

CHAPTER 354B

INDIVIDUAL RETIREMENT ACCOUNT PLAN

	TEACHER RETIREMENT FUND ASSOCIATION	354B.24	Sabbatical leave.
354B.20	Definitions.	354B.25	Individual retirement account plan administration.
354B.21	Coverage.	354B.26	Deferred annuity entitlement for certain former TRA members.
354B.22	IRAP coverage in addition to social security coverage.	354B.30	Prohibition on loans or pretermination distributions.
354B.23	Contributions.		

354B.01 [Repealed, 1995 c 141 art 4 s 31]

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354B.04 [Repealed, 1995 c 141 art 4 s 31]

354B.045 [Repealed, 1995 c 141 art 4 s 31]

354B.05 [Repealed, 1995 c 141 art 4 s 31]

354B.06 [Repealed, 1995 c 141 art 4 s 31]

354B.07 [Repealed, 1995 c 141 art 4 s 31]

354B.08 [Repealed, 1995 c 141 art 4 s 31]

354B.085 [Repealed, 1995 c 141 art 4 s 31]

354B.09 [Repealed, 1995 c 141 art 4 s 31]

TEACHER RETIREMENT FUND ASSOCIATION

354B.15 [Repealed, 1995 c 141 art 4 s 31]

354B.20 DEFINITIONS.

Subdivision 1. **In general.** Unless the content or subject matter indicates otherwise, as used in this chapter the terms in this section have the meanings given them.

Subd. 2. **Board.** "Board" means the board of trustees of the Minnesota state colleges and universities.

Subd. 3. **Chancellor.** "Chancellor" means the chancellor of the board.

Subd. 4. **Covered employment.** (a) "Covered employment" means employment by a person eligible for coverage by this retirement program under section 354B.21 in a faculty position or in an eligible unclassified administrative position.

(b) "Covered employment" does not mean employment specified in paragraph (a) by a faculty member employed in a state university or a community college if the person's initial appointment is specified as constituting less than 25 percent of a full academic year, exclusive of summer session, for the applicable institution.

Subd. 5. **Covered salary.** (a) "Covered salary" means the periodic compensation paid to the participant before deductions for deferred compensation, supplemental retirement coverage, or other voluntary salary reduction program.

(b) "Covered salary" does not mean lump sum sick leave payments, severance payments, payments in lieu of employer-paid group insurance coverage, payments based on differences between single employer-paid group insurance coverage and insurance coverage including dependents, or workers' compensation payment.

Subd. 6. **Eligible unclassified administrative position.** "Eligible unclassified administrative position" means the following:

MINNESOTA STATUTES 1998

- (1) the chancellor of the board;
- (2) a president of a state college or university; or
- (3) an excluded administrator employed in a state university or college, by the board, or by the higher education services office.

Subd. 7. **Employing unit.** "Employing unit," if the agency employs any persons covered by the individual retirement account plan under section 354B.21, means:

- (1) the board;
- (2) the higher education services office; and
- (3) the higher education facilities authority.

Subd. 8. **Faculty.** "Faculty" means an employment position that meets the definition of either section 354.05, subdivision 2, or 354A.011, subdivision 27.

Subd. 9. **First class city teacher retirement fund association.** "First class city teacher retirement fund association" means a retirement plan, fund, and plan administration established under chapter 354A.

Subd. 10. **General state employees retirement plan.** "General state employees retirement plan" means the retirement plan administered by the Minnesota state retirement system and governed by sections 352.01 to 352.72.

Subd. 11. **Board of trustees of the Minnesota state colleges and universities.** "Board of trustees of the Minnesota state colleges and universities" means the governing board for the state universities, the community colleges, and the technical colleges established by section 136F.02.

Subd. 12. **Participant.** "Participant" means a person who is employed in covered employment by the board and who elects coverage by the plan under section 354B.21.

Subd. 13. **Plan.** "Plan" means the individual retirement account plan established by this chapter.

Subd. 14. **Plan administrator.** "Plan administrator" means the board employee or an independent contract agent designated by the board to perform the primary administrative functions relating to the plan.

Subd. 15. **Sabbatical leave.** "Sabbatical leave" means a sabbatical leave as specified in the applicable collective bargaining agreement or personnel policy of the board for its employees.

Subd. 16. **State unclassified employees retirement program.** "State unclassified employees retirement program" means the retirement program established by chapter 352D.

Subd. 17. **Supplemental plan.** "Supplemental plan" means the retirement program established by chapter 354C.

Subd. 18. **Teachers retirement plan.** "Teachers retirement plan" means the retirement plan established by chapter 354.

History: 1995 c 141 art 4 s 8; 1995 c 212 art 3 s 59; art 4 s 64; 1996 c 305 art 1 s 139

354B.21 COVERAGE.

Subdivision 1. **Eligibility.** The following persons are eligible to have coverage by the individual retirement account plan and to be participants in the plan:

- (1) employees of the board who are employed as faculty in an employment classification included in the state university instructional unit, the community college instructional unit, or the technical college instructional unit under section 179A.10, subdivision 2;
- (2) the chancellor and employees of the board in eligible unclassified administrative positions;
- (3) the employees in eligible unclassified administrative positions in the state universities;
- (4) the employees in eligible unclassified administrative positions in the technical colleges; and
- (5) the employees in eligible unclassified administrative positions of the higher education services office or of the community colleges.

Subd. 2. **Coverage; election.** (a) An eligible person is entitled to elect coverage by the plan. If the eligible person does not make a timely election of coverage by the plan, the person has the coverage specified in subdivision 3.

(b) For eligible persons who were employed by the former state university system or the former community college system before May 1, 1995, the person has the retirement coverage that the person had for employment immediately before May 1, 1995.

(c) For all other eligible persons, the election of coverage must be made within 90 days of May 10, 1995, or 90 days of receiving notice from the employer of the options available under this section, whichever occurs later.

Subd. 3. **Default coverage.** (a) If an eligible person fails to elect coverage by the plan under subdivision 2 or if the person fails to make a timely election, the following retirement coverage applies:

(1) for employees of the board who are employed in faculty positions in the technical colleges, in the state universities or in the community colleges, the retirement coverage is by the plan established by this chapter;

(2) for employees of the board who are employed in faculty positions in the technical colleges, the retirement coverage is by the plan established by this chapter unless on June 30, 1997, the employee was a member of the teachers retirement association established under chapter 354 and then the retirement coverage is by the teachers retirement association, or, unless the employee was a member of a first class city teacher retirement fund established under chapter 354A on June 30, 1995, and then the retirement coverage is by the Duluth teachers retirement fund association if the person was a member of that plan on June 30, 1995, or the Minneapolis teachers retirement fund association if the person was a member of that plan on June 30, 1995, or the St. Paul teachers retirement fund association if the person was a member of that plan on June 30, 1995; and

(3) for employees of the board who are employed in eligible unclassified administrative positions, the retirement coverage is by the plan established by this chapter.

(b) If an employee fails to correctly certify prior membership in the teachers retirement association to the Minnesota state colleges and universities system, the system shall not pay interest on employee contributions, employer contributions, and additional employer contributions to the teachers retirement association under section 354.52, subdivision 4.

Subd. 3a. **Continuation of plan coverage in certain instances.** For a person with retirement coverage by a first class city teacher retirement fund association instead of the individual retirement account plan under subdivision 3, clause (2), coverage by the applicable retirement fund association continues for the duration of the person's employment by the board of trustees of the Minnesota state colleges and universities unless, within 90 days of a change in employment within the Minnesota state colleges and universities system, the person elects the individual retirement account plan for all future employment by the board of trustees of the Minnesota state colleges and universities.

Subd. 3b. **Coverage of certain former technical college faculty members.** A person who was employed as a teacher by a technical college before July 1, 1995, and who subsequently is reclassified into a different employment position while continuing to perform the same or essentially the same employment duties and consequently shifts from the technical college-instructional collective bargaining unit to another state collective bargaining unit retains coverage by the teachers retirement association or the applicable first class city teachers retirement fund association, whichever applies.

Subd. 3c. **Election of TRA coverage in certain instances.** (a) A person who was employed as a teacher by a technical college before July 1, 1995, and who has retirement coverage for that technical college teacher employment by a first class city teacher retirement fund association under chapter 354A may elect to have future higher education system teacher employment retirement coverage by the teacher retirement association governed by chapter 354.

(b) The election to transfer prospective retirement coverage under paragraph (a) must be made by the technical college teacher by October 1, 1995, or within 90 days of initially being employed by the higher education system, whichever is later. The election must be made in writing on a form prescribed by the executive director of the teachers retirement

MINNESOTA STATUTES 1998

association. The election, once filed with the executive director of the teachers retirement association, is irrevocable.

(c) An election to transfer prospective retirement coverage under paragraph (a) does not affect prior allowable service credit under section 354A.011, subdivision 4. The transfer of prospective retirement coverage does not make the person eligible for a refund of member contributions during the course of the person's employment by the higher education system.

Subd. 4. Coverage in the event of acting, interim, or temporary appointments. (a) A person previously employed by the board and subsequently appointed by the board to an acting, interim, or temporary faculty or eligible unclassified administrative position by the board retains the retirement coverage that the person had in the prior board position. If the participant's status becomes permanent, the participant has the option to make an election of retirement coverage appropriate to the retirement plan in which the employment position should have retirement coverage consistent with subdivision 2.

(b) A person who is appointed to an acting, interim, or temporary faculty position by the board and who was not employed in a faculty position by the board immediately before that appointment must elect coverage as provided in subdivision 2.

Subd. 5. Payment for certain prior uncovered service. (a) A person employed in a faculty position by the board who was initially excluded from participation in the individual retirement account plan coverage, who was not covered by any other Minnesota public pension plan for that service, and who is subsequently eligible to participate in the individual retirement account plan may make member contributions for that period of prior uncovered teaching employment or eligible unclassified administrative employment with the board.

(b) The member contributions for prior uncovered board service are the amount that the person would have paid if the prior service had been covered employment. The payment must be made to the individual retirement account plan administrator and may be made only by payroll deduction. The payment must be made by the later of:

- (1) 45 days of the start of covered employment; or
- (2) the end of the fiscal year in which covered employment began.

(c) The board must contribute an amount to match any contribution made by a plan participant under this subdivision.

(d) Payments of contributions for prior uncovered board service under this subdivision must be invested in the same manner as the regular contributions made by or on behalf of the plan participant.

Subd. 6. Continuation of coverage. Once a person is employed in a position that qualifies for participation in the individual retirement account plan and elects to participate in the plan, all subsequent service by the person as a faculty member employed by the board or other employing unit is covered by the individual retirement account plan.

History: 1995 c 141 art 4 s 9; 1995 c 212 art 3 s 59; art 4 s 64; 1997 c 241 art 8 s 5

354B.22 IRAP COVERAGE IN ADDITION TO SOCIAL SECURITY COVERAGE.

Subdivision 1. Social security coverage. (a) Any employee of the board or other employing unit who elects coverage by this chapter is a member of the teachers retirement association solely for purposes of coverage by the federal old age, survivors, disability and health insurance program, and is covered by the agreement made under section 355.02.

(b) A person with federal social security coverage through teachers retirement association membership under paragraph (a) is not a member of the teachers retirement association for any other purpose while employed as a teacher by the board, and membership in the teachers retirement association for this limited purpose conveys no rights or benefit entitlement under chapter 354.

Subd. 2. Public pension coverage as condition of employment. Coverage by a public pension plan under section 354B.21 is a condition of initial employment or continued employment as a faculty member or eligible unclassified administrative position by the board or other employing unit.

History: 1995 c 141 art 4 s 10

354B.23 CONTRIBUTIONS.

Subdivision 1. **Member contribution rate.** (a) Except as provided in paragraph (b), the member contribution rate for participants in the individual retirement account plan is 4.5 percent of salary.

(b) For participants in the individual retirement account plan who were otherwise eligible to elect retirement coverage in the state unclassified employees retirement program, the member contribution rate is the rate specified in section 352D.04, subdivision 2, paragraph (a).

Subd. 2. **Member contribution method.** Member contributions must be made by payroll deduction during each pay period.

Subd. 3. **Employer contribution rate.** The employer contribution rate on behalf of participants in the individual retirement account plan is six percent of salary.

Subd. 4. **Employer contribution method.** The employer contribution must be made by the employing unit of a plan participant during each pay period. The employer contribution must be made from the available revenue sources of the employing unit.

Subd. 5. **Omitted member deductions.** (a) If the employing unit that employs a plan participant fails to deduct the member contribution from the participant's salary and a period of less than 60 days from the date on which the deduction should have been made has elapsed, the employing unit must obtain the omitted member deduction by an additional payroll deduction during the pay period next following the discovery of the omission.

(b) If the employing unit of a plan participant fails to deduct the member contribution from the participant's salary and that omission continues for at least 60 days from the date on which the deduction should have been made, the employing unit must pay the amount representing the omitted member contribution, and the full required employer contribution, plus compound interest at an annual rate of 8.5 percent. The contributions and any interest must be made within one year of the date on which the omission was discovered.

Subd. 5a. **Excess contributions.** (a) When contributions to the plan exceed limits imposed by federal law or regulation and it is necessary to return contributions to comply with the federal limits, excess contributions must be returned to the employee and to the employer in the same proportions as the contributions were made.

(b) When an employer contribution required under section 354B.24 due to a sabbatical leave is made after completion of the leave or an employer contribution is made due to omitted deductions under subdivision 5, and these employer contributions cause or would cause total contributions to the plan to exceed limits imposed by federal law or regulation, the employer must make that portion of the contribution that would exceed the federal limit during the next calendar year.

Subd. 6. **Transfer of certain TRA member contribution amounts to IRAP.** (a) Notwithstanding any provisions of chapter 354 to the contrary, a former member of the teachers retirement association who has less than three years of allowable service credit under section 354.05, subdivision 13, and who is a member of the individual retirement account plan may elect to transfer to the plan an amount equal to the refund that the person could have received under section 354.49, subdivision 2, if the person had been eligible to receive a refund.

(b) The transfer must be made from the teachers retirement association directly to the individual retirement account plan and credited to the appropriate account.

(c) No amount under this subdivision may be paid directly to the former teachers retirement association member.

(d) The election of this transfer must be made on a form prescribed by the executive director of the teachers retirement association, after consultation with the plan administrator.

History: 1995 c 141 art 4 s 11; 1998 c 390 art 2 s 10

354B.24 SABBATICAL LEAVE.

Subdivision 1. **Continuation of coverage.** A person who is a participant in the individual retirement plan, and who goes on an approved sabbatical leave, must remain a participant in the plan for any period during which the person receives a salary from the board or during which the person makes an optional contribution provided for in subdivision 3.

MINNESOTA STATUTES 1998

Subd. 2. **Mandatory contributions.** (a) From the salary paid to the person during the course of an approved sabbatical leave, the employing unit must deduct a member contribution as required under section 354B.23, subdivision 1.

(b) The employing unit must make the employer contribution on behalf of the plan participant as provided in section 354B.23, subdivision 3.

Subd. 3. **Optional additional contributions.** (a) A plan participant on an approved sabbatical leave may make an optional additional member contribution. The optional additional member may not exceed the applicable member contribution rate specified in section 354B.23, subdivision 1, applied to the difference between the amount of salary actually received during the sabbatical leave and the amount of salary actually received for a comparable period of an identical length to the sabbatical leave that occurred during the fiscal year immediately preceding the sabbatical leave.

(b) Any optional additional member contribution must be made before the last day of the fiscal year next following the fiscal year in which the sabbatical leave terminates. The optional additional member contribution may not include interest.

(c) When an optional additional member contribution is made, the employing unit must make the employer contribution at the rate set forth in section 354B.23, subdivision 3, on the salary that was the basis for the optional additional member contribution under paragraph (a).

(d) An employer contribution required under this section must be made no later than 60 days after the date on which the optional additional member contribution was made.

Subd. 4. **Reinstatement rights.** Notwithstanding the provisions of any sabbatical leave agreements, regular and optional additional member contributions and employer contributions under this section are permissible only if the plan participant retains the right to full reinstatement to an employment position with the applicable employing unit both during and at the conclusion of the sabbatical leave.

History: 1995 c 141 art 4 s 12

354B.25 INDIVIDUAL RETIREMENT ACCOUNT PLAN ADMINISTRATION.

Subdivision 1. **General governance.** The individual retirement account plan is the administrative responsibility of the board of trustees of the Minnesota state colleges and universities. The board of trustees of the Minnesota state colleges and universities may administer the plan directly or may contract out for administrative services with a qualified third-party plan administrative entity.

Subd. 1a. **Advisory committee.** (a) A committee is created to advise the state board of investment and the board of trustees of the Minnesota state colleges and universities concerning administration of the individual retirement account plan and the supplemental retirement plan established in chapter 354C. The committee shall adopt recommendations by majority vote of those members voting on each issue. The exclusive representatives of the state university instructional unit, the community college instructional unit, and the technical college instructional unit shall each appoint two members to the committee. The exclusive representatives of the general professional unit, the supervisory employees unit and the state university administrative unit shall each appoint one member to the committee. The chancellor of the Minnesota state colleges and universities shall appoint three members, at least one of whom shall be a personnel administrator. No member of the committee shall be retired. Members serve at the pleasure of the applicable appointing authority, but no member shall serve for more than a total of five years. Members shall be reimbursed from the administrative expense account of the individual retirement account plan for expenses as provided in section 15.059, subdivision 3.

(b) The committee shall:

(1) advise the board of trustees of the Minnesota state colleges and universities on the structure and operation of the individual retirement account plan and the supplemental retirement plan;

(2) along with any other consultants selected by the board, advise the state board of investment on selection of financial institutions and on the type of investment products to be offered by these institutions for the plans;

(3) advise the board of trustees of the Minnesota state colleges and universities on administration of the plans, including selection of a third-party plan administrator, if any, for the individual retirement account plan.

(c) The board of trustees of the Minnesota state colleges and universities shall provide the advisory committee with meeting space and other administrative support.

(d) Expenses of the advisory committee are considered administrative expenses of the plans under subdivision 5 and section 354C.12, subdivision 4, and must be allocated between the two plans in proportion to the market value of the total assets of the plans as of the most recent prior audited annual financial report.

Subd. 2. Annuity contracts and custodial accounts. (a) The plan administrator shall arrange for the purchase of fixed annuity contracts, variable annuity contracts, a combination of fixed and variable annuity contracts, or custodial accounts from financial institutions which have been selected by the state board of investment under subdivision 3, as the investment vehicle for the retirement coverage of plan participants and to provide retirement benefits to plan participants. Custodial accounts from financial institutions shall include open-end investment companies registered under the federal Investment Company Act of 1940, as amended.

(b) The annuity contracts or accounts must be purchased with contributions under section 354B.23 or with money or assets otherwise provided by law by authority of the board and deemed acceptable by the applicable financial institution.

(c) In addition to contracts and accounts from financial institutions, the Minnesota supplemental investment fund established under section 11A.17 and administered by the state board of investment is one of the investment options for the individual retirement account plan.

Subd. 3. Selection of financial institutions. (a) The financial institutions provided for under subdivision 2 must be selected by the state board of investment. Financial institutions include open-end investment companies registered under the federal Investment Company Act of 1940, as amended.

(b) The state board of investment may select up to five financial institutions to provide annuity contracts, custodial accounts, or a combination, as investment options for the individual retirement account plan in addition to the Minnesota supplemental investment fund. In making its selection, at a minimum, the state board of investment shall consider at least the following:

(1) the experience and ability of the financial institution to provide retirement and death benefits that are suited to meet the needs of plan participants;

(2) the relationship of those retirement and death benefits provided by the financial institution to their cost; and

(3) the financial strength and stability of the financial institution.

(c) After selecting a financial institution, the state board of investment must periodically review each financial institution selected under paragraph (b). The periodic review must occur at least every three years. In making its review, the state board of investment may retain appropriate consulting services to assist it in its periodic review, establish a budget for the cost of the periodic review process, and charge a proportional share of these costs to the reviewed financial institution.

(d) Contracts with financial institutions under this section must be executed by the board and must be approved by the state board of investment before execution.

(e) The state board of investment shall also establish policies and procedures under section 11A.04, clause (2), to carry out the provisions of this subdivision.

Subd. 4. Benefit ownership. The retirement benefits provided by the annuity contracts and custodial accounts of the individual retirement account plan are held for the benefit of plan participants and must be paid according to this chapter and the plan document.

Subd. 5. Individual retirement account plan administrative expenses. (a) The reasonable and necessary administrative expenses of the individual retirement account plan must be paid by plan participants in the following manner:

(1) from plan participants with amounts invested in the Minnesota supplemental investment fund, the plan administrator may charge an administrative expense assessment in an amount such that annual total fees charged for plan administration cannot exceed 40/100 of one percent of the assets of the Minnesota supplemental investment funds; and

(2) from plan participants with amounts through annuity contracts and custodial accounts purchased under subdivision 2, paragraph (a), the plan administrator may charge an administrative expense assessment of a designated amount, not to exceed two percent of member and employer contributions, as those contributions are made.

(b) Any administrative expense charge that is not actually needed for the administrative expenses of the individual retirement account plan must be refunded to member accounts.

(c) The board of trustees shall report annually, before October 1, to the advisory committee created in subdivision 1a on administrative expenses of the plan. The report must include a detailed accounting of charges for administrative expenses collected from plan participants and expenditure of the administrative expense charges. The administrative expense charges collected from plan participants must be kept in a separate account from any other funds under control of the board of trustees and may be used only for the necessary and reasonable administrative expenses of the plan.

History: 1995 c 141 art 4 s 13; 1995 c 212 art 4 s 64; 1997 c 241 art 3 s 7,8; 1998 c 390 art 2 s 11,12.

NOTE: The amendment to subdivision 5 by Laws 1998, chapter 390, article 2, section 12, is effective July 1, 1999. Laws 1998, chapter 390, article 2, section 22.

354B.26 DEFERRED ANNUITY ENTITLEMENT FOR CERTAIN FORMER TRA MEMBERS.

Notwithstanding any provision of chapter 354 to the contrary, a person covered by this chapter who had less than three years of prior allowable service credit in the teachers retirement association is entitled to a deferred annuity and augmentation under section 354.55, subdivision 11.

History: 1995 c 141 art 4 s 14

354B.30 PROHIBITION ON LOANS OR PRETERMINATION DISTRIBUTIONS.

(a) No participant may obtain a loan from the plan or obtain any distribution from the plan at a time before the participant terminates the employment that gave rise to plan coverage.

(b) No amounts to the credit of the plan are assignable either in law or in equity, are subject to state estate tax, or are subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111.

History: 1995 c 141 art 4 s 15; 1997 c 203 art 6 s 92