

CHAPTER 354B

INDIVIDUAL RETIREMENT ACCOUNT PLAN

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354B.01 DEFINITIONS.

Subdivision 1. **Plan.** "Plan" means the individual retirement account plan established by sections 354B.01 to 354B.04.

Subd. 1a. **Supplemental plan.** "Supplemental plan" means the supplemental retirement plan established in sections 354B.07 to 354B.09.

Subd. 2. **Covered employment; state universities.** "Covered employment," with respect to employment by the state university system, means employment in a position included in the definition of teacher under section 354.05, subdivision 2. "Covered employment" does not include employment when the initial appointment is defined as less than 25 percent of a full academic year, exclusive of summer session.

Subd. 3. **Covered employment; community colleges.** "Covered employment," with respect to employment by the community college system, means employment in a position included in the definition of teacher under section 354.05, subdivision 2. "Covered employment" does not include employment when the initial appointment is defined as less than 25 percent of a full academic year, exclusive of summer session.

Subd. 4. **Covered employment; technical college managerial employees.** "Covered employment," with respect to employment by the state board of technical colleges, means employment in a position described in section 352D.02, subdivision 1, paragraph (b), clause (13).

Subd. 4a. **Covered employment; technical colleges.** "Covered employment," with respect to employment by a technical college authorized under chapter 136C or 136D, means employment in a position included in the definition of teacher under section 354.05, subdivision 2.

Subd. 5. **Covered employment; higher education coordinating board managerial employees.** "Covered employment," with respect to employment by the higher education coordinating board, means employment in a position described in section 352D.02, subdivision 1, paragraph (b), clause (6).

Subd. 6. **Covered employment; higher education board managerial employees.** "Covered employment," with respect to employment by the higher education board, means employment in a position described in section 352D.02, subdivision 1, paragraph (b), clause (14).

History: 1988 c 709 art 11 s 2; 1990 c 570 art 3 s 5,6; 1991 c 269 art 4 s 1; 1992 c 446 s 6-8; 1993 c 239 art 1 s 3; 1994 c 508 art 1 s 6

NOTE: Subdivision 4a, as added by Laws 1994, chapter 508, article 1, section 6, is effective July 1, 1995. See Laws 1994, chapter 508, article 1, section 12.

354B.015 SOCIAL SECURITY COVERAGE.

Plan participants under section 354B.02, subdivision 1, and persons electing participation under section 354B.02, subdivision 2, 3, or 5, or 354B.035, remain members of the teachers retirement association or the state unclassified employees retirement program, whichever applies, for purposes of social security coverage only and remain

covered by the applicable agreement entered into under section 355.02, but are not members of the teachers retirement association or the state unclassified employees retirement program for any other purpose while employed in covered employment.

History: 1989 c 319 art 18 s 4; 1992 c 446 s 9; 1994 c 508 art 1 s 7

NOTE: The amendment to this section by Laws 1994, chapter 508, article 1, section 7, is effective July 1, 1995. See Laws 1994, chapter 508, article 1, section 12.

354B.02 COVERED PERSONS.

Subdivision 1. Plan participants. (a) Except as provided in subdivision 2, or unless the person has elected retirement coverage under section 352D.02, subdivision 1a, a person who was first employed in covered employment under section 354B.01, subdivision 2 or 3, after June 30, 1989, shall participate in the plan. A person who was first employed in covered employment or first included in coverage under section 354B.01, subdivision 4a, after June 30, 1995, may participate in the plan or may elect coverage by the teachers retirement association. Election to participate in the plan or the association must be made within 60 days of the start of covered employment and must be made under section 354B.035. A technical college teacher who does not make the election within the 60 days shall become a member of the plan governed by chapter 354 or 354A.

(b) Except as provided in paragraph (a), or subdivision 2, or unless the person has elected retirement coverage under section 352D.02, subdivision 1, paragraph (b), clause (6) or (13), a person who was first employed in covered employment after July 1, 1992, shall participate in the plan.

(c) Participants or employees who would be participants in this plan but for prior participation in the teachers retirement association or the other Minnesota public employee retirement plan governed by section 356.30, whichever applies, and who are subsequently appointed to a position with the community college system or the state university system designated as an acting, temporary, or interim position, shall remain in the teachers retirement association or the other Minnesota public employee plan during the term of the acting, temporary, or interim position. If the participant's status becomes permanent, the participant has the option to make a new election appropriate to the plan in which the position should be located.

Subd. 2. Persons with certain prior allowable service. A person with less than three years of prior allowable service as a member of the teachers retirement association other than in covered employment under section 354B.01, subdivision 2 or 3, and who is first employed in covered employment after June 30, 1989, remains a member of the teacher's retirement association for all purposes, but a coordinated member may elect to participate in the plan. This election to participate in the plan must be made by January 1, 1995, or within 60 days of the start of covered employment, whichever is later.

Subd. 3. [Repealed, 1993 c 239 art 2 s 8]

Subd. 3a. Unclassified state university system employees. State university system employees who would otherwise be covered by section 352D.02, subdivision 1a, shall be covered by the plan governed by this section unless they elect coverage under the plan governed by section 352D.02, subdivision 1a. Election to participate in the plan governed by the unclassified employees plan must be made within 120 days of July 1, 1992, or the start of covered employment. If the employee does not elect to participate in the unclassified employees plan upon the start of covered employment, the employee shall participate in the individual retirement account plan. If no election is made within the 120 days, this participation must be permanent. Employees in covered employment on July 1, 1992, who would otherwise be covered by this section, but are already participating in the teachers retirement association governed by chapter 354 or the general state employees retirement plan governed by chapter 352, shall remain in the applicable plan unless an election is made to transfer to the plan governed by this chapter. The election must be made within 120 days of eligibility under the state unclassified employees retirement program governed by chapter 352D. An election to participate in the unclassified program or this plan is irrevocable during any period of service that

would have been covered under chapter 352D or this chapter. This election must be made in the form prescribed in section 352D.12. Upon receipt of notice of transfer, the individual retirement account plan administrator shall transfer to the employee's account in this plan an amount equal to the employee and matching employer contributions to the credit of the person in the teachers retirement association, plus six percent compound annual interest thereon from the date that each contribution was made until the date that the transfer is made.

Subd. 3b. Technical college or higher education coordinating board employees. Employees in covered employment under section 354B.01, subdivision 4 or 5, may elect coverage under the plan. Election to participate in the plan must be made within 120 days of July 1, 1992, or the start of covered employment, whichever is later, and is irrevocable during any period of covered employment in a position listed in section 352D.02, subdivision 1, paragraph (b), clause (6) or (13), which is established by the state board of technical colleges. These employees are not eligible for the supplemental retirement plan specified in sections 354B.07 to 354B.09.

Subd. 3c. Higher education board employees. Employees in covered employment under section 354B.01, subdivision 6, may elect coverage under the plan. Election to participate in the plan must be made by December 31, 1993, or within 120 days of the start of covered employment, whichever is later, and is irrevocable during any period of covered employment in a position listed in section 352D.02, subdivision 1, paragraph (b), clause (14), which is established by the higher education board or the higher education facilities authority. These employees are also eligible for the supplemental retirement plan specified in sections 354B.07 to 354B.09.

Subd. 4. Purchase of prior service credit. A person who is initially excluded from participation, but is subsequently appointed to a position that qualifies for participation, may purchase credit for the prior uncovered employment. This purchase must be made by paying to the employer the amount the person would have paid if the prior service had been covered employment. This payment must be made within 45 days of the start of covered employment, or by the end of the fiscal year in which covered employment commences, whichever is later. Employee payments may be made in a lump sum or by payroll deduction, as the employee elects. The employer must contribute an amount to match any contribution made by an employee under this subdivision. Contributions for prior service must be invested under this section. Once a person is employed in a position that qualifies for participation, all subsequent employment by the person is under the provisions of this plan.

Subd. 5. Optional election provisions for state university and community college participants. (a) Notwithstanding any other provision of this chapter or chapter 354 to the contrary, state university and community college employees who have not previously exercised their option to elect to transfer to this plan or remain with the teachers retirement association are eligible to make that election. Participants in either the plan or association may transfer benefit coverage to the other. A transfer election is irrevocable during any period of covered employment under this section and is subject to the conditions of paragraphs (b), (c), and (d).

(b) Members of the teachers retirement association as of July 1, 1994, or employees newly hired after that date who have prior allowable service credit as a member in the teachers retirement association are eligible to transfer service credit prospectively only. Existing contributions and service credit must remain with the teachers retirement association and the person is eligible for an augmented deferred retirement annuity from the teachers retirement association under section 354.55, subdivision 11. A transfer election made under this subdivision is irrevocable.

(c) Members of the plan as of July 1, 1994, who were first employed after June 30, 1989, may transfer membership prospectively only to the teachers retirement association, effective on the date the transfer election is made. Funds previously invested under the plan with the financial institution selected by the member are not eligible to be transferred to the association. Withdrawal of funds from the plan by a member is subject to rules of the plan. An election to transfer membership to the teachers retire-

ment association is irrevocable during any period of covered employment. The employer of a transferring member must make the additional employer contribution provided for in section 354.42, subdivision 5, for future service only.

(d) Transfer elections under this section must be made within 90 days from the date on which the executive director or plan administrator provides notification of the election and must be elected on forms prescribed by the plan administrator or executive director.

History: 1988 c 709 art 11 s 3; 1989 c 319 art 18 s 5; 1990 c 570 art 3 s 7; art 12 s 52,53; 1992 c 446 s 10-13; 1993 c 239 art 1 s 4-6; 1994 c 508 art 1 s 8-10; 1994 c 572 s 7

NOTE: The amendments to subdivision 1 by Laws 1994, chapter 508, article 1, section 8, are effective July 1, 1995. See Laws 1994, chapter 508, article 1, section 12.

354B.03 [Repealed, 1989 c 319 art 18 s 12]

354B.035 TECHNICAL COLLEGE TEACHING PERSONNEL; TRANSITIONAL PROVISIONS.

Subdivision 1. **Application.** Notwithstanding any provision of this chapter to the contrary, this section applies only to plan coverage for technical college members covered under section 354B.01, subdivision 4a.

Subd. 2. **Election to participate.** Technical college teaching personnel may either elect to participate in the plan or elect coverage by the teachers retirement association, the Duluth teachers retirement fund association, the Minneapolis teachers retirement fund association, or the St. Paul teachers retirement fund association as follows:

(a) A technical college teacher first employed in covered employment after June 30, 1995, must make the election within 60 days of the start of covered employment, on a form provided by the state university plan administrator under section 354B.05, subdivision 1. The election is irrevocable during any future period of covered service.

(b) A technical college teacher with prior allowable service as a member of the teachers retirement association or of a first class city teachers retirement fund association may elect coverage by the applicable plan. If that coverage is elected, the election is irrevocable, accumulated employer and employee contributions and prior allowable service credit under section 354.05, subdivision 13, or 354A.011, subdivision 4, whichever applies, must remain with the applicable teachers retirement fund, and the teacher is eligible for an augmented deferred retirement annuity from the teachers retirement association under section 354.55, subdivision 11, or the applicable first class city teachers retirement fund association under section 354A.37, subdivision 2.

Subd. 3. **Employer contribution amount for certain coverage elections.** Employer contributions for technical college teaching personnel who elect coverage by the teachers retirement fund association are governed by section 354.42, subdivisions 3 and 5, and employer contributions for technical college teaching personnel who elect coverage by a first class city teacher retirement fund association are governed by the applicable employer contribution provisions of section 354A.12, subdivision 2a.

History: 1994 c 508 art 1 s 11

NOTE: This section, as added by Laws 1994, chapter 508, article 1, section 11, is effective July 1, 1995. See Laws 1994, chapter 508, article 1, section 12.

354B.04 CONTRIBUTIONS.

Subdivision 1. **Member contributions.** (a) Persons in covered employment who would otherwise be eligible to participate in the teachers retirement association, but who participate in the plan, shall make a member contribution of 4-1/2 percent of salary.

(b) Persons in covered employment who would otherwise be eligible to participate in the state unclassified employees retirement program, but who participate in the plan, shall make a member contribution in an amount equal to the member contribution amount prescribed in section 352D.04, subdivision 2, paragraph (a).

(c) The contribution must be made by payroll deduction each pay period.

Subd. 2. Employer contributions. (a) The employer of persons described in subdivision 1, paragraph (a), shall make an employer contribution to the plan of six percent of salary.

(b) The employer of persons described in subdivision 1, paragraph (b), shall make an employer contribution to the plan in an amount equal to the amount prescribed by section 352D.04, subdivision 2.

Subd. 3. Manner of employer contributions. The employer of persons in covered employment shall make employer contributions from any available revenue sources. The employer contribution must be made each pay period.

Subd. 4. Omitted contributions. (a) Except as provided in paragraph (b), if the state university board or the community college board fails to make the deduction from an employee's salary required by section 354B.08 and this section in a timely fashion, the deduction must be made by subsequent payroll deductions.

(b) If a board fails to make required employee deductions within 60 days of the date on which the deductions should have been made, the board shall pay the employer contributions and an amount equivalent to 8.5 percent of the total amount due in lieu of interest. If an employee deduction is not made within 60 days of the date upon which it should have been made, the employer and employee may agree to an alternate deduction amount for the omitted employee contribution. The omitted employee deduction must be made within one year of the date upon which the deduction should have been made.

History: 1988 c 709 art 11 s 4; 1989 c 319 art 18 s 7; 1991 c 340 s 30; 1991 c 341 s 42; 1992 c 446 s 15,16; 1993 c 239 art 2 s 1-3

354B.045 SABBATICAL LEAVE; CONTRIBUTIONS.

Subdivision 1. Definition. A "sabbatical leave" for the purpose of this section means a sabbatical leave as defined in the applicable personnel policy of the state university and community college boards.

Subd. 2. Required employee and employer contributions. Deductions for the employer contribution as specified in section 354B.04, subdivision 2, must be made by the employing unit from salary paid to the member for a sabbatical leave. The employer must make a contribution based on the contribution rate in section 354B.04, subdivision 2, based on the salary paid to the member for a sabbatical leave.

Subd. 3. Optional contribution. A plan participant who is on a sabbatical leave may make an optional employee contribution. The maximum optional employee contribution permitted is determined by the difference between the salary received for the sabbatical leave and the salary received for a comparable period during the year immediately preceding the leave, multiplied by the employee contribution rate specified in section 354B.04, subdivision 1. If an employee payment is made under this subdivision, the payment must be made by the end of the fiscal year following the fiscal year in which the leave terminates, and may not include interest. If an employee makes a contribution under this subdivision, the employer must make the employer contribution, at the rate specified in section 354B.04, subdivision 2, for the salary that was the basis for the employee payment under this subdivision. The employer contribution must be made within 60 days of the date on which the employee contribution was made.

Subd. 4. Reinstatement rights. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made under this section if the member does not retain the right to full reinstatement both during and at the end of the sabbatical leave.

History: 1993 c 239 art 2 s 4

354B.05 ADMINISTRATION.

Subdivision 1. Governing boards. The state university board or any successor board

shall administer the plan for persons in covered employment under section 354B.01, subdivisions 2, 4, and 5. The community college board or any successor board shall administer the plan for persons in covered employment under section 354B.01, subdivision 3.

Subd. 2. Purchase of contracts. The state university board and the community college board shall arrange for the purchase of annuity contracts, fixed, variable, or a combination of fixed and variable, or custodial accounts from financial institutions selected by the state board of investment under subdivision 3, to provide retirement benefits to members of the plan. The contracts or accounts must be purchased with contributions under section 354B.04 or money or assets otherwise provided by law or by authority of the state university board or community college board and acceptable by the financial institutions from which the contracts or accounts are purchased.

Subd. 3. Selection of financial institutions. The supplemental investment fund administered by the state board of investment is one of the investment options for the plan. The state board of investment may select up to five other financial institutions to provide annuity products. In making their selections, the board shall consider at least these criteria:

- (1) the experience and ability of the financial institution to provide retirement and death benefits suited to the needs of the covered employees;
- (2) the relationship of the benefits to their cost; and
- (3) the financial strength and stability of the institution.

The state board of investment must periodically review at least every three years each financial institution selected by the state board of investment. The state board of investment may retain consulting services to assist in the periodic review, may establish a budget for its costs in the periodic review process, and may charge a proportional share of those costs to each financial institution selected by the state board of investment. All contracts must be approved by the state board of investment before execution by the state university board and the community college board. The state board of investment shall also establish policies and procedures under section 11A.04, clause (2), to carry out this subdivision.

The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the fixed interest account attributable to any guaranteed investment contract as of July 1, 1994, must not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.

Subd. 4. Benefits owned by members. The retirement benefits provided by the annuity contracts or custodial accounts are owned by the trust and must be paid in accordance with the provisions of the plan document.

Subd. 5. Administrative expenses. (a) Plans covered by this chapter or administered by governing boards as provided in section 354B.05 may provide for administrative fees or charges to be paid by participants in the following manner:

(1) from participants whose contributions are invested with the state investment board, the plan administrator may recover administrative expenses in the manner provided by section 11A.17, subdivisions 10a and 14; or

(2) from participants whose contributions are invested through contracts purchased in the manner authorized by subdivision 2, the plan administrator may assess an amount of up to two percent of the employer and employee contributions.

(b) Any amounts not needed for administrative expenses of the plan must be refunded to member accounts.

History: 1988 c 709 art 11 s 5; 1989 c 209 art 2 s 1; 1989 c 319 art 18 s 8,9; 1990

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c 570 art 3 s 9; 1992 c 446 s 17; 1992 c 539 s 15; 1993 c 192 s 88; 1993 c 239 art 2 s 5; 1994 c 508 art 1 s 12; 1994 c 572 s 8; 1994 c 604 art 1 s 15

NOTE: The amendments to subdivision 1 by Laws 1994, chapter 572, section 8, are effective July 1, 1995. See Laws 1994, chapter 572, section 13.

354B.06 RULES.

The state university system and the community college system may adopt rules to administer the provisions of sections 354B.07 to 354B.09. The systems may deposit member contributions in a nontreasury account established under chapter 136, an account or accounts established under section 11A.17, or other appropriate accounts of the state board of investment for investment under procedures established by the state board of investment.

History: *1991 c 269 art 4 s 2*

354B.07 SUPPLEMENTAL RETIREMENT PLAN.

Subdivision 1. Establishment and eligibility. (a) **Regular unclassified employees.** The supplemental retirement plan for personnel employed by the state university board, the state board for community colleges, the higher education board, and effective July 1, 1995, the technical colleges, who are in the unclassified service of the state commencing July 1 following the completion of the second year of their full-time contract is governed by this section.

(b) **CETA unclassified employees.** An unclassified employee employed by the state university board or the state board for community colleges in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal Comprehensive Employment and Training Act is not included in the supplemental retirement plan provided for in this section after March 30, 1978, unless the unclassified employee has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund providing primary retirement coverage to meet the minimum vesting requirements for a deferred retirement annuity, or the board agrees in writing to make the employer contribution required by this section on account of that unclassified employee from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the unclassified employee agrees in writing to make the employer contribution required by this section in addition to the member contribution.

Subd. 2. Redemptions. The chancellor of the state university system and the chancellor of the state community college system shall redeem all shares in the accounts of the Minnesota supplemental investment fund held on behalf of personnel in the supplemental plan who elect an investment option other than the supplemental investment fund, except that shares in the fixed interest account attributable to any guaranteed investment contract as of July 1, 1994, may not be redeemed until the expiration dates for the guaranteed investment contracts. The chancellors shall transfer the cash realized to the financial institutions selected by the state university board and the community college board under section 354B.05.

History: *1991 c 269 art 4 s 3; 1992 c 539 s 16; 1994 c 572 s 9; 1994 c 604 art 1 s 16*

NOTE: The amendments to subdivision 1 by Laws 1994, chapter 572, section 9, are effective July 1, 1995. See Laws 1994, chapter 572, section 13.

354B.08 SALARY DEDUCTIONS, MATCHING FUNDS.

Subdivision 1. Deductions and contributions. (a) **Basic deductions and contributions for state universities and community colleges.** The state university board and the state board for community colleges shall deduct from the salary of each eligible person described in section 354B.07 a sum equal to five percent of the person's annual salary paid between \$6,000 and \$15,000. The deduction must be made in the same manner as other retirement deductions are made from the salary of the person. The employer shall make a contribution to the plan on behalf of every covered person in an amount equal to the deductions made from the salary of the person.

(b) **Basic deductions and contributions for technical colleges.** Effective July 1, 1995, unclassified employees of the technical colleges are eligible for participation in the supplemental retirement plan on the same basis as employees in paragraph (a) for the basic deductions and contributions.

(c) **Additional deductions and contributions.** If an agreement is made under section 356.24 for additional employer contributions, an amount equal to the additional employer contribution must be deducted from the person's annual salary above \$15,000 as specified in this subdivision. Two percent of the amount of the salary deductions and employer contributions may be used by the boards for payment of necessary and reasonable administrative expenses.

Subd. 2. **Administration.** (a) The chancellor of the state university system and the chancellor of the state community college system shall administer the supplemental retirement plan for their employees. The chancellors shall invest contributions made under this section, less amounts used for administrative expenses, as authorized by law. The retirement contributions and death benefits provided by annuity contracts or custodial accounts purchased by the chancellors are owned by the plan and must be paid in accordance with the annuity contracts or custodial accounts.

(b) Effective July 1, 1995, administration of the plan must transfer to the higher education board.

History: 1991 c 269 art 4 s 4; 1994 c 572 s 10

NOTE: The amendments to this section by Laws 1994, chapter 572, section 10, are effective July 1, 1995. See Laws 1994, chapter 572, section 13.

354B.085 PAYMENT OF BENEFITS.

Withdrawal of or a retirement benefit based on individual participant contributions and employer contributions plus accrued investment income is payable immediately upon the death or termination of a participant. An application by or on behalf of the participant must be filed before any payment of benefits may be made.

History: 1993 c 239 art 2 s 6

354B.09 TAX SHELTER PROVISIONS.

Subdivision 1. **Agreements; adjustments.** For the purpose of, and to permit the participation in a tax shelter under provisions of sections 501(c) and 403(b) and related provisions of the Internal Revenue Code, the state university board and the board for community colleges may enter into agreements to reduce or adjust salaries downward for persons defined in section 354B.07, subdivision 1, and to pay as employer an amount equivalent to the salary reduction in the same manner as deductions would have been paid by the person under section 354B.08, subdivision 1.

Subd. 2. **Rules.** Subject to the approval of their governing boards, the chancellors of the state university system and community college system may adopt rules and procedures consistent with sections 354B.07 to 354B.09 which permit, if possible, participation in a tax shelter under provisions of the Internal Revenue Code.

History: 1991 c 269 art 4 s 5

TEACHER RETIREMENT FUND ASSOCIATION

354B.15 TRANSFER OF CERTAIN TRA MEMBER CONTRIBUTION REFUNDS TO IRAP.

(a) Notwithstanding any provision of law to the contrary, a former member of the teachers retirement fund association who has less than three years of allowable service and who is a member of the plan governed by this chapter may elect to transfer to the plan an amount equal to the refund that the member could otherwise receive under section 354.49, subdivision 2. The transfer must be made from the teachers retirement fund association directly to the plan and credited by the plan appropriately. No amount under this section is payable directly to an individual.

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(b) The election must be made on a form prescribed by the executive director of the teachers retirement fund association, after consultation with the administrators of the plan.

History: *1994 c 508 art 1 s 13*