>

**Part VI: Conclusion**

The Committee will need to be judicious about how it manages its time, energy, and finances in order to ensure completion of required duties. The members must decide where to focus their work and set priorities and deadlines to accomplish goals or objectives. While the overall Committee work plan must remain flexible to allow for unforeseen events or issues that arise, keeping deadlines and agendas as specific as possible and overcoming reluctance to make decisions early in the interim are key if the Committee wants to finish its work by the end of the 2011-2012 interim.

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