



STATE OF MINNESOTA

POSTRETIREMENT HEALTH CARE SAVINGS PLAN

TRUST DOCUMENT

EFFECTIVE: SEPTEMBER 27, 2001
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**STATE OF MINNESOTA
POSTRETIREMENT HEALTH CARE SAVINGS PLAN TRUST**

THIS TRUST is established as of July 1, 2001, by the Board of Directors on behalf of the Minnesota State Retirement System (hereinafter referred to as "MSRS").

WITNESSETH:

WHEREAS, the State of Minnesota (the "State"), pursuant to Minnesota Statutes, section 352.98 (2001 Supp.), has directed the MSRS to establish and administer, on the State's behalf, a plan known as the Minnesota Postretirement Health Care Savings Plan (the "Plan"), the primary purpose of which is to allow savings for employees of Public Employers in the State to cover their health care costs (and the costs of spouses and dependents) following the employees' severance from employment; and

WHEREAS, the MSRS is required to establish a governmental trust to fund the Plan, which trust shall be named the Minnesota Postretirement Health Care Savings Plan Trust (the "Trust"); and

WHEREAS, the Board of Directors serves as the trustees of the MSRS and is authorized to be named the Fund Trustee to receive, hold and administer the funds in the Trust, and such funds, when received by the Fund Trustee (or its delegate), will constitute the trust fund (the "Trust Fund" or "Fund"); and

WHEREAS, the Board of Directors (or its delegate) is willing to hold and administer the Trust Fund for the benefit of eligible Plan participants and beneficiaries under and in accordance with the terms of the Plan and this Trust; and

WHEREAS, the MSRS is required to make available to each eligible Plan participant and beneficiary a limited range of options for investing the Funds allocated to the participant's or beneficiary's account;

WHEREAS, the MSRS is authorized to contract with public and private entities to provide investment services necessary for the administration of the Trust and is therefore authorized to name investment manager(s) (the "Investment Manager(s)"), or to select the State Board of Investment to invest and manage the Funds in each investment option pursuant to the terms and conditions of this Trust; and

WHEREAS, the State, acting through the MSRS, intends that the Trust hereby established shall be exempt from income tax as an integral part of the State as provided for under the Internal Revenue Code of 1986, as amended (the "IRS Code"), IRS Revenue Ruling 87-2, and other relevant guidance.

WHEREAS, the Board of Directors are fiduciaries as provided for in Minnesota Statutes, sections 352.03 and 356A.

NOW, THEREFORE, the MSRS and the Board of Directors do hereby declare as follows:

ARTICLE I
INTENT; CONSTRUCTION

- 1.1 Trust Name and Accounting Year. The Trust shall be known as the Minnesota Postretirement Health Care Savings Plan Trust. The plan year and accounting year of the trust shall be July 1 to June 30 of each year.
- 1.2 Intent to Qualify. The Trust is intended to be exempt from federal income tax as an integral part of the State.
- 1.3 Terms of The Trust. The terms used in the Trust shall have the meaning ascribed to them herein, or, where not defined herein, shall have the meanings ascribed to them in the Plan, unless in any such case the context clearly indicates an intended different meaning.
- 1.4 Construction of The Trust. The construction, validity, administration and enforcement of the Trust shall be governed by the laws of the State of Minnesota. If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions of the Trust.
- 1.5 Gender and Number. Wherever any words are used herein in the masculine, feminine or neuter, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.
- 1.6 Headings. The headings and sub-headings of this Trust have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

ARTICLE II
GENERAL

- 2.1 Source of Funds. Contributions to this Trust will be made by Public Employers in the State as provided under Minnesota Statutes section 352.98 (2001 Supp.). These contributions are the sole source of funds for the Trust. Employee contributions to this Trust shall not be permitted; provided, however, that Public Employers are permitted to fund their contributions through employer-mandated reductions in employee compensation.
- 2.2 Limited Effect of Plan and Trust. Neither the establishment of the Plan nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Board of Directors, the MSRS, the State, any Public Employer, or any officer or employee thereof, except as may otherwise be provided in the

Plan or in the Trust. Under no circumstances shall the terms of employment of any employee be modified or in any way affected by the Plan or this Trust.

- 2.3 Protective Clause. Neither the State, the MSRS, nor the Board of Directors shall be responsible for the validity of any contract of insurance issued in connection with the Plan or Trust or for the failure on the part of the insurer to make payments provided by such contract, or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part.

ARTICLE III **THE TRUST FUND**

- 3.1 Establishment of The Trust Fund. The MSRS and its Board of Directors serving as Fund Trustee shall establish the Trust Fund consisting of such sums of money and such property acceptable to the MSRS as have been and shall from time to time be paid or delivered to the MSRS or its Board of Directors (or its delegate) pursuant to section 2.1, together with all investments and reinvestments made therewith and proceeds thereof and all investment gains and losses thereon, less the payments and administrative costs which at the time of reference shall have been made by the Board of Directors as authorized herein.
- 3.2 Receipt of Contributions. All contributions received by the Board of Directors (or its delegate), together with the income herefrom and any other increment thereon, shall be held, invested, and reinvested pursuant to the terms of this Trust and without distinction between principal and income. The Board of Directors shall hold the Fund and carry out its functions in accordance with the provisions of this Trust.
- 3.3 Compliance with Federal Tax Laws. This Trust and the Trust Fund hereunder are intended to meet all the requirements of the IRS Code and IRS guidelines for being exempt from federal income tax as an integral part of the State. Notwithstanding any other provisions to the contrary, in the event the Commissioner of the Internal Revenue Service or his delegate rules that the Trust is not eligible for such favorable tax treatment, the MSRS and the Board of Directors shall determine the appropriate disposition of the Trust assets.

ARTICLE IV **ALLOCATION OF RESPONSIBILITIES AMONG NAMED FIDUCIARIES**

- 4.1 Named Fiduciaries. The following persons or entities are named as fiduciaries under this Trust, and shall be the only named fiduciaries hereunder.
- (a) Minnesota State Retirement System (MSRS). MSRS has the authority to administer the Plan, and shall have the obligation and responsibility to perform the duties assigned to it by Minnesota Statutes section 352.98 (2001 Supp.) and those enumerated in Article V. Within its authority to do so MSRS shall administer the Plan so as to insure that the premiums and benefits paid from the Plan to or on behalf of participants and beneficiaries for health care expenses are exempt from federal income tax pursuant to 26 U.S.C. sections 105 and 106. The MSRS shall have the exclusive authority and discretion to perform such duties.

- (b) Fund Trustee. The Board of Directors shall serve as Fund Trustee in accordance with its duties towards MSRS under Minnesota Statutes chapter 352.03, and the Board of Directors shall have the obligation and responsibility:
- (1) to receive all contributions under the Plan, except as otherwise specifically provided in the Trust;
 - (2) to establish policies regarding fees and Plan design items;
 - (3) to manage and control the Fund, as provided in the Trust and the policies; and
 - (4) to make payments from the Fund, as directed pursuant to the Trust and in accordance with the IRS Code.

The Board of Directors shall have the authority and discretion to perform such responsibilities and obligations. The Board of Directors acknowledges that it is a fiduciary with respect to the Trust, and that it has assumed the duties and responsibilities conferred upon it under Minnesota law.

- (c) Investment Manager(s). The Investment Manager(s), if any, shall be selected by and serve at the pleasure of the Board of Directors, and shall have the obligation and responsibility and the exclusive authority and discretion to manage and invest funds held by the Trust Fund in accordance with this Trust and as directed and authorized by the Board of Directors. Upon the Investment Manager(s)' appointment, it shall certify and acknowledge in writing to the Board of Directors that it is a fiduciary with respect to the Trust, and that it has assumed the duties and responsibilities conferred upon it by the Board of Directors. The Board of Directors will make available a limited number of investment choices from which individuals may choose how their accounts will be invested.

If the money is invested by the State Board of Investment (SBI), as allowed by Minnesota Statutes chapter 352.98, the SBI will be the fiduciary of the investment funds offered by the Trust under Minnesota Statutes 11A. Fiduciary responsibility for the administration of the plan resides solely with the Board of Directors and MSRS.

- 4.2 Authority and Allocation of Responsibilities of Named Fiduciaries. When the Board of Directors has notified the Investment Manager(s) in writing of the name of any person or entity designated to perform duties and responsibilities under the Plan and Trust, the Board of Directors and Investment Manager(s) may assume that any such person or entity continues that responsibility until advised differently in the same manner. The Board of Directors and Investment Manager(s) may act upon the direction or approval of a person or entity so named if such direction or approval is made pursuant to the Trust, is proper on its face under the Trust and applicable law, and is made by written communication signed by a person or on behalf of an entity so named.

All notices to the Investment Manager(s) designating persons or entities as named

fiduciaries under this paragraph, and indicating the authority of or allocation of responsibility to or among such persons or entities, shall be given by written notice to the Investment Manager(s) signed by the executive director of the MSRS as directed by the board or by his agent currently authorized and designated as such in writing.

- 4.3 Prohibition of Diversion. Except as provided in section 3.3, it shall be prohibited at any time prior to termination of the Trust for any part of the Fund to be used for or diverted to purposes other than for the exclusive purpose of providing benefits to participants and beneficiaries covered under the Plan. However, the payment of taxes, administrative expenses and expenses for professional services which are necessary for the administration of the Plan may be made from the Trust Fund as provided in section 6.2.
- 4.4 Exemption from Certain Liability. Neither the State, the MSRS, the Board of Directors, the Investment Manager(s), nor any person designated to carry out fiduciary responsibilities pursuant to this Trust, nor any employee or delegate of such entities or persons, shall be liable for any act, or failure to act, which is made in good faith pursuant to the provisions of the Plan and the Trust.

ARTICLE V **POWERS, DUTIES, AND ACTIONS OF THE MSRS**

- 5.1 Powers and Duties of the MSRS. The MSRS shall maintain and administer the Plan and shall be the final authority in all matters pertaining to the administration of the Plan. The MSRS shall act through its board of directors and executive director as provided in Minnesota Statutes section 352.03. MSRS shall have the powers and responsibilities enumerated by Minnesota Statutes section 352.98. The MSRS shall discharge its duties under this Trust solely in the interest of the eligible Plan participants and beneficiaries and for the exclusive purpose of providing benefits to such persons and defraying reasonable expenses of administering the Trust, and shall exercise that degree of judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs as outlined in Minnesota Statutes, section 356A, all in accordance with the provisions of this Trust.
- 5.2 Actions of the MSRS. In accordance with Minnesota Statutes, section 352.98, subd. 2 (2001 Supp.), the MSRS is authorized to contract with public and private entities to provide investment services, recordkeeping, benefit payments, and other functions it deems necessary or appropriate for the administration of the Plan and Trust.

ARTICLE VI **PAYMENTS FROM TRUST FUND**

- 6.1 Payments Directed by the Board of Directors. The Board of Directors shall from time to time authorize payments out of the Trust Fund in such amounts and for such purposes as allowed in this trust document and Minn. Stat. section 352.98 (2001 Supp.). To the extent permitted by law, the Board of Directors shall be under no liability for any payment made pursuant to and in accordance with the direction of the Trust Document and law.
- 6.2 Fees and Expenses. All fees and operating costs and expenses shall be set by the Board of

Directors pursuant to Minn. Stat. section 352.98, subd. 5 (2001 Supp.). Operating costs including the costs of administering the Plan and investment related costs and expenses shall be paid from the Trust Fund.

All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Fund or the income thereof shall be paid by the Board of Directors from the Trust Fund. However, the State and MSRS will have the authority, but no duty, to challenge any such taxes before payment is made. In the event that the Board of Directors receives a notice of levy with respect to taxes owed by a Plan participant or beneficiary, the Board of Directors shall send a notice of such levy by first-class mail to the last known address of the Plan participant or beneficiary. Neither the Fund Trustee, State nor MSRS shall have any duty to challenge such levy.

ARTICLE VII **INVESTMENTS**

- 7.1 Establishment of Funding Policy. The Board of Directors shall offer and carry out investment options consistent with the purposes of the Plan and the requirements of applicable law, as may be appropriate from time to time. In addition, the Board of Directors shall make available to each eligible Plan participant and beneficiary the ability to direct the investment of Funds allocated to his account in one or more of investment options selected by the Board of Directors, except to the extent the Board of Directors determines how the Funds of individuals in such employee group are to be invested.
- 7.2 Adherence to Funding Policy. The discretion of the Board of Directors in investing and reinvesting the principal and income of the Trust Fund shall be subject to the funding policy, and any changes thereof from time to time. It shall be the duty of the Board of Directors to act strictly in accordance with such funding policy, and any changes therein.
- 7.3 Permissible Investments. Subject to the funding policy, investments shall be made without distinction between principal and income, in property, both real and personal (wherever situated), including without limitation common or preferred stocks, bonds, mortgages, securities, mutual funds, including those advised by the Board of Directors, and other evidences of indebtedness or ownership in accordance with applicable law and the provisions of this Trust provided that in the making of investments the Board of Directors shall provide investment options that allow the individual an opportunity to diversify such investments so as to minimize the risk of losses..
- 7.4 Deposit With Insurance Company. The Board of Directors may deposit all or part of the Trust for investment with one or more insurance companies under a group annuity, deposit administration or other contract ("Contract"). Any insurance company to which such assets are transferred shall, subject to the Contract, have exclusive responsibility for control over all assets deposited with it.

ARTICLE VIII
POWERS AND DUTIES OF FUND TRUSTEE AND INVESTMENT MANAGER(S)

8.1 General. The Board of Directors and Investment Manager(s) (as its function relates to the management and investment of funds in the Trust) shall discharge their duties under this Trust and under the terms of their contracts solely in the interest of the eligible Plan participants and beneficiaries and for the exclusive purpose of providing benefits to such persons and defraying fees and expenses described in section 6.2 hereof. The Board of Directors shall exercise that degree of judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs as outlined in Minn. Stat. section 356A. The Investment Manager(s) shall discharge their duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and by diversifying the investments of the Trust so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so, all in accordance with the provisions of this Trust, as it may be from time to time amended. The duties and obligations of the Investment Manager(s) as such shall be limited to those expressly imposed upon them by this Trust and under the terms of their contracts. The contracts of the Investment Manager(s) referred to in this paragraph are the contracts agreed to by and between Board of Directors and Investment Manager(s), respectively, for the performance of services by the Investment Manager(s) for the Trust. Notwithstanding the foregoing, the Board of Directors and Investment Manager(s) shall be bound to observe properly filed investment directions from Plan participants and beneficiaries who are exercising investment direction privileges under the terms of the Plan and this Trust.

8.2 Investment Duties of Fund Trustee.

(a) Authority of Fund Trustee.

The Board of Directors shall have authority to do the following even if Trust assets are being managed by an Investment Manager:

- (i) dispose of fractional shares;
- (ii) rollover treasury obligations, commercial paper and similar investments; and
- (iii) make short-term investments of otherwise uninvested Trust assets in highly liquid interest bearing deposits or securities.

(b) The Board of Directors shall have responsibility for and control over the investment of Trust assets not deposited with an insurance company or allocated to an investment manager. The Board of Directors shall act as an investment manager as to such assets and be responsible and liable for the breach of any duty and any loss, tax or penalty imposed as a result of such breach.

- 8.3 Powers of Fund Trustee. Subject to the investment authority allocated to any insurance company or Investment Manager, or reserved to the MSRS, the Board of Directors shall have all necessary powers to discharge its duties under this Trust, including, without limitation, the power to do the following:
- (a) hold all Trust assets for the exclusive purpose of the Plan participants and beneficiaries in accordance with Minnesota Statutes, section 352.98, subd. 3(b);
 - (b) deal in any way with any Trust assets through a public or private transaction and receive all proceeds from the Trust assets;
 - (c) as the holder of any security in the Trust, exercise any right or power to take any action that could be exercised or taken by the beneficial owner holding the security of record;
 - (d) employ agents for assistance and consult and rely upon the advice of counsel, who may be counsel for the MSRS.

- 8.4 Accounts and Records. The Board of Directors and the Investment Manager(s) (as its function relates to the management and investment of funds in the Trust) shall keep accurate and detailed accounts of all investments, receipts, disbursements, and other transactions hereunder, and all such accounts, books and other records relating thereto shall be open to inspection and audit at all reasonable times by any person designated by the Retirement System. In addition, the MSRS shall establish one or more record keeping accounts or subaccounts on behalf of each Plan participant and beneficiary in accordance with Minnesota Statutes, section 352.98, subd. 3(b) (2001 Supp.) as it, in its discretion, deems necessary or desirable to assure proper administration of the Plan and of the Fund and the appropriate allocation of investment performance of the investments selected by or for such participant or beneficiary.

Except as otherwise provided in the Trust, no Plan participant or beneficiary, or any other person acting for or through such Plan participant or beneficiary, shall have the right to demand or be entitled to any accounting by the Board of Directors or Investment Manager(s).

- 8.5 Indemnification. Individual board members, MSRS' directors, MSRS employees, and the State, shall be indemnified and held harmless for any alleged claim to a breach of fiduciary duty in accordance with Minnesota Statutes, section 356A.11 (2000).

ARTICLE IX
AMENDMENT AND TERMINATION OF TRUST

- 9.1 **Amendment.** Any or all of the provisions of this Trust may be amended at any time and from time to time, in whole or in part, by an instrument in writing approved by the Board of Directors and MSRS. However, except as permitted by sections 3.3 and 9.2 hereof, no such amendment shall authorize or permit any part of the Trust Fund (other than such part as is required to pay taxes, administration expenses, staff expenses, or professional service expenses necessary for administration of the Plan) to be used for or diverted to purposes other than for the exclusive benefit of eligible Plan participants and beneficiaries or paying fees and expenses described in section 6.2 hereof. The Board of Directors and the MSRS may, by agreement, amend the Trust, retroactively if necessary, in order to conform to any applicable federal or state law, regulation or rule.
- 9.2 **Termination.** This Trust may be terminated by the Board of Directors at any time in conformance with Minnesota Statutes, section 352.98 (2001 Supp.). Upon such termination, the Trust Fund shall be paid out by the Board of Directors in accordance with the terms of the Plan. After all payments to or on behalf of Plan participants and beneficiaries have been made, and any final administrative expenses of the Trust Fund have been paid, any amounts remaining in the Trust Fund following termination shall revert to the State or Public Employers participating in the Plan to be used for any lawful purpose.

ARTICLE X
**MERGER OR CONSOLIDATION OF FUND TRUSTEE OR INVESTMENT
MANAGER(S)**

- 10.1 **Merger or Consolidation of Investment Manager(s).** Any corporation into which the Investment Manager(s) may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation to which the Investment Manager(s) is a party, or any corporation succeeding to the trust business of the investment business of the Investment Manager(s), shall become the successor of the Investment Manager(s), respectively, hereunder, without the execution or filing of any instrument or the performance of any further act on the part of the parties hereto. This provision shall be incorporated into any contract or agreement entered into by and between the MSRS and the Board of Directors and Investment Manager(s), respectively.

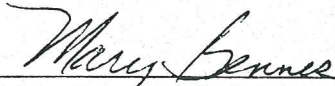
ARTICLE XI
REPLACING THE FUND TRUSTEE

- 11.1 Status of Individual Board Members. The MSRS Board of Directors collectively serve as the Fund Trustee. The status of individual board members are subject to the terms of Minn. stat. sections 15.057 and 352.03. In the event an individual board member's term expires or if the board member resigns or is removed from a position on the Board, that board member's duties and responsibilities towards the Plan and Trust shall terminate and shall become the duties and responsibilities of that member's successor on the Board.
- 11.2 Removal of Fund Trustee. The Fund Trustee may be removed in accordance with law.
- 11.3 Effect on Plan or Trust. No resignation or removal of a member from the Board or change in identity of the Board of Directors for any reason shall terminate the Plan or this Trust.

ARTICLE XII
INTEREST IN THE TRUST

- 12.1 Interest in The Trust. Except as heretofore provided, no creditor of the State, and no State employee, including participants and beneficiaries covered under the Plan, shall have any interest in or right to the assets of this Trust, and, to the full extent of all applicable laws, the assets of this Trust shall not be subject to any form of alienation, sale, transfer, assignment, hypothecation, pledge, execution, attachment, garnishment, sequestration or other action afforded creditors of the State or the Plan participant or his beneficiaries. No assignment or alienation of benefits hereunder shall affect the obligation of participating public employers to contribute to the Plan.

IN WITNESS WHEREOF, the Minnesota Postretirement Healthcare Savings Plan Trust has been executed effective as of September 27, 2001.



Mary Benner, Chair
Minnesota State Retirement System Board of Directors