

MEMORANDUM AGREEMENT

POSTRETIREMENT HEALTH CARE SAVINGS ARRANGEMENT

Instructions. The Service Cooperatives request that parties adopting the new VEBA programs use language that is substantially similar to the following. The model language is designed for two purposes. First, it is intended to comply with IRS guidance on how to establish a VEBA trust. Second, it is designed to create an agreement that is consistent with the existing plan documents and administration agreements.

The Service Cooperatives will require that appropriate collective bargaining language (or personnel policies) be adopted as a condition of participation in the VEBA arrangements.

Disclaimer. Model language may not be appropriate for every situation, and employers and unions should make their own determination as to the suitability of model language for their purposes. Legal review of these arrangements is recommended.

* * *

Whereas, [insert name of public employer] “Employer” and [insert name of union] have agreed to adopt a postretirement health care savings plan to be offered through a voluntary employees’ beneficiary association (VEBA).

Be it therefore resolved that the parties agree to the following:

Section 1. Establishment of VEBA: Effective [insert effective date], Employer shall adopt the Minnesota Service Cooperatives VEBA Plan and the Employee Benefits Trust Agreement for the benefit of for qualifying employees who are members of this Collective Bargaining Agreement. Employer and employees assent to and ratify the appointment of the trustee and plan administrator in place on the adoption date of this agreement. It is intended that this arrangement constitute a voluntary employees’ beneficiary association under Section 501(c)(9) of the Internal Revenue Code.

Explanation: This language should be adopted verbatim as a condition to using the Minnesota Service Cooperatives VEBA Plan. The VEBA Plan has been designed to use a single trustee for all participating employers, and the language above authorizes the Employer to enter into the existing trust agreement. The language also demonstrates the intent of the parties to form a VEBA under Section 501(c)(9) of the Code.

Section 2. Benefits provided through the VEBA. Employer shall provide the following welfare benefit arrangement through the VEBA Plan:

The Postretirement Health Care Savings Arrangement

Explanation: The adoption agreement uses the plan name described above, and we request that the collective bargaining language use consistent language.

Section 3. Payment of Administrative Fee. Administrative fees allocable to individual accounts of active employees shall be paid [*choose one:* by the Employer or from the account]. Administrative fees allocable to the individual accounts of former employees, including retirees, shall be paid from individual accounts. Administrative fees shall be paid from individual accounts of all participants in the event the VEBA Plan is terminated.

Explanation: The Employer and collective bargaining unit are free to decide who will pay administrative fees on individual accounts for active employees. Following termination of employment, however, or upon termination of the VEBA plan, administrative fees will be paid from individual accounts. This approach limits the expense of maintaining numerous dormant and/or small accounts for former employees.

Section 4. Employer Contributions to the Postretirement Health Care Savings Arrangement

THE FOLLOWING ARE SAMPLE CLAUSES:

Subd. 1. Severance Pay: Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Severance Pay otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 2. Perfect Attendance Bonus: Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Perfect Attendance Bonus otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 3. Unused Personal Leave. Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Unused Personal Leave otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care

Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 4. Unused Paid Vacation. Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Unused Paid Vacation otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 5. Longevity in Extra Duties. Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Longevity in Coaching [or other duties] Bonus otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

OPTIONAL SECTIONS:

Section 5. Annual Contributions to Postretirement Health Care Savings Plan: Employer will make a[n annual] [monthly] [quarterly] contribution to individual accounts under the Postretirement Health Care Savings Arrangement for qualifying employees who are members of this Collective Bargaining Agreement in accordance with the following schedule:

Year of Employment with Employer	Amount Contributed per Year
1- 5	\$ _____
6- 10	\$ _____
11-20	\$ _____

The cumulative contribution to an individual employee's account in the Postretirement Health Care Savings Arrangement shall not exceed \$ _____. Contributions by the Employer will be made once annually. Qualifying employees who are employed for at least ____% time but less

than ___% time (full time) will be entitled to pro-rata contributions.

Explanation. The example above is another way to fund the Postretirement Health Care Savings Arrangement, and could be negotiated as a benefit to supplement or replace postretirement health insurance coverage.

Section 6. Annual Contributions to Postretirement Health Care Savings Plan. Employer will make a[n annual] [monthly] [quarterly] contribution to individual accounts under the Postretirement Health Care Savings Arrangement for qualifying employees who are members of this Collective Bargaining Agreement in accordance with the following schedule:

\$_____ for each qualified employee who elects single coverage under the group health plan maintained by the Employer; and

\$_____ for each qualified employee who elects family coverage under the group health plan maintained by the Employer.

These amounts will be subject to the rules of the Postretirement Health Care Savings Arrangement, including the restrictions on distributions for active employees. On such later date as the parties may agree, these accounts may be transferred to individual accounts in the Health Reimbursement Arrangement for Active Employees, to be used in conjunction with a high deductible health plan.

Explanation: The funding method described above could be used as a “bridge” for employers and unions that do not currently have the resources to adequately fund individual accounts that could be used in combination with a high deductible health plan. Contributions may accumulate in the Postretirement Health Care Savings Arrangement, and will be available for employees who terminate or retire in the interim. Once these accounts reach a certain level, and if agreed upon by the parties, the employer could adopt a high deductible health plan and transfer the accounts to the Health Reimbursement Arrangement for Active Employees.

REQUIRED CLAUSES

Section 7 Entire Agreement. This is the full and complete agreement of the parties on this issue. There are no other oral or implied agreements.

Section 8. No Precedent. This agreement does not set any precedent for any future issue, or for the ability to open the contract.

For the School District:

For the Exclusive Representative:

Date: _____

Date: _____

MINNESOTA SERVICE COOPERATIVES VEBA PLAN

Model Personnel Policy for Nonunion Employees

Health Reimbursement Arrangement for Active Employees

Instructions. The Service Cooperatives request that parties adopting the new VEBA programs for nonunion employees adopt a personnel policy that is substantially similar to the following. The model personnel policy is designed for three purposes. First, it is intended to comply with Minnesota law requiring that employer contributions to a Health Care Savings Arrangement be made pursuant to a personnel policy. Next, it is intended to comply with IRS requirements governing VEBA trusts and health reimbursement arrangements. And finally, it is designed to establish an arrangement that is consistent with existing plan documents and administration agreements.

The Service Cooperatives will require that appropriate personnel policies be adopted as a condition of participation in the VEBA arrangements.

Disclaimer. Model language may not be appropriate for every situation, and employers should make their own determination as to the suitability of model language for their purposes. Legal review of these arrangements is recommended.

Model Policy

THE HEALTH CARE SAVINGS ARRANGEMENT FOR ACTIVE EMPLOYEES

Introduction

[Employer Name] (“Employer”) has adopted the Health Reimbursement Arrangement for Active Employees. Each year, Employer will contribute a fixed amount to an account established in your name. Your Employer will also make available a major medical health plan with relatively higher deductibles, co-pays and/or co-insurance than may have been offered in the past. These benefits are intended to complement one another. Used appropriately, they will provide you the opportunity to maximize the value of your long-term health coverage.

The Health Reimbursement Arrangement for Active Employees is made available through the Minnesota Service Cooperatives VEBA Plan and Trust (the “VEBA”). It is intended that this arrangement constitute a voluntary employees’ beneficiary association under Section 501(c)(9) of the Internal Revenue Code. A detailed description of this arrangement is provided in your VEBA Plan Summary.

Eligibility

Subject to the exclusions below, the following group or groups of employees are eligible to receive employer contributions to their individual accounts:

Eligible employees:

(Select one or more)

All employees.

All employees who have completed ____ years of service with the Employer and have attained age ____.

Salaried employees only.

Hourly employees only.

Employees in the classifications described below:

Other (describe): _____

Explanation: In general, IRS rules governing nondiscrimination in eligibility generally require that a health reimbursement arrangement cover at least 70% of nonunion employees. In the alternative, a plan may be crafted to cover a “fair cross section” of employees, including representatives of middle and lower age brackets.

Excludable employees:

(Select one or more)

Explanation: In testing for nondiscrimination as to health plan eligibility, an employer may exclude the following categories of employees from consideration.

Collectively bargained employees, if accident and health benefits were the subject to good faith bargaining.

Explanation: The exclusion of collectively bargained employees recognizes that the same or similar benefits may be provided through collective bargaining agreements.

Employees who have not completed three years of service prior to the plan year in which they retire or otherwise become eligible for employer contributions.

Employees who have not attained age twenty-five prior to the plan year in which they retire or otherwise become eligible for employer contributions.

Part-time employees (choose one of the options below)

_____ Employees whose customary weekly employment is for less than thirty-five hours.

Explanation: This category of employees will be excluded from nondiscrimination testing only if other employees performing similar work for the same employer have substantially more hours (“substantially more” is not defined in the regulations).

_____ Employees whose customary weekly employment is less than twenty-five hours.

Explanation: This category of employees may always be excluded from the nondiscrimination rules (it falls within a “safe harbor”)

Seasonal employees (choose one of the options below)

_____ Employees whose customary annual employment is less than nine months.

Explanation: this category of employees will be excluded from nondiscrimination testing only if other employees performing similar work for the same employer have substantially more hours (“substantially more” is not defined in the regulations). Most school districts will not be able to use this exclusion.

_____ Employees whose customary annual employment is less than seven months.

Explanation: This category of employees may always be excluded from the nondiscrimination rules (it falls within a safe harbor).

Other _____

Explanation: An employer is free to exclude any group or classification of employee, provided the exclusion is applied in a uniform and nondiscriminatory manner. In testing for nondiscrimination as to health plan eligibility, such “other” exclusions must be taken into consideration (in determining, for example, whether the arrangements cover 70% or more of all nonunion employees).

Source of Funding

The Health Reimbursement Arrangement for Active Employees is funded entirely with employer contributions.

Employer Contributions

If you are eligible to participate, Employer will make a[n annual] [monthly] [quarterly] contribution to individual accounts under the Health Reimbursement Arrangement for Active Employees in accordance with the following schedule:

\$ _____ for each eligible employee who elects single coverage under the group health plan described in Subdivision 2; and

\$ _____ for each eligible employee who elects family coverage under the group health plan described in Subdivision 2.

Group Health Plan

Employer shall also make available the group health plan described as Plan # _____ in the summary attached hereto.

Explanation: The Health Reimbursement Arrangement for Active Employees is only available if the employer also adopts one of the high deductible health plans offered through the Minnesota Service Cooperatives. Replacement of all other group health plans of the employer is recommended but not required as a condition for adoption of the VEBA arrangement. The various high deductible plans offered by the Service Cooperatives contain a range of deductibles, co-insurance amounts, co-pays, and other feature. For the sake of clarity, and to avoid dispute over details, the plan or plans to be adopted should be made available to both parties.

Administrative Fee

Administrative fees allocable to individual accounts of active employees shall be paid [*choose one: by the Employer or from the account*]. Administrative fees allocable to the individual accounts of former employees, including retirees, shall be paid from individual accounts. Administrative fees shall be paid from individual accounts of all participants in the event the VEBA Plan is terminated.

Explanation: The Employer is free to decide who will pay administrative fees on individual accounts for active employees. Following termination of employment, however, or upon termination of the VEBA plan, administrative fees will be paid from individual accounts. This approach limits the expense of maintaining numerous dormant and/or small accounts for former employees.

Alternative Group Health Plan

Employer may also make available the group health plan described as Plan # _____ in the summary attached hereto. If you elect coverage under this alternative group health plan,

you will not be entitled to participate in the Health Reimbursement Arrangement for Active Employees. Thus, you will not receive contributions to an individual account under that arrangement.

Impact on Other Arrangements

This policy supersedes and revokes all previous policies on this matter, including, to the extent applicable, other written or oral statements of policy and procedure that address other welfare benefits. The policies and procedures outlined herein are not intended to create any contractual rights or duties, and will be applied at Employer's discretion. Although contributions made to your account in the Health Reimbursement Arrangement for Active Employees are irrevocable, Employer may amend or terminate its contributions policy at any time.

Your employment with Employer is "at-will," which means that either you or Employer are free to terminate the employment relationship at any time, with or without notice. Your at-will status is not altered by any statement in this policy.

MINNESOTA SERVICE COOPERATIVES VEBA PLAN

Model Collective Bargaining Language

For Adoption of the Health Reimbursement Arrangement for Active Employees

Instructions. The model collective bargaining language that follows reflects legal requirements for adopting a VEBA trust, along with alternative provisions for the timing and amount of employer contributions that may be bargained by the parties. Without endorsing the suitability of a VEBA Plan for a particular collective bargaining unit, the following language has been reviewed and approved by Education Minnesota.

The Service Cooperatives will require that appropriate collective bargaining language (or personnel policies) be adopted as a condition of participation in the VEBA arrangements.

Disclaimer. Model language may not be appropriate for every situation, and employers and unions should make their own determination as to the suitability of model language for their purposes. Legal review of these arrangements is recommended.

MODEL LANGUAGE

ARTICLE (#) Establishment Of VEBA with Health Reimbursement Arrangement For Active Employees

Section 1. Establishment of VEBA: Required Clause. Effective [insert effective date], Employer shall make available a VEBA Plan and Trust described in summary and attached hereto as VEBA Attachment #1, to all qualified bargaining unit members [and eligible retirees] who exercise their option to enroll in the high deductible health insurance program offered in Section 4, Subdivision 2 of this Article. Employer and employees [and eligible retirees] assent to and ratify the appointment of the trustee and plan administrator for the VEBA Plan and Trust identified in VEBA Attachment #1. It is intended that this arrangement constitute a voluntary employees' beneficiary association under Section 501(c)(9) of the Internal Revenue Code.

Optional Clause (but recommended). If the Employer maintains a cafeteria plan with a health flexible spending account (an "FSA"), the Employer will specify in the Adoption Agreement for the VEBA Plan document, before the first day of the FSA plan year, that eligible health expenses will be paid from the FSA first, until an individual's FSA account is exhausted, and from the VEBA Plan second. **Optional Clause.** If the ordering rule described above is not available

because the FSA plan year has already begun at the time the election is made, eligible health expenses will be paid from the VEBA Plan first, until an individual's VEBA Plan account is exhausted, and from the FSA plan second.

Optional Clause. Employer agrees to take such steps as are necessary to achieve reimbursement of eligible health expenses from the FSA first, including amending the FSA or VEBA Plan so that their plan years begin and end on the same date.

Optional Clause. During any transition period in which the desired ordering rule is not available, reimbursements under the VEBA Plan will be limited to reimbursements of eligible health expenses that reduce the deductible under the high deductible health insurance program offered in Section 4, Subdivision 2 of this Article.

Recommended Clause. The VEBA Plan year will begin and end on the same dates as the high deductible health insurance program offered in Section 4, Subdivision 2 of this Article.

Section 2. Benefits provided through the VEBA. Required Clause.

Employer shall provide the following welfare benefit arrangement through the VEBA Plan:

A health reimbursement arrangement for active employees described in summary and attached as VEBA Attachment #2.

Section 3. Payment of Administrative Fee. Required Clause. Administrative fees allocable to individual accounts of active employees who are active participants in the VEBA Plan shall be paid [*choose one: by the Employer or from the account*]. Administrative fees allocable to individual accounts of active employees who have accrued a balance in the VEBA Plan but change coverage, so that they are no longer entitled to employer contributions, shall be paid: [*choose one: by the Employer or from the account*]. Administrative fees allocable to the individual accounts of former employees shall be paid [*choose one: by the Employer or from the account*]. Administrative fees allocable to the individual accounts of retirees shall be paid [*choose one: by the Employer or from the account*]. If the VEBA Plan is terminated, or if Employer Contributions cease by agreement between the parties, administrative fees shall be paid [*choose one: by the Employer or from the account*].

Section 4. Employer Contributions to the Health Reimbursement Arrangement for Active Employees:

Subd. 1. Contributions to the Active Employees' Plan: Required Clause.

Employer will make an annual contribution to individual accounts under the health reimbursement arrangement for qualifying bargaining unit members [and eligible retirees] in accordance with the following schedule:

\$ _____ for each qualified employee [and retiree] who elects single coverage under the group health plan described in Subdivision 2; and

\$ _____ for each qualified employee [and retiree] who elects family coverage under the group health plan described in Subdivision 2.

Required Clause. The contribution will be made [choose one]: [on or about the first day of the VEBA Plan year] [on a monthly basis over the VEBA Plan year] [on a quarterly basis over the VEBA Plan year]. **Optional Clause.** If a participant in the VEBA Plan is entitled to receive an annual contribution that is prorated on a [monthly] [quarterly] basis over the VEBA Plan year, and the participant incurs one or more claims for an eligible health expense that exceeds the participant's account balance in the VEBA Plan, the Employer shall, at the participant's request, accelerate its prorated contribution for that year to the extent necessary to reimburse the participant for the claim. The total contribution for such a participant shall in no event exceed the contribution to which he or she was originally entitled to for that year.

Optional Clause. If a qualified bargaining unit member [or retiree] enters the VEBA Plan as a participant on a date after the first day of the VEBA Plan year, the Employer shall prorate the amount of the Employer Contribution to reflect the late entry. If the participant incurs one or more claims for an eligible health expense that exceeds the participant's account balance in the VEBA Plan, the Employer shall, at the participant's request, increase its contribution for that year to the extent necessary to reimburse the participant for the claim, but not exceeding the contribution made to similarly situated participants who entered the VEBA Plan on the first day of the VEBA Plan year. The participant shall be entitled to the same rights of similarly situated employees to accelerate future employer contributions that are prorated over the VEBA Plan year.

Required Clause. All contributions on behalf of a VEBA Plan participant shall cease on the date the participant is no longer covered under the high deductible health plan in subdivision 2 below.

Subd. 2. High Deductible Health Plan: Required Clause. Employer shall make available a high deductible health plan described in summary and attached hereto as Insurance Attachment #1, to all qualified bargaining unit members [and eligible retirees] who elect to participate in said plan. With respect to qualifying bargaining unit members [and eligible retirees], Employer shall contribute an amount not to exceed \$ _____ towards the monthly premium cost for single group health coverage, and \$ _____ towards the monthly premium cost for family group health coverage.

Optional Clause. In the event that the deductible provided for in the high deductible health plan is increased, the Employer's contribution on behalf of

VEBA Plan participants shall increase by [a dollar amount equal to the increase in the deductible] [other] on the effective date of the deductible increase.

Section 5: Alternative Group Health Plan. Optional Clause. Employer shall also make available the group health plan described in summary and attached hereto as Insurance Attachment #2, to employees [and eligible retirees] who do not elect coverage provided for under the provision of the high deductible health plan described in Section 4, Subdivision 2. With respect to all qualified bargaining unit members [and eligible retirees], Employer shall contribute an amount not to exceed \$ _____ towards the monthly premium cost for single group health coverage, and \$ _____ towards the monthly premium cost for family group health coverage.

Required Clause (if Alternative Group Health Plan is offered). Qualified bargaining unit members [and retirees] who elect coverage under this Section 5 shall not be entitled to receive Employer Contributions to the VEBA Plan. If a participant changes coverage from the high deductible plan in Section 4, subdivision 2, to the alternative group health plan in Section 5 above, all contributions on behalf of a VEBA Plan participant shall cease.

Optional Clause. All employees employed in a position in the appropriate unit shall, at a minimum, be enrolled in single coverage in one of the group health plans provided for under the provisions of this Article. In the event an eligible employee does not make a choice of plan coverage the Employer shall determine in which of the plans to enroll that employee. The Employer must, however, enroll every employee in one of the group health insurance plans.*

* This would only apply when the employer pays the full cost of the single premium

MINNESOTA SERVICE COOPERATIVES VEBA PLAN

Model Collective Bargaining Language

For Adoption of the Postretirement Health Care Savings Arrangement

Instructions. The Service Cooperatives request that parties adopting the new VEBA programs use language that is substantially similar to the following. The model language is designed for two purposes. First, it is intended to comply with IRS guidance on how to establish a VEBA trust. Second, it is designed to create an agreement that is consistent with the existing plan documents and administration agreements.

The Service Cooperatives will require that appropriate collective bargaining language (or personnel policies) be adopted as a condition of participation in the VEBA arrangements.

Disclaimer. Model language may not be appropriate for every situation, and employers and unions should make their own determination as to the suitability of model language for their purposes. Legal review of these arrangements is recommended.

MODEL LANGUAGE

ARTICLE (#) Establishment Of VEBA with Postretirement Health Care Savings Arrangement

Section 1. Establishment of VEBA: Effective [insert effective date], Employer shall adopt the Minnesota Service Cooperatives VEBA Plan and the Employee Benefits Trust Agreement for the benefit of for qualifying employees who are members of this Collective Bargaining Agreement. Employer and employees assent to and ratify the appointment of the trustee and plan administrator in place on the adoption date of this agreement. It is intended that this arrangement constitute a voluntary employees' beneficiary association under Section 501(c)(9) of the Internal Revenue Code.

Explanation: This language should be adopted verbatim as a condition to using the Minnesota Service Cooperatives VEBA Plan. The VEBA Plan has been designed to use a single trustee for all participating employers, and the language above authorizes the Employer to enter into the existing trust agreement. The language also demonstrates the intent of the parties to form a VEBA under Section 501(c)(9) of the Code.

Section 2. Benefits provided through the VEBA. Employer shall provide the following welfare benefit arrangement through the VEBA Plan:

The Postretirement Health Care Savings Arrangement

Explanation: The adoption agreement uses the plan name described above, and we request that the collective bargaining language use consistent language.

Section 3. Payment of Administrative Fee. Administrative fees allocable to individual accounts of active employees shall be paid [*choose one:* by the Employer or from the account]. Administrative fees allocable to the individual accounts of former employees, including retirees, shall be paid from individual accounts. Administrative fees shall be paid from individual accounts of all participants in the event the VEBA Plan is terminated.

Explanation: The Employer and collective bargaining unit are free to decide who will pay administrative fees on individual accounts for active employees. Following termination of employment, however, or upon termination of the VEBA plan, administrative fees will be paid from individual accounts. This approach limits the expense of maintaining numerous dormant and/or small accounts for former employees.

Section 4. Employer Contributions to the Postretirement Health Care Savings Arrangement

THE FOLLOWING ARE SAMPLE CLAUSES:

Subd. 1. Severance Pay: Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Severance Pay otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 2. Perfect Attendance Bonus: Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Perfect Attendance Bonus otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 3. Unused Personal Leave. Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Unused Personal Leave otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 4. Unused Paid Vacation. Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Unused Paid Vacation otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Subd. 5. Longevity in Extra Duties. Within sixty (60) days of the effective date of retirement, or if later, upon the adoption date of the VEBA Plan, Employer shall pay _____% of the amount of the Longevity in Coaching [or other duties] Bonus otherwise payable to qualifying employees under Article _____ of this Collective Bargaining Agreement to individual accounts established for those employees under the Postretirement Health Care Savings Arrangement. Employees will not be entitled to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

OPTIONAL SECTIONS:

Section 5. Annual Contributions to Postretirement Health Care Savings Plan: Employer will make a[n annual] [monthly] [quarterly] contribution to individual accounts under the Postretirement Health Care Savings Arrangement for qualifying employees who are members of this Collective Bargaining Agreement in accordance with the following schedule:

Year of Employment with Employer	Amount Contributed per Year
1- 5	\$ _____
6- 10	\$ _____
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The cumulative contribution to an individual employee's account in the Postretirement Health Care Savings Arrangement shall not exceed \$_____. Contributions by the Employer will be made once annually. Qualifying employees who are employed for at least ___% time but less than ___% time (full time) will be entitled to pro-rata contributions.

Explanation. The example above is another way to fund the Postretirement Health Care Savings Arrangement, and could be negotiated as a benefit to supplement or replace postretirement health insurance coverage.

Section 6. Annual Contributions to Postretirement Health Care Savings Plan. Employer will make a[n annual] [monthly] [quarterly] contribution to individual accounts under the Postretirement Health Care Savings Arrangement for qualifying employees who are members of this Collective Bargaining Agreement in accordance with the following schedule:

\$_____ for each qualified employee who elects single coverage under the group health plan maintained by the Employer; and

\$_____ for each qualified employee who elects family coverage under the group health plan maintained by the Employer.

These amounts will be subject to the rules of the Postretirement Health Care Savings Arrangement, including the restrictions on distributions for active employees. On such later date as the parties may agree, these accounts may be transferred to individual accounts in the Health Reimbursement Arrangement for Active Employees, to be used in conjunction with a high deductible health plan.

Explanation: The funding method described above could be used as a “bridge” for employers and unions that do not currently have the resources to adequately fund individual accounts that could be used in combination with a high deductible health plan. Contributions may accumulate in the Postretirement Health Care Savings Arrangement, and will be available for employees who terminate or retire in the interim. Once these accounts reach a certain level, and if agreed upon by the parties, the employer could adopt a high deductible health plan and transfer the accounts to the Health Reimbursement Arrangement for Active Employees.

END of Samples for Postretirement Plans

**MEMORANDUM AGREEMENT
HEALTH REIMBURSEMENT ARRANGEMENT FOR ACTIVE EMPLOYEES**

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Whereas, [insert name of public employer] “Employer” and [insert name of union] have agreed to adopt a postretirement health care savings plan to be offered through a voluntary employees’ beneficiary association (VEBA).

Be it therefore resolved that the parties agree to the following:

Section 1. Establishment of VEBA: Effective [insert effective date], Employer shall adopt the Minnesota Service Cooperatives VEBA Plan and the Employee Benefits Trust Agreement for the benefit of for qualifying employees who are members of this Collective Bargaining Agreement. Employer and employees assent to and ratify the appointment of the trustee and plan administrator in place on the adoption date of this agreement. It is intended that this arrangement constitute a voluntary employees’ beneficiary association under Section 501(c)(9) of the Internal Revenue Code.

Explanation: This language should be adopted verbatim as a condition to using the Minnesota Service Cooperatives VEBA Plan. The VEBA Plan has been designed to use a single trustee for all participating employers, and the language above authorizes the Employer to enter into the existing trust agreement. The language also demonstrates the intent of the parties to form a VEBA under Section 501(c)(9) of the Code.

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The Health Reimbursement Arrangement for Active Employees.

Explanation: The adoption agreement uses the plan name described above, and we

request that the collective bargaining language use consistent language.

Section 3. Payment of Administrative Fee. Administrative fees allocable to individual accounts of active employees shall be paid [*choose one: by the Employer or from the account*]. Administrative fees allocable to the individual accounts of former employees, including retirees, shall be paid from individual accounts. Administrative fees shall be paid from individual accounts of all participants in the event the VEBA Plan is terminated.

Explanation: The Employer and collective bargaining unit are free to decide who will pay administrative fees on individual accounts for active employees. Following termination of employment, however, or upon termination of the VEBA plan, administrative fees will be paid from individual accounts. This approach limits the expense of maintaining numerous dormant and/or small accounts for former employees.

Section 4. Employer Contributions to the Health Reimbursement Arrangement for Active Employees:

Subd. 1. Contributions to the Active Employees' Plan: Employer will make a[n annual] [monthly] [quarterly] contribution to individual accounts under the Health Reimbursement Arrangement for Active Employees for qualifying employees who are members of this Collective Bargaining Agreement in accordance with the following schedule:

\$ _____ for each qualified employee who elects single coverage under the group health plan described in Subdivision 2; and

\$ _____ for each qualified employee who elects family coverage under the group health plan described in Subdivision 2.

Subd. 2. Group Health Plan: Employer shall make available the group health plan described as Plan # _____ in the summary attached hereto. With respect to qualifying employees who are members of this Collective Bargaining Agreement, Employer shall contribute an amount not to exceed \$ _____ towards the monthly premium cost for single group health coverage, and \$ _____ towards the monthly premium cost for family group health coverage.

Explanation: The Health Reimbursement Arrangement for Active Employees is only available if the employer also adopts one of the high deductible health plans offered through the Minnesota Service Cooperatives. Replacement of all other group health plans of the employer is recommended but not required as a condition for adoption of the VEBA arrangement. The various high deductible plans offered by the Service Cooperatives contain a range of deductibles, co-insurance amounts, co-pays, and other features that are too numerous to detail in collective bargaining agreement.

Section 5: Alternative Group Health Plan. Employer shall also make available the group health plan described as Plan # _____ in the summary attached hereto. With respect to qualifying employees who are members of this Collective Bargaining Agreement, Employer shall contribute an amount not to exceed \$ _____ towards the monthly premium cost for single group health coverage, and \$ _____ towards the monthly premium cost for family group health coverage.

Qualifying employees who elect coverage in the group health plan described this Section 5 shall not be entitled to participate in the Health Reimbursement Arrangement for Active Employees. Thus, they will not become members of the voluntary employees beneficiary association (unless otherwise enrolled under the Postretirement Health Care Savings Arrangement), and they will not receive contributions to individual accounts in the VEBA Plan.

REQUIRED CLAUSES

Section 6 Entire Agreement. This is the full and complete agreement of the parties on this issue. There are no other oral or implied agreements.

Section 7. No Precedent. This agreement does not set any precedent for any future issue, or for the ability to open the contract.

For the School District:

For the Exclusive Representative:

Date: _____

Date: _____

MINNESOTA SERVICE COOPERATIVES VEBA PLAN

Model Personnel Policy for Nonunion Employees

Postretirement Health Care Savings Arrangement

Instructions. The Service Cooperatives request that parties adopting the new VEBA programs for nonunion employees adopt a personnel policy that is substantially similar to the following. The model personnel policy is designed for three purposes. First, it is intended to comply with Minnesota law requiring that employer contributions to the Postretirement Health Care Savings Arrangement be made pursuant to a personnel policy. Next, it is intended to comply with IRS requirements governing VEBA trusts and health reimbursement arrangements. And finally, it is designed to establish an arrangement that is consistent with existing plan documents and administration agreements.

The Service Cooperatives will require that appropriate personnel policies be adopted as a condition of participation in the VEBA arrangements.

Disclaimer. Model language may not be appropriate for every situation, and employers should make their own determination as to the suitability of model language for their purposes. Legal review of these arrangements is recommended.

Model Policy

THE POSTRETIREMENT HEALTH CARE SAVINGS ARRANGEMENT

Introduction

In order to help eligible employees pay for medical expenses in retirement, [Employer Name] (“Employer”) has adopted the Postretirement Health Care Savings Arrangement. This arrangement provides for individual medical reimbursement accounts funded with employer contributions. If eligible for this benefit, you, your spouse, and your dependents may draw on this account after you retire for the tax-free reimbursement of medical expenses. Money contributed to your account will be held in trust.

The Postretirement Health Care Savings Arrangement is made available through the Minnesota Service Cooperatives VEBA Plan and Trust (the “VEBA”). It is intended that this arrangement constitute a voluntary employees’ beneficiary association under Section 501(c)(9) of the Internal Revenue Code. A detailed description of this arrangement is provided in your VEBA Plan Summary.

Eligibility

Subject to the exclusions below, the following group or groups of employees are eligible to receive employer contributions to their individual accounts:

Eligible employees:

(Select one or more)

All employees.

All employees who have completed ____ years of service with the Employer and have attained age _____.

Salaried employees only.

Hourly employees only.

Employees in the classifications described below:

Other (describe): _____

Excludable employees:

(Select one or more)

Explanation: In testing for nondiscrimination as to health plan eligibility, an employer may exclude the following categories of employees from consideration.

Collectively bargained employees, if accident and health benefits were the subject to good faith bargaining.

Explanation: The exclusion of collectively bargained employees recognizes that the same or similar benefits may be provided through collective bargaining agreements.

Employees who have not completed three years of service prior to the plan year in which they retire or otherwise become eligible for employer contributions.

Explanation: This exclusion is useful in avoiding small account balances. It is especially helpful if the definition of "retirement" includes any termination of employment, regardless of age of termination.

Employees who have not attained age twenty-five prior to the plan year in which they retire or otherwise become eligible for employer contributions.

Explanation: See above.

Part-time employees (choose one of the options below)

_____ Employees whose customary weekly employment is for less than thirty-five hours.

Explanation: This category of employees will be excluded from nondiscrimination testing only if other employees performing similar work for the same employer have substantially more hours (“substantially more” is not defined in the regulations).

_____ Employees whose customary weekly employment is less than twenty-five hours.

Explanation: This category of employees may always be excluded from the nondiscrimination rules.

Seasonal employees (choose one of the options below)

_____ Employees whose customary annual employment is less than nine months.

Explanation: this category of employees will be excluded from nondiscrimination testing only if other employees performing similar work for the same employer have substantially more hours (“substantially more” is not defined in the regulations).

_____ Employees whose customary annual employment is less than seven months.

Explanation: This category of employees may always be excluded from the nondiscrimination rules.

Other _____ >

Explanation: An employer is free to exclude any group or classification of employee, provided the exclusion is applied in a uniform and nondiscriminatory manner. In testing for nondiscrimination as to health plan eligibility, such other exclusions must be taken into consideration.

If you are eligible to participate, you will be automatically enrolled in the Postretirement Health Care Savings Arrangement on the sooner of your retirement date or the date that the Employer makes a contribution to your account.

Retirement

Subject to the age and service requirements for eligibility, if any, your “retirement date” shall be the earlier of the following:

- 1) your termination of employment;
- 2) your “retirement” as that term may be defined under other policies or employee benefit plans of Employer;
- 3) the date you become totally disabled; or

- 4) the date you commence a medical leave of absence as determined by other policies or employee benefit plans of the Employer.

Explanation: The definition of “retirement” above is the default definition used by the Plan. Employers are free to modify this definition in any uniform and nondiscriminatory manner.

Source of Funding

The Postretirement Health Care Savings Arrangement is funded entirely with employer contributions.

Employer Contributions

If you are eligible to participate in the Postretirement Health Care Arrangement, Employer will make contributions to the VEBA in an amount equivalent to the following:

(Select one or more)

Accrued Severance Pay: Within sixty (60) days of the effective date of your retirement, Employer shall contribute _____% of the amount of the your accrued severance pay, if any. You will not be eligible to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Perfect Attendance Bonus: Within sixty (60) days of the effective date of your retirement, Employer shall contribute _____% of the amount of your perfect attendance bonus, if any. You will not be eligible to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Unused Sick Pay. Within sixty (60) days of the effective date of your retirement, Employer shall contribute _____% of the amount of your unused sick pay/personal leave, if any. You will not be eligible to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Unused Paid Vacation. Within sixty (60) days of the effective date of your retirement, Employer shall contribute _____% of the amount of your unused paid vacation, if

any. You will not be eligible to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Longevity in Extra Duties. Within sixty (60) days of the effective date of your retirement, Employer shall contribute _____% of the amount of your longevity in coaching (or other extra duties) bonus, if any. You will not be eligible to receive this amount in the form of taxable cash compensation.

Explanation: IRS rules prohibit individuals from opting in or out of the VEBA Plan or selecting the dollar amount of their contributions.

Periodic Contributions for Retirement Savings. Employer will make a[n annual] [monthly] [quarterly] contribution to your account in an amount to be determined in its sole discretion.

Explanation: If the contributions are not uniform, any amount set aside for active employees may not be made available until their retirement.

Periodic Contributions to Fund Active Employee's Plan. Employer will make a[n annual] [monthly] [quarterly] contribution to individual accounts under the Postretirement Health Care Savings Arrangement for eligible employees in accordance with the following schedule:

\$ _____ for each eligible employee who elects single coverage under the group health plan maintained by the Employer; and

\$ _____ for each eligible employee who elects family coverage under the group health plan maintained by the Employer.

These amounts will be subject to the rules of the Postretirement Health Care Savings Arrangement, including the restrictions on distributions for active employees. On such later date as the Employer may determine, these accounts may be transferred to individual accounts in the Health Reimbursement Arrangement for Active Employees, to be used in conjunction with a high deductible health plan.

Explanation: The funding method described above could be used as a “bridge” for employers that do not currently have the resources to adequately fund individual accounts that could be used in combination with a high deductible health plan. Contributions may accumulate in the Postretirement Health Care Savings Arrangement, and will be available for employees who terminate or retire in the interim. Once these accounts reach a certain level, the employer could adopt a high deductible health plan and transfer the accounts to the Health Reimbursement Arrangement for Active Employees.

To satisfy the nondiscrimination rules when these amounts are transferred to the Health Reimbursement Arrangement for Active Employees, amounts that are contributed on behalf of individual employees should be uniform (although a different contribution level for employees who elect family coverage would meet these requirements in most circumstances).

Administrative Fee

Administrative fees allocable to individual accounts of active employees shall be paid [*choose one: by the Employer or from the individual accounts*]. Administrative fees allocable to the individual accounts of former employees, including retirees, shall be paid from individual accounts. Administrative fees shall be paid from individual accounts of all participants in the event the VEBA Plan is terminated.

Explanation: The Employer is free to decide who will pay administrative fees on individual accounts for active employees. Following termination of employment, however, or upon termination of the VEBA plan, administrative fees should be paid from individual accounts. This approach limits the expense of maintaining numerous dormant and/or small accounts for former employees.

Impact on Other Arrangements

This policy supersedes and revokes all previous policies on this matter, including, to the extent applicable, other written or oral statements of policy and procedure that address the payment of accumulated sick pay, vacation pay, severance pay, or other welfare benefits. The policies and procedures outlined herein are not intended to create any contractual rights or duties, and will be applied at Employer's discretion. Although contributions made to your account in the Postretirement Health Care Savings Arrangement are irrevocable, Employer may amend or terminate its contribution policy at any time.

Your employment with Employer is "at-will," which means that either you or Employer are free to terminate the employment relationship at any time, with or without notice. Your at-will status is not altered by any statement in this policy.