

## CHAPTER 354

### TEACHERS RETIREMENT ACT

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**354.01** [Renumbered 83A.01]

**354.02** [Renumbered 83A.02]

**354.03** [Renumbered 83A.03]

**354.04** [Renumbered 83A.04]

#### **354.045 CITATION.**

This chapter may be cited as the Teachers Retirement Act.

**History:** 1969 c 485 s 39; 1974 c 289 s 1

#### **354.05 DEFINITIONS.**

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. **Teacher.** (a) "Teacher" means:

(1) a person who renders service as a teacher, supervisor, principal, superintendent, librarian, nurse, counselor, social worker, therapist, or psychologist in a public school of the state located outside of the corporate limits of the city of Duluth or the city of St. Paul, or in any charter school, irrespective of the location of the school, or in any charitable, penal, or correctional institutions of a governmental subdivision, or who is engaged in educational administration in connection with the state public school system, but excluding the University of Minnesota, whether the position be a public office or an employment, and not including the members or officers of any general governing or managing board or body;

(2) an employee of the Teachers Retirement Association;

(3) a person who renders teaching service on a part-time basis and who also renders other services for a single employing unit. A person whose teaching service comprises at least 50 percent of the combined employment salary is a member of the association for all services with the single employing unit. If the person's teaching service comprises less than 50 percent of the combined employment salary, the executive director must determine whether all or none of the combined service is covered by the association; or

(4) a person who is not covered by the plans established under chapter 352D, 354A, or 354B and who is employed by the Board of Trustees of the Minnesota State Colleges and Universities system in an unclassified position as:

(i) a president, vice-president, or dean;

(ii) a manager or a professional in an academic or an academic support program other than specified in item (i);

(iii) an administrative or a service support faculty position; or

(iv) a teacher or a research assistant.

(b) "Teacher" does not mean:

(1) a person who works for a school or institution as an independent contractor as defined by the Internal Revenue Service;

(2) a person who renders part-time teaching service or who is a customized trainer as defined by the Minnesota State Colleges and Universities system if (i) the service is incidental to the regular nonteaching occupation of the person; and (ii) the employer stipulates annually in advance that the part-time teaching service or customized training service will not exceed 300 hours in a fiscal year and retains the stipulation in its records; and (iii) the part-time teaching service or customized training service actually does not exceed 300 hours in a fiscal year; or

(3) a person exempt from licensure under section 122A.30.

Subd. 2a. **Exceptions.** (a) Notwithstanding subdivision 2, a person specified in paragraph (b) is not a member of the association except for purposes of Social Security coverage unless the person is covered by section 354B.21, and elects coverage by the Teachers Retirement Association.

(b) A teacher is excluded from association membership other than Social Security coverage under paragraph (a) if the person is covered by the individual retirement account plan established under chapter 354B.

Subd. 3. **Teaching.** The word "teaching" includes the service performed by any person coming within the definition of "teacher" as set forth in subdivision 2.

Subd. 4. **Fund.** The term "fund" means the teachers retirement fund referred to in this chapter.

Subd. 5. **Member of the association.** "Member of the association" means every teacher who contributes to the teachers retirement fund as provided in this chapter who has not retired, or a teacher who exercises an option to elect coverage under another public pension plan enumerated in section 356.30, subdivision 3. Any former member of the association who is retired and subsequently resumes teaching service is a member of the association only for purposes of Social Security coverage.

Subd. 6. **Board.** The term "board" means the board of trustees of the Teachers Retirement Association.

Subd. 7. **Actuarial equivalent.** "Actuarial equivalent" means the condition of one annuity or benefit having an equal actuarial present value as another annuity or benefit, determined as of a given date with each actuarial present value based on the appropriate mortality table adopted by the board of trustees based on the experience of the association as recommended by the actuary retained under section 356.214, and approved under section 356.215, subdivision 18, and using the applicable preretirement or postretirement interest rate assumption specified in section 356.215, subdivision 8.

Subd. 8. **Dependent child.** "Dependent child" means a biological or adopted child of a deceased member who has not reached the age of 18, or who is under age 22 and is a full-time

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student throughout the normal school year, unmarried and dependent for more than one-half of support upon the member. It also means a child of the member conceived during the member's lifetime and born after the member's death.

Subd. 8a. **Dependent child.** For the purpose of survivor benefit eligibility under section 354.46, subdivision 2b, "dependent child" means any biological or adopted child of a deceased member who has not reached the age of 20 and is dependent for more than one-half of support upon the member. It also includes any child of the member conceived while living and born after death.

Subd. 9. **Association.** "Association" means the combined membership of all teachers who qualify and participate in the retirement program provided for in this chapter.

Subd. 10. **Approved actuary.** "Approved actuary" means any actuary who is either a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds or any firm retaining such an actuary on its staff.

Subd. 11. **Accumulated deductions.** "Accumulated deductions" means the total of the sums deducted from the salary of a member and the total amount of assessments paid by a member in lieu of such deductions, credited to the member's individual fund, less amounts paid to the member or any person in the member's behalf in the form of refundments, annuity payments or benefit payments and less any other amounts deducted pursuant to law.

Subd. 12. **Payments in lieu of deductions.** "Payments in lieu of deductions" means the assessments or payments made by any member to receive credit for service rendered when no salary deductions were made.

Subd. 13. **Allowable service.** "Allowable service" means:

(1) Any service rendered by a teacher for which on or before July 1, 1957, the teacher's account in the retirement fund was credited by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, sections 135.01 to 135.13, as amended by Laws 1955, chapters 361, 549, 550, 611, or

(2) Any service rendered by a teacher for which on or before July 1, 1961, the teacher elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1980, section 354.09 and section 354.51, or

(3) Any service rendered by a teacher after July 1, 1957, for any calendar month when the member receives salary from which deductions are made, deposited and credited in the fund, or

(4) Any service rendered by a person after July 1, 1957, for any calendar month where payments in lieu of salary deductions are made, deposited and credited into the fund as provided in Minnesota Statutes 1980, section 354.09, subdivision 4, and section 354.53, or

(5) Any service rendered by a teacher for which the teacher elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1980, section 354.09, subdivisions 1 and 4, sections 354.50, 354.51, Minnesota Statutes 1957, section 135.41, subdivision 4, Minnesota Statutes 1971, section 354.09, subdivision 2, or Minnesota Statutes, 1973 Supplement, section 354.09, subdivision 3, or

(6) Both service during years of actual membership in the course of which contributions were currently made and service in years during which the teacher was not a member but for which the teacher later elected to obtain credit by making payments to the fund as permitted by any law then in effect, or

(7) Any service rendered where contributions were made and no allowable service credit was established because of the limitations contained in Minnesota Statutes 1957, section 135.09, subdivision 2, as determined by the ratio between the amounts of money credited to the teacher's account in a fiscal year and the maximum retirement contribution allowable for that year, or

(8) MS 2002 [Expired]

(9) A period of time during which a teacher who is a state employee was on strike without pay, not to exceed a period of one year, if the teacher makes a payment in lieu of salary

deductions or makes a prior service credit purchase payment, whichever applies. If the payment is made within 12 months, the payment by the teacher must be an amount equal to the employee and employer contribution rates set forth in section 354.42, subdivisions 2 and 3, applied to the teacher's rate of salary in effect on the conclusion of the strike for the period of the strike without pay, plus compound interest at a monthly rate of 0.71 percent from the last day of the strike until the date of payment. If the payment by the employee is not made within 12 months, the payment must be in an amount equal to the payment amount determined under section 356.551, or

(10) A period of service before July 1, 2006, that was properly credited as allowable service by the Minneapolis Teachers Retirement Fund Association, and that was rendered by a teacher as an employee of Special School District No. 1, Minneapolis, or by an employee of the Minneapolis Teachers Retirement Fund Association who was a member of the Minneapolis Teachers Retirement Fund Association by virtue of that employment, who has not begun receiving an annuity or other retirement benefit from the former Minneapolis Teachers Retirement Fund Association calculated in whole or in part on that service before July 1, 2006, and who has not taken a refund of member contributions related to that service unless the refund is repaid under section 354.50, subdivision 4. Service as an employee of Special School District No. 1, Minneapolis, on or after July 1, 2006, is "allowable service" only as provided by this chapter.

Subd. 13a. **Average salary.** (a) "Average salary," for the purpose of determining the member's retirement annuity, means the average salary upon which contributions were made for the highest five successive years of formula service credit.

(b) "Average salary" may not include any more than the equivalent of 60 monthly salary payments.

(c) "Average salary" must be based upon all years of formula service credit if this service credit is less than five years.

Subd. 14. **Total and permanent disability.** "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long continued and indefinite duration. An "indefinite duration" is a period of at least one year.

Subd. 14a. **Surviving spouse.** "Surviving spouse" means the spouse of a deceased member or a disabilitant who was legally married to the member at the time of death.

Subd. 15. [Repealed, 1994 c 528 art 3 s 34]

Subd. 16. **Retirement annuity.** "Retirement annuity" means the payments made by the association to a former member after retirement.

Subd. 17. **Optional survivors annuity.** "Optional survivors annuity" means the payments made by the association to a survivor of a former member pursuant to an optional annuity form selected by such member at or before retirement which varies in amount depending primarily upon both employee and employer contributions made by and in behalf of the particular member.

Subd. 18. [Repealed, 1974 c 289 s 59]

Subd. 19. **Annuity.** "Annuity" means a retirement annuity, optional survivors annuity, or spouses annuity.

Subd. 20. **Benefit.** "Benefit" means an allowance paid or payable by the association to a surviving dependent spouse or a dependent child which is a fixed amount and also includes an allowance paid or payable by the association to a member or former member who is permanently and totally disabled.

Subd. 21. **Retirement.** "Retirement" means the withdrawal of a member from active teaching service who is paid a retirement annuity thereafter and commences with the date designated by the retirement board when the retirement annuity first accrues to the former member after withdrawal from active teaching service and application for an annuity under section 354.44, subdivisions 3 and 4. The effective date of retirement must occur for an annu-

ity plan selection to take effect. This date determines any rights specified in this chapter which occur either before or after retirement.

Subd. 22. **Designated beneficiary.** "Designated beneficiary" means the person, trust, or organization designated by a retiree or member to receive the benefits to which a beneficiary is entitled under this chapter. A beneficiary designation is valid only if it is made on an appropriate form provided by the executive director that is signed by the member. The properly completed form must be received by the association on or before the date of death of the retiree or member. If a retiree or a member does not designate a person, trust, or organization, or if the person who was designated predeceases the retiree or the member, or if the trust or organization ceases to exist before the death of the retiree or the member, the designated beneficiary is the estate of the deceased retiree or member.

Subd. 23. [Repealed, 1990 c 570 art 12 s 64]

Subd. 24. [Repealed, 1990 c 570 art 12 s 64]

Subd. 25. **Formula service credit.** "Formula service credit" means any allowable service credit as defined in subdivision 13 except:

(1) Any service rendered prior to July 1, 1951, for which payments were made pursuant to subdivision 13 except as provided in section 354.09, subdivision 4, as determined by multiplying the number of years of service established in the records of the Teachers Retirement Association as of July 1, 1961 by the ratio obtained between the total amount paid and the maximum amount payable for those years;

(2) Any service rendered prior to July 1, 1957 for which payments were made pursuant to section 354.09, subdivision 4, as determined by multiplying the number of years of service established in the records of the teachers retirement association by the ratio obtained between the total amount paid and the maximum amount payable for those years; or

(3) Any service rendered for which contributions were not made in full as determined by the ratio between the amounts of money credited to the teacher's account in a fiscal year and the retirement contribution payable for the fiscal year pursuant to sections 354.092, 354.42 and 354.51; and

(4) No period of service shall be counted more than once for purposes of this subdivision.

Subd. 26. **Postretirement investment fund annuity.** "Postretirement investment fund annuity" means the payments made by the association to an annuitant after retirement in accordance with the provisions of section 354.63. It also means that the payments made by the association shall never be an amount less than the amount originally determined on the date of retirement as adjusted on each succeeding January 1 in section 11A.18.

Subd. 27. **Normal school operating funds.** The term "normal school operating funds" as used in this chapter shall be defined as and limited to the proceeds of property tax levies, state school maintenance cost aids distributed in accordance with statutes governing such funds, state aid to distressed school districts, proceeds from federal forest reserve lands, state transportation aids, and receipts from tuition paid by persons or other school districts and rental charges received. The term also includes money appropriated by the legislature for the operation of any state agency, department, state board, or institution.

Subd. 28. **Satisfactory certification.** The term "satisfactory certification" means a certification executed by a responsible officer of an employing authority in such form and content that false or misleading information would constitute perjury.

Subd. 29. [Repealed, 1994 c 528 art 3 s 34]

Subd. 30. **Coordinated member.** "Coordinated member" means any teacher covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare, making the provisions of the federal Old Age, Survivors and Disability Insurance Act applicable to such member.

Subd. 31. **Basic member.** "Basic member" means any teacher not covered by any agreement or modification made between the state and the Secretary of Health, Education and Welfare.

Subd. 32. **Formula program.** "Formula program" means a retirement program which provides benefits based on certain percentages multiplied by the years of service and average salary of a member as described in section 354.44.

Subd. 33. [Repealed, 1990 c 570 art 12 s 64]

Subd. 34. [Repealed, 1990 c 570 art 12 s 64]

Subd. 35. **Salary.** (a) Subject to the limitations of section 356.611, "salary" means the periodic compensation, upon which member contributions are required before deductions for deferred compensation, supplemental retirement plans, or other voluntary salary reduction programs.

(b) "Salary" does not mean:

(1) lump sum annual leave payments;

(2) lump sum wellness and sick leave payments;

(3) employer-paid amounts used by an employee toward the cost of insurance coverage, employer-paid fringe benefits, flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, or any payments in lieu of any employer-paid group insurance coverage, including the difference between single and family rates that may be paid to a member with single coverage and certain amounts determined by the executive director to be ineligible;

(4) any form of payment made in lieu of any other employer-paid fringe benefit or expense;

(5) any form of severance payments;

(6) workers' compensation payments;

(7) disability insurance payments, including self-insured disability payments;

(8) payments to school principals and all other administrators for services that are in addition to the normal work year contract if these additional services are performed on an extended duty day, Saturday, Sunday, holiday, annual leave day, sick leave day, or any other nonduty day;

(9) payments under section 356.24, subdivision 1, clause (4); and

(10) payments made under section 122A.40, subdivision 12, except for payments for sick leave that are accumulated under the provisions of a uniform school district policy that applies equally to all similarly situated persons in the district.

(c) Amounts provided to an employee by the employer through a grievance proceeding or a legal settlement are salary only if the settlement is reviewed by the executive director and the amounts are determined by the executive director to be consistent with paragraph (a) and prior determinations.

Subd. 35a. **Severance payments.** Severance payments include, but are not limited to:

(1) payments to an employee to terminate employment;

(2) payments, or that portion of payments, that are not clearly for the performance of services by the employee to the employer;

(3) payments to an administrator or former administrator serving as an advisor to a successor or as a consultant to the employer under an agreement to terminate employment within two years or less of the execution of the agreement for compensation that is significantly different than the most recent contract salary;

(4) payments under a procedure that allows the employee to designate the time of payment if the payments are made during the period of formula service credit used to compute a benefit or annuity under section 354.44, subdivision 6 or 7; 354.46, subdivision 1 or 2; or 354.48, subdivision 3; and

(5) lump sum payments during the time period that contains the highest five successive years of salary for additional services performed without pay during other years of salary.

Subd. 36. **Retiree of association.** "Retiree of association" means any former member who has retired as provided in this chapter.

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Subd. 37. **Termination of teaching service.** "Termination of teaching service" means the withdrawal of a member from active teaching service by resignation or the termination of the member's teaching contract by the employer. A member is not considered to have terminated teaching service, if before the effective date of the termination or retirement, the member has entered into a contract to resume teaching service with an employing unit covered by the provisions of this chapter.

Subd. 38. **Normal retirement age.** "Normal retirement age" means age 65 for a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989. For a person who first becomes a member of the association after June 30, 1989, normal retirement age means the higher of age 65 or "retirement age," as defined in United States Code, title 42, section 416(l), as amended, but not to exceed age 66.

Subd. 39. **Administrator's normal work year.** Normal work year for school principals and all other administrators means 12 consecutive full months of continuous employment from July 1 to June 30.

Subd. 40. **Timely receipt.** An application, payment, return, claim, or other document that is not personally delivered to the association on or before the applicable due date is considered to be a timely receipt if received on or before the due date or if delivered or filed under section 645.151.

**History:** (2950-1) 1931 c 406 s 1; 1957 c 576 s 1,2; Ex1957 c 16 s 1,2; Ex1959 c 50 s 1-4; 1961 c 597 s 1; Ex1961 c 17 s 1; 1963 c 845 s 1; 1965 c 821 s 1; Ex1967 c 6 s 5; 1969 c 485 s 1,2; 1971 c 40 s 1-3; 1971 c 535 s 1; Ex1971 c 48 s 7; 1973 c 270 s 2; 1973 c 728 s 3; 1974 c 289 s 2-8; 1975 c 306 s 1-4; 1975 c 321 s 2; 1977 c 67 s 1; 1977 c 97 s 1; 1977 c 429 s 35; 1978 c 556 s 1; 1978 c 720 s 8; 1980 c 342 s 8; 1980 c 607 art 14 s 46; 1980 c 609 art 5 s 21; 1981 c 224 s 98-102; 1983 c 148 s 1,2; 1986 c 444; 1986 c 458 s 14,15; 1987 c 258 s 12; 1987 c 259 s 30; 1987 c 284 art 6 s 1,2; 1987 c 384 art 1 s 34; 1988 c 709 art 11 s 1; 1989 c 246 s 2; 1989 c 319 art 2 s 4,5; art 13 s 53; art 18 s 1,2; 1990 c 426 art 1 s 5; 1990 c 570 art 12 s 23; 1991 c 269 art 2 s 9; 1991 c 340 s 3-8; 1993 c 336 art 6 s 10,11; 1994 c 465 art 3 s 35; 1994 c 508 art 1 s 3; 1994 c 528 art 3 s 1-7; 1995 c 141 art 3 s 6-8,20; art 4 s 3; 1996 c 305 art 1 s 79; 1997 c 233 art 1 s 47; 1998 c 397 art 11 s 3; 1999 c 222 art 9 s 4; 2000 c 461 art 3 s 27,28; 1Sp2001 c 10 art 3 s 17; art 6 s 4,21; 2002 c 392 art 2 s 3; art 6 s 1; art 11 s 52; 1Sp2003 c 12 art 6 s 5; 2004 c 267 art 1 s 5; art 2 s 4; art 9 s 17; 1Sp2005 c 8 art 1 s 16,17; art 3 s 3; 2006 c 212 art 3 s 36; 2006 c 277 art 3 s 4,5

## 354.06 BOARD OF TRUSTEES; MEMBERSHIP; DUTIES.

Subdivision 1. **Board.** The management of the association is vested in a board of eight trustees known as the board of trustees of the Teachers Retirement Association. It is composed of the following persons: the commissioner of education, the commissioner of finance, a representative of the Minnesota School Boards Association, four members of the association elected by the members of the association, and one retiree elected by the retirees of the association. The five elected members of the board of trustees must be chosen by ballot in a manner fixed by the board of trustees of the association. In every odd-numbered year there shall be elected two members of the association to the board of trustees for terms of four years commencing on the first of July next succeeding their election. In every other odd-numbered year one retiree of the association must be elected to the board of trustees for a term of four years commencing on the first of July next succeeding the election. The filing of candidacy for a retiree election must include a petition of endorsement signed by at least ten retirees of the association. Each election must be completed by June first of each succeeding odd-numbered year. In the case of elective members, any vacancy must be filled by appointment by the remainder of the board, and the appointee shall serve until the members or retirees of the association at the next regular election have elected a trustee to serve for the unexpired term caused by the vacancy. No member or retiree may be appointed by the board, or

elected by the members of the association as a trustee, if the person is not a member or retiree of the association in good standing at the time of the appointment or election.

**Subd. 1a. Fiduciary duty.** It is the duty of the board of trustees and the executive director to undertake their activities consistent with chapter 356A.

**Subd. 2. President; executive director.** The board shall annually elect one of its members as president. It shall elect an executive director, whose salary shall be as provided by section 15A.0815. The salary of the assistant executive director who shall be in the unclassified service, shall be set in accordance with section 43A.18, subdivision 3. The executive director shall serve during the pleasure of the board and be the executive officer of the board, with such duties as the board shall prescribe. The board shall employ all other clerks and employees necessary to properly administer the association. The cost and expense of administering the provisions of this chapter shall be paid by the association. The executive director shall be appointed by the board on the basis of fitness, experience in the retirement field and leadership ability. The executive director shall have had at least five years of experience on the administrative staff of a major retirement system.

**Subd. 2a. Duties of executive director.** The management of the association is vested in the executive director who shall be the executive and administrative head of the association. The executive director shall act as advisor to the board on all matters pertaining to the association and shall also act as the secretary of the board. The executive director shall:

- (1) attend all meetings of the board;
- (2) prepare and recommend to the board appropriate rules to carry out the provisions of this chapter;
- (3) establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) designate an assistant executive director in the unclassified service and two assistant executive directors in the classified service with the approval of the board, and appoint such employees, both permanent and temporary, as are necessary to carry out the provisions of this chapter;
- (5) organize the work of the association as the director deems necessary to fulfill the functions of the association, and define the duties of its employees and delegate to them any powers or duties, subject to the director's control and under such conditions as the director may prescribe;
- (6) with the approval of the board, contract and set the compensation for the services of an approved actuary, professional management services, and any other consulting services. These contracts are not subject to the competitive bidding procedure prescribed by chapter 16C. An approved actuary retained by the executive director shall function as the actuarial advisor of the board and the executive director and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained under section 356.214. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the Legislative Commission on Pensions and Retirement. Copies of professional management survey reports must be transmitted to the secretary of the senate, the chief clerk of the house of representatives, and the Legislative Reference Library as provided by section 3.195, and to the executive director of the commission at the same time as reports are furnished to the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems are qualified to contract with the executive director;
- (7) with the approval of the board, provide in-service training for the employees of the association;
- (8) make refunds of accumulated contributions to former members and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased members or deceased former members, under this chapter;



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(9) determine the amount of the annuities and disability benefits of members covered by the association and authorize payment of the annuities and benefits beginning as of the dates on which the annuities and benefits begin to accrue, under this chapter;

(10) pay annuities, refunds; survivor benefits, salaries, and necessary operating expenses of the association;

(11) prepare and submit to the board and the legislature an annual financial report covering the operation of the association, as required by section 356.20;

(12) certify funds available for investment to the State Board of Investment;

(13) with the advice and approval of the board, request the State Board of Investment to sell securities on determining that funds are needed for the purposes of the association;

(14) prepare and submit biennial and annual budgets to the board and with the approval of the board submit those budgets to the Department of Finance; and

(15) with the approval of the board, perform such other duties as may be required for the administration of the association and the other provisions of this chapter and for the transaction of its business. The executive director may:

(i) reduce all or part of the accrued interest and fines payable by an employing unit for reporting requirements under section 354.52, based on an evaluation of any extenuating circumstances of the employing unit;

(ii) assign association employees to conduct field audits of an employing unit to ensure compliance with the provisions of this chapter; and

(iii) recover overpayments, if not repaid to the association, by suspending or reducing the payment of a retirement annuity, refund, disability benefit, survivor benefit, or optional annuity under this chapter until the overpayment, plus interest, has been recovered.

**Subd. 3. Commissioner of finance.** The commissioner of finance shall be ex officio treasurer of the association and the commissioner's general bond to the state shall cover any liabilities for acts as treasurer of the association. The commissioner shall receive all moneys payable to the association and pay out the same only upon forms signed by the executive director.

**Subd. 4. Board; expenses.** All members of the board shall serve without compensation. A member shall receive necessary expenses to attend meetings of the board and its committees, and association functions and presentations authorized by the board. The necessary expenses must be paid out of the fund. Members of the board shall suffer no loss of compensation from their employing units by reason of service on or for the association, the board, or any committee authorized by the board. Necessary expenses may include the salary of any substitute teacher which the employing unit is required to hire in the absence of the board member. The board may reimburse the employing unit for the cost of the substitute teacher.

**Subd. 5. Meetings.** The board shall meet regularly at its office at such times as it shall determine. Special meetings may be held at any time at the call of the president of the board or of any three members thereof.

**Subd. 6. Fiscal year.** The fiscal year of the association shall begin on the first day of July of each year and end on the 30th day of June of the following year.

**Subd. 7. Office.** A suitable office shall be provided by the state through the proper officer for the use of the board and its executive director.

**History:** (2950-3) 1931 c 406 s 3; 1955 c 361 s 1; Ex1959 c 50 s 5; Ex1961 c 17 s 2,3; 1963 c 585 s 1; 1969 c 485 s 3,4; 1974 c 289 s 9,10; 1975 c 306 s 5; 1977 c 67 s 2,3,13; 1977 c 429 s 36; 1980 c 342 s 9; 1981 c 160 s 1,2; 1981 c 224 s 103; 1982 c 578 art 1 s 5; 1983 c 289 s 114 subd 1; 1983 c 299 s 29; 1984 c 655 art 1 s 92; 1986 c 444; 1987 c 259 s 31; 1987 c 284 art 6 s 3; 1989 c 319 art 8 s 17; 1994 c 528 art 3 s 8,9; 1994 c 632 art 3 s 57; 1995 c 141 art 3 s 9,20; 1Sp1995 c 3 art 16 s 13; 2Sp1997 c 3 s 18; 1998 c 386 art 2 s 88; 1999 c 99 s 18; 1999 c 222 art 9 s 5; 2003 c 112 art 2 s 41; 2003 c 130 s 12; 2004 c 223 s 4

**354.07 POWERS OF THE BOARD.**

Subdivision 1. **General powers of board.** The board has the power to frame bylaws for its own government and for the management of the association not inconsistent with the laws of the state and to modify them at its pleasure; to adopt, alter, and enforce reasonable rules not inconsistent with the laws of the state for the administration and management of the association, for the payment and collection of payments from members, and for the payment of withdrawals and benefits; to pass upon and allow or disallow applications for membership in the association and for credit for teaching service; to pass upon and allow or disallow claims for withdrawals, pensions, or benefits payable by the fund; to adopt an appropriate mortality table based on experience of the association as recommended by the actuary retained under section 356.214 and using the applicable postretirement interest assumption specified in section 356.215, subdivision 8; to provide for the payment out of the fund of necessary expenses for the administration by the association and of claims for withdrawals, pensions, or benefits allowed.

Subd. 2. **Investigatory powers.** In passing upon all applications and claims, the board may summon, swear, hear, and examine witnesses and, in the case of claims for disability benefits, may require the claimant to submit to a medical examination by a physician of the board's choice, at the expense of the claimant, as a condition precedent to the passing on the claim, and, in the case of all applications and claims, may conduct investigations necessary to determine the validity and merit of the same.

Subd. 3. **Attorney general; venue.** The attorney general shall be legal advisor to the board and the executive director. The board may sue or be sued or petitioned under section 354.071 in the name of the board of trustees of the Teachers Retirement Association. In all actions brought by or against it the board shall be represented by the attorney general. Except as provided in section 354.071, subdivision 9, venue of all actions is in the Ramsey County district court.

Subd. 4. **Certification of funds to State Board of Investment.** It shall be the duty of the board from time to time to certify to the State Board of Investment for investment as much of the funds in its hands as shall not be needed for current purposes. Such funds that are certified as to investment in the postretirement investment fund shall include the amount as required for the total reserves needed for the purposes described in section 354.63. The State Board of Investment shall thereupon transfer such assets to the appropriate fund provided herein, in accordance with the procedure set forth in section 354.63, or invest and reinvest an amount equal to the sum so certified in such securities as are now or may hereafter be duly authorized legal investments for state employees retirement fund and all such securities so transferred or purchased shall be deposited with the commissioner of finance. All interest from these investments shall be credited to the appropriate funds and used for current purposes or investments, except as hereinafter provided. The State Board of Investment shall have authority to sell, convey, and exchange such securities and invest and reinvest the funds when it deems it desirable to do so, and shall sell securities upon request of the officers of the association when such officers determine funds are needed for its purposes. All of the provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the state employees retirement fund shall apply to the accounting, purchase and sale of securities for the Teachers' Retirement Association.

Subd. 5. **Records; accounts; interest.** The board shall keep a record of the receipts and disbursements of the fund and a separate account with each member of the association. The board shall also keep separate accounts for annuity payments, for employer contributions and all other necessary accounts and reserves. It shall determine annually the annual interest earnings of the fund which shall include realized capital gains and losses. Any amount in the capital reserve account on July 1, 1973 shall be transferred to the employer contribution's account. The annual interest earnings shall be apportioned and credited to the separate members' accounts except those covered under the provisions of section 354.44, subdivision 6 or 7. The rate to be used in this distribution computed to the last full quarter percent shall be determined by dividing the interest earnings by the total invested assets of the fund. The ex-

cess of the annual interest earnings in the excess earnings reserve which was not credited to the various accounts shall be credited to the gross interest earnings for the next succeeding year.

Subd. 6. [Repealed, 1969 c 485 s 40]

Subd. 7. **Electronic data processing.** Notwithstanding chapter 16B or 16C or any law to the contrary, the board may use the services of the Department of Administration, Information Services Division, for electronic data processing and related services or may contract for all or a portion of such services.

Subd. 8. [Repealed, 1984 c 564 s 51]

Subd. 9. **Information distribution.** All school districts, the Minnesota State Colleges and Universities, and other employers of members of the association are obligated to distribute to their employees ballots for the election of members to the board of trustees, pamphlets, brochures, documents or any other material containing association information which are prepared by the executive director or the board and are delivered to the employers for distribution.

**History:** (2950-4) 1931 c 406 s 4; 1949 c 708 s 1; 1951 c 481 s 1; 1953 c 750 s 1; 1961 c 380 s 3; Ex1961 c 17 s 4; 1965 c 305 s 2; 1969 c 485 s 5; 1971 c 40 s 4; 1973 c 270 s 3; 1973 c 728 s 4; 1974 c 289 s 11; 1975 c 306 s 6,7; 1977 c 67 s 4; 1980 c 607 art 14 s 45 subd 2; 1981 c 224 s 104; 1985 c 248 s 70; 1Sp1985 c 7 s 35; 1987 c 259 s 32; 1987 c 284 art 6 s 4; 1989 c 319 art 2 s 6; 1990 c 570 art 12 s 24; 1995 c 141 art 3 s 20; 1995 c 186 s 71; 1998 c 386 art 2 s 89; 2002 c 392 art 11 s 52; 2003 c 112 art 2 s 50; 2004 c 267 art 6 s 1; 2006 c 271 art 3 s 47

### 354.071 APPEALS PROCEDURE.

Subdivision 1. **Definitions.** Unless the language or context clearly indicates that a different meaning is intended, for the purpose of this section, the following terms have the meanings given.

(a) "Documentation" includes but is not limited to:

- (1) sworn and notarized affidavits made on the personal knowledge of any person;
- (2) official letters or documents;
- (3) documents from the file of the petitioner; and
- (4) other relevant documents that are admissible as evidence in a court of law.

(b) "Executive director" means the executive director of the Teachers Retirement Association.

(c) "Person" includes any state institution, school district, or other governmental unit that employs persons covered under statutes listed in subdivision 2.

(d) "Record" means the petition and the documentation that the petitioners submit with the petition, the executive director's answer to the petition and documentation submitted with it, and any documentation the board allows to be submitted at or after the meeting at which the petition is considered.

Subd. 2. **Notice of termination or denial.** If the executive director terminates a benefit or denies an application or a written request of any person claiming a right under this chapter or the applicable sections of chapters 136, 354B, 355, and 356, the executive director must serve upon that person a written notice. The notice must contain:

- (1) the reasons for the termination or denial;
- (2) notice that the person may petition the board for a review of the termination or denial and that the petition for review must be filed within 60 days of the receipt of the written notice;
- (3) a statement that relevant documentation submitted by the petitioner to the executive director must be received in the office of the Teachers Retirement Association at least 30 days before the meeting prescribed in subdivision 4;

(4) a statement that failure to petition the board within 60 days will preclude the person from contesting in any other court procedure or administrative hearing, the issues determined by the executive director; and

(5) a copy of this section.

**Subd. 3. Petition for review.** A person who claims a right under subdivision 2 and whose benefit has been terminated or whose application or written request has been denied may petition for a review of that decision by the board. A petition under this section must be served upon the executive director personally, or by mail postmarked no later than 60 days after the petitioner received the notice required by subdivision 2. The petition must include the sworn, notarized statement of the reasons the petitioner believes the decision of the executive director should be reversed or modified and may include relevant documentation. Relevant documentation submitted by the petitioner to the executive director must be received in the office of the Teachers Retirement Association at least 30 days before the meeting prescribed in subdivision 4.

**Subd. 4. Answer; record for hearing.** Within a reasonable time after receiving a petition, the executive director must serve the petitioner with an answer to the petition with all relevant documentation and with notice of the time and place of the regular or special board meeting at which the board will consider the petition. The documentation need not duplicate the documentation submitted by the petitioner. Not later than ten days before the board meeting at which the petition will be heard and at the time the petition is considered by the board, the executive director must, personally or by mail, deliver a copy of the relevant documentation to each board member. Each board member who participates in the decision on the petition must be familiar with all relevant documentation.

**Subd. 5. Petition for review hearing.** The board shall hold a timely hearing on a petition for review and make its decision on a petition solely on the proceedings and the relevant documentation of the hearing. At the hearing, the petitioner, the petitioner's attorney, the executive director, and an assistant executive director may state and discuss with the board their positions with respect to the petition. The board may allow further documentation to be placed in the record during or after the hearing. If the board allows additional documentation into the record during or after the hearing, it may make a final determination on the petition at that hearing only upon the agreement of both the petitioner and the executive director.

**Subd. 5a. Executive director's determination.** Notwithstanding subdivisions 4 and 5, if the executive director determines with respect to a petition that no relevant facts are in dispute, the executive director shall inform the board of that determination, and the board may issue findings of fact, a decision, reasons for the decision, and a final order and serve it upon the petitioner as provided in subdivision 8. If a petitioner receives an adverse decision, the petitioner may appeal the board's final order under subdivision 9.

**Subd. 6. Termination of benefits.** If the executive director proposes to terminate a benefit that is being paid to any person, before terminating the benefit the executive director must, in addition to the other procedures prescribed herein, give the person written or oral notice of the proposed termination. The notice must explain the reason for the proposed termination. The person must be given an opportunity, verbally or in writing, to explain why the benefit should not be terminated. If the executive director is unable to contact the person and the executive director determines that a failure to terminate the benefit might result in unauthorized payment by the association, the executive director may terminate the benefit with only a written notice containing the information required by subdivision 2, mailed to the address to which the benefit was last sent and, if that address is a financial institution, to the last known address of the person.

**Subd. 7. Medical adviser action.** If a person petitions the board to reverse or modify a determination by the executive director finding that the petitioner, for medical reasons, does not or has ceased to qualify for a disability benefit, the board may resubmit the matter to the medical adviser for reconsideration, with or without instructions to obtain further medical examinations. The board may make a determination contrary to the recommendation of the medical adviser only if there is expert medical evidence in the record to support its contrary

decision. If there is no medical opinion contrary to the opinion of the medical adviser in the record and the medical adviser asserts that the decision was made in accordance with the disability standard in section 354.05, subdivision 14, the board must follow the determination of the medical adviser. The board may make a determination different from the recommendation of the medical adviser on issues that do not involve a medical opinion.

**Subd. 8. Board findings.** After the board has made a decision on a petition, the executive director must prepare findings of fact, the board's reasons for its conclusions, and the board's final order for the signature of the chair or other board member as the board, by resolution, may designate. The executive director must serve the findings, conclusions, and order on the petitioner by certified mail.

**Subd. 9. Appeals.** Within 30 days of receipt of the findings, conclusions, and final order, the petitioner may appeal the board's decision by writ of certiorari to the court of appeals. Failure to appeal to that court within the 30 days precludes the petitioner from later raising, in any court procedure or administrative hearing, those substantive and procedural issues that reasonably should have been raised upon appeal.

**Subd. 10. Referral for administrative hearing.** Notwithstanding sections 14.03, 14.06, and 14.57 to 14.69, a challenge to a determination of the executive director must be conducted exclusively under the procedures in this section. The board in its sole discretion may refer a petition brought under this section to the Office of Administrative Hearings for a contested case hearing under sections 14.57 to 14.69.

**Subd. 11. Petition without notice.** A person who is not entitled to notice of a right of review under this section may nevertheless receive review of a decision of the executive director which affects the person's rights by petitioning the board under this section within 60 days of the time the person knew or should have known of the disputed decision.

**History:** 1989 c 319 art 2 s 7; 1990 c 570 art 12 s 25–27; 1991 c 340 s 9; 1994 c 528 art 3 s 10

**354.08** [Repealed, 1974 c 289 s 59]

**354.09** Subdivision 1. [Repealed, 1981 c 224 s 276]

Subd. 2. [Repealed, 1974 c 289 s 59]

Subd. 3. [Repealed, 1974 c 289 s 59]

Subd. 4. [Repealed, 1981 c 224 s 276]

Subd. 5. [Repealed, 1973 c 728 s 32]

### **354.091 SERVICE CREDIT.**

(a) In computing service credit, no teacher may receive credit for more than one year of teaching service for any fiscal year. Additionally, in crediting allowable service:

(1) if a teacher teaches less than five hours in a day, service credit must be given for the fractional part of the day as the term of service performed bears to five hours;

(2) if a teacher teaches five or more hours in a day, service credit must be given for only one day;

(3) if a teacher teaches at least 170 full days in any fiscal year, service credit must be given for a full year of teaching service; and

(4) if a teacher teaches for only a fractional part of the year, service credit must be given for such fractional part of the year in the same relationship as the period of service performed bears to 170 days.

(b) A teacher must receive a full year of service credit based on the number of days in the employer's full school year if that school year is less than 170 days. Teaching service performed before July 1, 1961, must be computed under the law in effect at the time it was performed.

(c) A teacher must not lose or gain retirement service credit as a result of the employer converting to a flexible or alternate work schedule. If the employer converts to a flexible or alternate work schedule, the forms for reporting teaching service and the procedures for de-

termining service credit must be determined by the executive director with the approval of the board of trustees.

(d) For all services rendered on or after July 1, 2003, service credit for all members employed by the Minnesota State Colleges and Universities system must be determined:

(1) for full-time employees, by the definition of full-time employment contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1;

(2) for part-time employees, by the appropriate proration of full-time equivalency based on the provisions contained in the collective bargaining agreement for those units listed in section 179A.10, subdivision 2, or contained in the applicable personnel or salary plan for those positions designated in section 179A.10, subdivision 1, and the applicable procedures of the Minnesota State Colleges and Universities system; and

(3) in no case may a member receive more than one year of service credit for any fiscal year.

**History:** 1974 c 289 s 13; 1981 c 160 s 3; 1982 c 578 art 1 s 6; 1989 c 319 art 2 s 8; 1994 c 528 art 3 s 11; 2000 c 461 art 3 s 29; 2004 c 267 art 3 s 4; 1Sp2005 c 8 art 10 s 52

### 354.092 SABBATICAL LEAVE.

Subdivision 1. **Definition.** A sabbatical leave for the purpose of this section means a sabbatical leave as defined in section 122A.49 or the applicable personnel policy of the Minnesota State Colleges and Universities.

Subd. 2. **Pay rate; certification.** A sabbatical leave must be compensated by a minimum of one-third of the salary that the member received for a comparable period during the prior fiscal year. Upon granting a sabbatical leave, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director.

Subd. 3. **Employer and employee contributions.** Employer contributions and deductions for employee contributions at the applicable rate specified in section 354.42 must be made by the employing unit based on the full normal base contract salary that would have been paid to the member if the member were not on sabbatical leave. The employer must meet the reporting and remittance requirements under section 354.52.

Subd. 4. **Service credit.** A member may not receive more than three years of allowable service credit in any ten consecutive years under this section unless the allowable service credit was paid for by the member before July 1, 1962. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made to receive allowable service credit 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:** 1974 c 289 s 54; 1975 c 306 s 8; 1981 c 160 s 4; 1Sp1985 c 12 art 11 s 4; 1986 c 444; 1989 c 319 art 2 s 9; 1991 c 340 s 10; 1997 c 241 art 3 s 4-6; 1998 c 397 art 11 s 3; 2000 c 461 art 3 s 30

### 354.093 PARENTAL LEAVE.

Upon granting a parental leave for the birth or adoption of a child, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member of the association granted parental leave of absence by the employing unit is entitled to service credit not to exceed one year for the period of leave upon payment to the association by the end of the fiscal year following the fiscal year in which the leave of absence terminated. This payment must equal the total required employee and employer contributions, and amortization contributions, if any, for the period of leave prescribed in section 354.42. The payment must be based on the member's average full-time monthly salary rate on the date the leave of absence commenced, and must be without interest. Notwithstanding the provisions of any agreements to the contrary, the contributions spe-

cified in this section may not be made to receive allowable service credit under this section if the member does not retain the right to full reinstatement at the end of the leave.

**History:** 1976 c 329 s 29; 1991 c 340 s 11; 1995 c 141 art 3 s 20; 2000 c 461 art 3 s 31

### 354.094 EXTENDED LEAVES OF ABSENCE.

Subdivision 1. **Service credit contributions.** (a) Upon granting any extended leave of absence under section 122A.46 or 136F.43, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member granted an extended leave of absence under section 122A.46 or 136F.43 may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave, provided that the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave. The employer may enter into an agreement with the exclusive bargaining representative of the teachers in the district under which, for an individual teacher, all or a portion of the employee's contribution is paid by the employer. Any such agreement must include a sunset of eligibility to qualify for the payment and must not be a part of the collective bargaining agreement. The leave period must not exceed five years. A member may not receive more than five years of allowable service credit under this section. The employee and employer contributions must be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave.

(b) Employee contribution payments for the years for which a member is receiving service credit while on extended leave must be made on or before June 30 of each fiscal year for which service credit is to be received. If payment is to be made by a transfer of pretax assets authorized under section 356.441, payment is authorized after June 30 of the fiscal year providing that authorization for the asset transfer has been received by the applicable third party administrator by June 30, and the payment must include interest at a rate of .708 percent per month from June 30 through the end of the month in which payment is received. No payment is permitted after the following September 30.

(c) Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made to receive allowable service credit if the member does not have full reinstatement rights as provided in section 122A.46 or 136F.43, both during and at the end of the extended leave.

(d) Any school district paying the employee's retirement contributions under this section shall forward to the applicable retirement association or retirement fund a copy of the agreement executed by the school district and the employee.

Subd. 1a. [Repealed, 1991 c 130 s 38; 1991 c 340 s 34]

Subd. 1b. [Repealed, 1991 c 130 s 38; 1991 c 340 s 34]

Subd. 2. **Membership; retention.** Notwithstanding section 354.49, subdivision 4, clause (3), a member on extended leave whose employee and employer contributions are paid into the fund pursuant to subdivision 1 shall retain membership in the association for as long as the contributions are paid, under the same terms and conditions as if the member had continued to teach in the district or the Minnesota State Colleges and Universities system.

Subd. 3. **Effect of nonpayment.** A member on extended leave of absence pursuant to section 122A.46 or 136F.43 who does not pay employee contributions or whose employer contribution is not paid into the fund in any year shall be deemed to cease to render teaching services beginning in that year for purposes of this chapter and may not pay employee or employer contributions into the fund in any subsequent year of the leave. Nonpayment of contributions into the fund shall not affect the rights or obligations of the member or the member's employer under section 122A.46 or 136F.43.

Subd. 4. **Member who does not resume teaching.** A member who pays employee contributions into the fund for the agreed maximum duration of an extended leave and who does not resume teaching in the first school year after that maximum duration has elapsed shall be

deemed to cease to render teaching services beginning in that year for purposes of this chapter.

**Subd. 5. Discharge; layoff.** The provisions of this section shall not apply to a member who is discharged or placed on unrequested leave of absence or retrenchment or layoff or whose contract is terminated while the member is on an extended leave of absence pursuant to section 122A.46 or 136F.43.

**Subd. 6. Limits on other service credit.** A member who pays employee contributions and receives allowable service credit in the association pursuant to this section may not pay employee contributions or receive allowable service credit for the same fiscal year in any other Minnesota public employee pension plan, except a volunteer firefighters' relief association governed by sections 69.771 to 69.776. This subdivision shall not be construed to prohibit a member who pays employee contributions and receives allowable service credit in the association pursuant to this section in any year from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of sections 354.091 and 354.42, a teacher may not pay retirement contributions or receive allowable service credit in the association for teaching service rendered for any part of any year for which the teacher pays retirement contributions or receives allowable service credit pursuant to this section or section 354A.091 while on an extended leave of absence pursuant to section 122A.46.

**History:** 1977 c 447 art 9 s 3; 1978 c 764 s 116,117; 1979 c 334 art 8 s 14,15; 1980 c 454 s 2-5; 1980 c 618 s 4; 1981 c 358 art 8 s 9-12; 1983 c 314 art 10 s 6-8; 1Sp1985 c 12 art 11 s 5; 1986 c 444; 1987 c 284 art 6 s 5; 1989 c 293 s 77,78; 1989 c 329 art 9 s 20,21; 1991 c 130 s 34; 1991 c 340 s 12; 1992 c 598 art 3 s 1; 1995 c 141 art 3 s 20; 1996 c 305 art 1 s 80; 1998 c 397 art 11 s 3; 2000 c 461 art 3 s 32; 1Sp2001 c 1 art 2 s 22; 1Sp2003 c 12 art 3 s 2; 1Sp2005 c 8 art 3 s 4

### 354.095 MEDICAL LEAVE; PAYMENT PROCEDURES.

Upon granting a medical leave, an employing unit must certify the leave to the association on a form specified by the executive director. A member of the association who is on an authorized medical leave of absence is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund. This payment must include the required employee and employer contributions at the rates specified in section 354.42, subdivisions 2, 3, and 5, as applied to the member's average full-time monthly salary rate on the date the leave of absence commenced plus compound annual interest at the rate of 8.5 percent from the end of the fiscal year during which the leave terminates to the end of the month during which payment is made. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid before the effective date of retirement or by the end of the fiscal year following the fiscal year in which the leave of absence terminated, whichever is earlier. A member may not receive more than one year of allowable service credit during any fiscal year by making payment under this section. A member may not receive disability benefits under section 354.48 and receive allowable service credit under this section for the same period of time. Notwithstanding the provisions of any agreement to the contrary, employee and employer contributions may not be made to receive allowable service credit under this section if the member does not retain the right to full reinstatement both during and at the end of the medical leave.

**History:** 1990 c 570 art 7 s 1; 1991 c 340 s 13; 1995 c 141 art 3 s 20

### 354.096 FAMILY LEAVE.

**Subdivision 1. Certification.** Upon granting a family leave to a member, an employing unit must certify the leave to the association on a form specified by the executive director.

**Subd. 2. Payment.** (a) Notwithstanding any laws to the contrary, a member who is granted a family leave under United States Code, title 42, section 12631, may receive allowable service credit for the leave by making payment of the employee, employer, and additional employer contributions at the rates under section 354.42, during the leave period as ap-



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plied to the member's average full-time monthly salary rate on the date the leave commenced.

(b) The member may make payment, without interest, to the association by the end of the fiscal year following the fiscal year in which the leave terminated or before the effective date of the member's retirement, whichever is earlier.

Subd. 3. **Subsequent eligibility.** The member shall return to public service after the leave period under United States Code, title 42, section 12631, to receive allowable service for a subsequent authorized family leave.

**History:** 1994 c 528 art 3 s 12; 2004 c 267 art 3 s 5

## 354.10 FUNDS NOT SUBJECT TO ASSIGNMENT OR PROCESS; BENEFICIARIES.

Subdivision 1. **Exemption; exceptions.** (a) The provisions of section 356.401 apply to the teachers retirement plan.

(b) The right of a teacher to take advantage of the benefits provided by this chapter, is a personal right only and is not assignable. All money to the credit of a teacher's account in the fund or any money payable to the teacher from the fund belongs to the state of Minnesota until actually paid to the teacher or a beneficiary under this chapter.

(c) The association may acknowledge a properly completed power of attorney form.

Subd. 2. [Repealed, 1Sp2005 c 8 art 10 s 81]

Subd. 3. **Payment to public bodies.** If, in the judgment of the executive director, conditions so warrant, payment of an annuity, a retirement benefit, or a refund may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe.

Subd. 4. **Changes in designated beneficiaries.** (a) A beneficiary designated by a retiree or member under section 354.05, subdivision 22, may be changed or revoked by the retiree or member on a form provided by the executive director.

(b) A change or revocation made under this subdivision is valid only if the properly completed form is received by the association on or before the date of death of the retiree or the member.

(c) If a designated beneficiary dies before the retiree or member designating the beneficiary and a new beneficiary is not designated, the retiree's or member's estate is the beneficiary.

**History:** (2950-10) 1931 c 406 s 10; 1955 c 361 s 8; 1961 c 745 s 1; 1971 c 789 s 6; 1974 c 289 s 14; 1975 c 306 s 9; 1977 c 67 s 5; 1978 c 772 s 62; 1979 c 303 art 3 s 30; 1984 c 547 s 7; 1986 c 444; 1987 c 157 s 6; 1989 c 319 art 2 s 10; 1991 c 340 s 14-16; 1994 c 528 art 3 s 13,14; 1995 c 141 art 3 s 20; 1997 c 203 art 6 s 92; 1999 c 222 art 9 s 6; 2000 c 461 art 3 s 33; 2003 c 127 art 3 s 20; 1Sp2005 c 8 art 10 s 53-55

354.11 [Repealed, 1974 c 289 s 59]

354.12 [Repealed, 1974 c 289 s 59]

354.13 [Repealed, 1974 c 289 s 59]

354.14 [Repealed, 1974 c 289 s 59]

354.145 [Repealed, 1974 c 289 s 59]

## 354.146 RETIREMENT PROGRAMS.

Subdivision 1. **Post June 30, 1972.** Every member who has rendered teaching service or was on an authorized leave of absence after June 30, 1972, is covered by the formula program. The benefit of a former member who does not return to teaching service before retirement shall be determined under the program in effect at the time of termination.

Subd. 2. [Repealed, 1990 c 570 art 12 s 64]

Subd. 3. **Post June 30, 1974.** After June 30, 1974, every new teacher entering teaching service or resuming teaching service after previously accepting a refund shall be covered by the full formula program.

**History:** 1974 c 289 s 15; 1986 c 444; 1990 c 570 art 12 s 28

354.15 [Renumbered 354A.01]

354.16 [Renumbered 354A.02]

354.17 [Renumbered 354A.03]

354.18 [Renumbered 354A.04]

354.19 [Renumbered 354A.05]

354.20 [Renumbered 354A.06]

354.201 [Renumbered 354A.07]

354.21 [Renumbered 354A.08]

354.22 [Renumbered 354A.09]

354.23 [Renumbered 354A.10]

354.231 [Renumbered 354A.11]

354.31 [Repealed, 1974 c 289 s 59]

354.32 [Repealed, 1974 c 289 s 59]

### 354.33 COMPUTATION OF RETIREMENT ANNUITIES.

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. [Repealed, 1974 c 289 s 59]

Subd. 3. [Repealed, 1974 c 289 s 59]

Subd. 4. [Repealed, 1974 c 289 s 59]

Subd. 5. **Retirees not eligible for federal benefits.** Notwithstanding the provisions of section 354.55, subdivision 3, when any person retires after July 1, 1973, who (1) has ten or more years of allowable service, and (2) does not have any retroactive Social Security coverage by reason of the person's position in the retirement system, and (3) does not qualify for federal old age and survivor primary benefits at the time of retirement, the annuity must be computed under section 354.44, subdivision 2, of the law in effect on June 30, 1969, except that accumulations after June 30, 1957, must be calculated using the same mortality table and interest assumption as are used to transfer the required reserves to the Minnesota postretirement investment fund.

Subd. 6. **Combinations of basic and coordinated service.** A person's annuity must be computed as a basic member for any service previously accrued as a basic member if the person retires with the status of a coordinated member as a result of one or both of the following events: (1) transferring from public school teaching to state university teaching, and/or (2) not performing teaching service within a fiscal year. A person's annuity must be computed as a coordinated member for any service previously accrued as a coordinated member if the person retires with the status of a basic member as a result of transferring from public school teaching to community college teaching.

Subd. 7. [Repealed, 1974 c 289 s 59]

Subd. 8. [Repealed, 1974 c 289 s 59]

Subd. 9. [Repealed, 1974 c 289 s 59]

**History:** Ex1957 c 15 s 3; Ex1959 c 50 s 23,26; 1963 c 586 s 1; 1965 c 804 s 1; 1965 c 821 s 6; 1967 c 3 s 1; 1969 c 485 s 8,9; 1971 c 40 s 10-12; 1973 c 728 s 8-11; 1974 c 289 s 17; 1975 c 321 s 2; 1980 c 607 art 14 s 45 subd 2; 1986 c 444; 1991 c 340 s 17; 1Sp2005 c 8 art 10 s 56

354.34 [Repealed, 1974 c 289 s 59]

**354.35 OPTIONAL ACCELERATED RETIREMENT ANNUITY BEFORE NORMAL RETIREMENT AGE.**

Any coordinated member who retires before age 65 may elect to receive an optional accelerated retirement annuity from the association which provides for different annuity amounts over different periods of retirement. The optional accelerated retirement annuity must take the form of an annuity payable for the period before the member attains age 65 in a greater amount than the amount of the annuity calculated under section 354.44 on the basis of the age of the member at retirement, but the optional accelerated retirement annuity must be the actuarial equivalent of the member's annuity computed on the basis of the member's age at retirement. The greater amount must be paid until the retiree reaches age 65 and at that time the payment from the association must be reduced. For each year the retiree is under age 65, up to five percent of the total life annuity required reserves may be used to accelerate the optional retirement annuity under this section. At retirement, members who retire before age 62 may elect to have the age specified in this section be 62 instead of 65. The method of computing the optional accelerated retirement annuity provided in this section is established by the board of trustees. In establishing the method of computing the optional accelerated retirement annuity, the board of trustees must obtain the written approval of the actuary retained under section 356.214. The written approval must be a part of the permanent records of the board of trustees. The election of an optional accelerated retirement annuity is exercised by making an application on a form provided by the executive director.

**History:** *Ex1957 c 15 s 5; 1974 c 289 s 18; 1986 c 444; 1987 c 259 s 33; 1989 c 319 art 2 s 11; art 13 s 54; 1991 c 340 s 18; 1993 c 307 art 5 s 1; 2000 c 461 art 3 s 34; 2006 c 271 art 3 s 47*

**354.36** [Repealed, 1974 c 289 s 59]

**354.37** [Repealed, 1974 c 289 s 59]

**354.38** [Repealed, 1974 c 289 s 59]

**354.39 EFFECTIVE DATE; APPLICATION.**

A member of the Teachers Retirement Association who is employed in a new state university or any other new institution of higher learning not included in any agreement or modification made between the state and the federal Secretary of Health and Human Services, making the provisions of the federal Old Age, Survivors and Disability Insurance Act applicable to such members, must be covered under the provisions of this chapter applicable to coordinated members.

**History:** *Ex1957 c 15 s 9; Ex1959 c 50 s 46; 1973 c 728 s 12; 1974 c 289 s 19; 1975 c 321 s 2; 1Sp2005 c 8 art 10 s 57*

**354.41 TEACHERS RETIREMENT ASSOCIATION, ELIGIBILITY FOR MEMBERSHIP.**

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. **Teachers.** Every teacher in the service of the state or one of its governmental subdivisions as a teacher, except persons specifically excluded, must become a member of the association by the acceptance of such employment.

Subd. 3. [Repealed, 1989 c 319 art 2 s 28]

Subd. 4. **Membership eligibility for labor organization employees.** (a) A person who is a member on an authorized leave of absence and is employed as an employee or officer by a labor organization that is the exclusive bargaining agent or the labor organization's state affiliate representing teachers covered by this chapter or by an association of school administrators may elect to be a coordinated member of the association based on that employment, subject to the limitations set forth in subdivisions 4a and 4b. However, no person is entitled to

membership under this section if the person also is a member of a teachers retirement association in a city of the first class organized under chapter 354A for the same period of service.

(b) The election must be made within 90 days of commencing employment by the labor organization.

Subd. 4a. **Limitations on salary and contributions.** The covered salary for a labor organization employee who qualifies for membership under this section is limited to the lesser of:

- (1) the employee's actual salary as defined under section 354.05, subdivision 35; or
- (2) 75 percent of the salary of the governor as set under section 15A.082.

The limited covered salary determined under this subdivision must be used in determining employee, employer, and employer additional contributions under section 354.42, subdivisions 2, 3, and 5, and in determining retirement annuities and other benefits under this chapter and chapter 356.

Subd. 4b. **Earning restrictions apply.** A retirement annuity is only payable, if the person has met any other applicable requirements, upon the termination by the person who elected coverage under subdivision 4 of employment by the labor organization. The reemployed annuitant earnings limitation set forth in section 354.44, subdivision 5, applies in the event that the person who elected coverage under subdivision 4 retires and is subsequently reemployed while an annuitant by the labor organization or by any other entity employing persons who are covered by the Minnesota Teachers Retirement Association by virtue of that employment.

Subd. 5. **Contributions for labor organization employees.** For all members described in subdivision 4, the employee, employer and additional employer contributions shall be the obligation of the employee who elects coverage herein; provided, however, that the employer organization enumerated in subdivision 4 employing such member may pay the employer and additional employer contributions. The employer shall, in any event, deduct the necessary contributions from the employee's salary and remit all contributions to the teachers retirement association pursuant to section 354.42, except that if any such member is on leave of absence from a governmental employer unit, these contributions shall be forwarded by the employer organization to the governmental employer unit for remittance to the fund as described in this chapter.

Subd. 6. [Repealed, 1981 c 224 s 276]

Subd. 7. **Exceptions.** Members of the association as described in subdivision 4 or 9 and employees of the teachers retirement association are not eligible for election to the board of trustees.

Subd. 8. [Repealed, 1981 c 224 s 276]

Subd. 9. [Repealed, 1Sp2001 c 10 art 12 s 3]

**History:** *Ex1957 c 16 s 3; Ex1959 c 50 s 27,28; 1967 c 693 s 1; 1971 c 40 s 15; 1973 c 728 s 13; 1975 c 306 s 10-13; 1977 c 67 s 6,13; 1977 c 97 s 2; 1978 c 796 s 41,42; 1981 c 160 s 5; 1986 c 444; 1989 c 319 art 13 s 55; 1991 c 340 s 19; 1992 c 598 art 3 s 2; 1994 c 465 art 3 s 31; 1994 c 528 art 4 s 8-10; 1995 c 141 art 3 s 20; 1Sp2001 c 10 art 12 s 1; 1Sp2005 c 8 art 10 s 58*

### 354.42 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 1a. **Teachers retirement fund.** (a) Within the Teachers Retirement Association and the state treasury is created a special retirement fund, which must include all the assets of the Teachers Retirement Association and all revenue of the association. The fund is the continuation of the fund established under Laws 1931, chapter 406, section 2, notwithstanding the repeal of Minnesota Statutes 1973, section 354.42, subdivision 1, by Laws 1974, chapter 289, section 59.

(b) The teachers retirement fund must be credited with all employee and employer contributions, all investment revenue and gains, and all other income authorized by law.

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(c) From the teachers retirement fund is appropriated the payments of annuities and benefits authorized by this chapter, the transfers to the Minnesota postretirement investment fund, and the reasonable and necessary expenses of administering the fund and the association.

Subd. 2. **Employee.** (a) The employee contribution to the fund is an amount equal to the following percentage of the salary of a member:

(1) after July 1, 2006, for a teacher employed by Special School District No. 1, Minneapolis, 5.5 percent if the teacher is a coordinated member, and 9.0 percent if the teacher is a basic member;

(2) for every other teacher, after July 1, 2006, 5.5 percent if the teacher is a coordinated member and 9.0 percent if the teacher is a basic member.

(b) This contribution must be made by deduction from salary. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution must be based on the entire salary received.

Subd. 3. **Employer.** (a) The regular employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, and before July 1, 2007, is an amount equal to 5.0 percent of the salary of each of its teachers who is a coordinated member and 9.0 percent of the salary of each of its teachers who is a basic member. After July 1, 2007, the regular employer contribution to the fund by Special School District No. 1, Minneapolis, is an amount equal to 5.5 percent of salary of each coordinated member and 9.5 percent of salary of each basic member. The additional employer contribution to the fund by Special School District No. 1, Minneapolis, after July 1, 2006, is an amount equal to 3.64 percent of the salary of each teacher who is a coordinated member or is a basic member.

(b) The employer contribution to the fund for every other employer is an amount equal to 5.0 percent of the salary of each coordinated member and 9.0 percent of the salary of each basic member before July 1, 2007, and 5.5 percent of the salary of each coordinated member and 9.5 percent of the salary of each basic member after June 30, 2007.

Subd. 4. [Repealed, 1969 c 485 s 40]

Subd. 5. [Repealed, 1997 c 233 art 1 s 50]

Subd. 6. [Repealed, 1974 c 289 s 59]

Subd. 7. **Erroneous salary deductions or direct payments.** (a) Deductions taken from the salary of an employee for the retirement fund in error must be refunded to the employee upon the discovery of the error and after the verification of the error by the employing unit making the deduction. The corresponding employer contribution and additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to another Minnesota public pension plan, the executive director must transfer these salary deductions and employer contributions to the appropriate public pension fund without interest. For purposes of this paragraph, a Minnesota public pension plan means a plan specified in section 356.30, subdivision 3, or the plan governed by chapter 354B.

(c) A potential transfer under paragraph (b) that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made by the executive director. Within 30 days after being notified by the Teachers Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the retirement fund of the appropriate Minnesota public pension plan fund. The retirement association must provide a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer.

(d) If a salary warrant or check from which a deduction for the retirement fund was taken has been canceled or the amount of the warrant or if a check has been returned to the funds

of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, must be made to the employing unit.

(e) Erroneous direct payments of member-paid contributions or erroneous salary deductions that were not refunded during the regular payroll cycle processing must be refunded to the member, plus interest computed using the rate and method specified in section 354.49, subdivision 2.

(f) Any refund under this subdivision that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer is responsible for refunding to the applicable employee any amount that was erroneously deducted from the salary of the employee, with interest as specified in paragraph (e).

**History:** *Ex1957 c 16 s 4; Ex1959 c 50 s 30; 1965 c 821 s 8-10; 1967 c 834 s 4-6; 1969 c 485 s 13-16; 1973 c 270 s 9; 1973 c 728 s 14-16; 1974 c 289 s 20,21; 1977 c 313 s 1; 1978 c 781 s 3; 1979 c 293 s 1,2; 1984 c 564 s 29; 1987 c 259 s 34; 1989 c 319 art 2 s 12; 1990 c 570 art 12 s 29,30; 1990 c 591 art 2 s 5; 1994 c 508 art 1 s 4; 1994 c 524 s 1; 1994 c 528 art 3 s 15,16; 1995 c 141 art 3 s 20; 1997 c 233 art 1 s 48-50; 2004 c 267 art 5 s 1; 1Sp2005 c 8 art 10 s 59; 2006 c 277 art 3 s 6,7*

**354.43** Subdivision 1. [Repealed, 1Sp1985 c 12 art 11 s 23 subd 2; 1Sp1985 c 16 art 2 s 20 subd 1]

Subd. 2. [Repealed, 1980 c 614 s 191]

Subd. 3. [Repealed, 1994 c 528 art 3 s 34]

Subd. 4. [Repealed, 1Sp1985 c 12 art 11 s 23 subd 2; 1Sp1985 c 16 art 2 s 20 subd 1]

Subd. 5. [Repealed, 1Sp1985 c 12 art 11 s 23 subd 2; 1Sp1985 c 16 art 2 s 20 subd 1]

### **354.44 RETIREMENT BENEFITS.**

Subdivision 1. **Requirements as to age and service.** Any member or former member who ceases or has ceased to render teaching services in any school or institution covered by the provisions of this chapter, and who has attained the age of at least 55 years with not less than three years allowable service, or who has received credit for not less than 30 years allowable service regardless of age, is entitled upon written application to a retirement annuity.

Subd. 1a. **Proportionate annuity.** A member who terminates employment at any time during the academic year at the end of which the person is at the normal retirement age or older shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at normal retirement age or older pursuant to section 356.32. For purposes of this subdivision, an academic year ends August 31.

Subd. 2. **Computation of money purchase annuity.** (a) The amount of retirement annuity is an amount equal to double the annuity which could be purchased by the member's accumulated deductions plus interest thereon. The annuity must be determined by the member's age, sex, double the amount of accumulated deductions, double the amount of interest earned on the accumulated deductions, and the appropriate mortality tables and interest rates. To determine the amount of the annuity for a basic member, the accumulated deductions before July 1, 1957, and the accumulated deductions after July 1, 1957, must be considered separately.

(b) For service rendered before July 1, 1957, the accumulated deductions for a member must be carried forward at a fixed amount which is shown credited to the member's account as of that date. That fixed amount must also include any payments in lieu of salary deductions which were actually so made under an agreement executed between the member and the board as authorized by section 354.50 or any other authorized payments made by the member to the fund. The annuity granted with respect to the period must be determined as follows:

(1) the fixed amount of the accumulated deductions for the period including the interest credited on the amount as earned up to July 1, 1957; and

(2) annuity purchase rates based on the applicable mortality table established by the board and the interest rate assumption in effect before July 1, 1957, in the case of basic members and an annuity purchase rate based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8, in the case of coordinated members.

(c) For service rendered after July 1, 1957, the accumulated deductions for a member must consist of the amounts actually credited to the member's account by reason of salary deductions. The annuity granted with respect to the period must be determined by the following:

- (1) accumulated deductions for the period;
- (2) interest credited on these accumulated deductions from July 1, 1957, to the date of retirement;
- (3) interest credited on accumulated deductions including prior credited interest provided in paragraph (b) from July 1, 1957, to the date of retirement;
- (4) after the amount available for an annuity granted with respect to the person is determined in accordance with the provisions of this subdivision, an additional amount equal to 20 percent of the sum of clause (1) plus interest credited to a member's account from July 1, 1957, to date of retirement is to be added. This added amount is not to be doubled as provided for other amounts determined in this subdivision; and
- (5) the annuity purchase rate based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

**Subd. 3. Application for retirement.** A member or a person authorized to act on behalf of the member may make application for retirement provided the age and service requirements under subdivision 1 are satisfied on or before the member's retirement annuity accrual date under subdivision 4. The application may be made no earlier than 120 days before the termination of teaching service. The application must be made on a form prescribed by the executive director and is not complete until all necessary supporting documents are received by the executive director.

**Subd. 4. Retirement annuity accrual date.** (a) An annuity payment begins to accrue, provided that the age and service requirements under subdivision 1 are satisfied, after the termination of teaching service, or after the application for retirement has been filed with the board, whichever is later, as follows:

- (1) on the 16th day of the month of termination or filing if the termination or filing occurs on or before the 15th day of the month;
- (2) on the first day of the month following the month of termination or filing if the termination or filing occurs on or after the 16th day of the month;
- (3) on July 1 for all school principals and other administrators who receive a full annual contract salary during the fiscal year for performance of a full year's contract duties; or
- (4) a later date to be either the first or the 16th day of a month occurring within the six-month period immediately following the termination of teaching service as specified under paragraph (b) by the member.

(b) If an application for retirement is filed with the board during the six-month period that occurs immediately following the termination of teaching service, the annuity may begin to accrue as if the application for retirement had been filed with the board on the date teaching service terminated or a later date under paragraph (a), clause (4).

**Subd. 5. Resumption of teaching service after retirement.** (a) Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during the calendar year immediately following any calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the

continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

(c) After a person has reached the Social Security full retirement age, no reemployment income maximum is applicable regardless of the amount of income.

(d) The amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, income from teaching service includes, but is not limited to:

(1) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

(2) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.

**Subd. 5a. Exemption for interim superintendent.** A person who performs services as an interim superintendent because of the death, disability, termination, or resignation of the previous superintendent is exempt from the earnings limitations and reductions in annuity payments in subdivision 5 for up to 90 working days of service as an interim superintendent. During this period of up to 90 working days, the school board may pay the interim superintendent at any rate, up to the rate paid to the previous superintendent. This exemption applies only if the school board hiring the interim superintendent submits an application for the exemption on a form prescribed by the executive director, and the executive director approves the application before the services as interim superintendent begin. The application must certify that the school board has unanimously approved the exemption from the earnings limitations and reductions. The executive director may prescribe a form for the application. A school board shall not apply for more than one exemption in a fiscal year. No more than three exemptions may be approved for any person. Only one exemption may be approved for any person in a fiscal year. The exemption under this subdivision does not apply to a person who retires from a school district and within one year after retirement returns to the same school district as an interim superintendent.

**Subd. 6. Computation of formula program retirement annuity.** (a) The formula retirement annuity must be computed in accordance with the applicable provisions of the formulas stated in paragraph (b) or (d) on the basis of each member's average salary under section 354.05, subdivision 13a, for the period of the member's formula service credit.

(b) This paragraph, in conjunction with paragraph (c), applies to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with paragraph (c), produces a higher annuity amount, in which case paragraph (d) applies. The average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of formula service credit shall determine the amount of the annuity to which the member qualifying therefor is entitled for service rendered before July 1, 2006:



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	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service thereafter	the percent specified in section 356.315, subdivision 2, per year	the percent specified in section 356.315, subdivision 4, per year

For service rendered on or after July 1, 2006, the average salary as defined in section 354.05, subdivision 13a, multiplied by the following percentages per year of service credit, determines the amount the annuity to which the member qualifying therefor is:

	Coordinated Member	Basic Member
Each year of service during first ten	the percent specified in section 356.315, subdivision 1a, per year	the percent specified in section 356.315, subdivision 3, per year
Each year of service after ten years of service	the percent specified in section 356.315, subdivision 2b, per year	the percent specified in section 356.315, subdivision 4, per year

(c)(i) This paragraph applies only to a person who first became a member of the association or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose annuity is higher when calculated under paragraph (b), in conjunction with this paragraph than when calculated under paragraph (d), in conjunction with paragraph (e).

(ii) Where any member retires prior to normal retirement age under a formula annuity, the member shall be paid a retirement annuity in an amount equal to the normal annuity provided in paragraph (b) reduced by one-quarter of one percent for each month that the member is under normal retirement age at the time of retirement except that for any member who has 30 or more years of allowable service credit, the reduction shall be applied only for each month that the member is under age 62.

(iii) Any member whose attained age plus credited allowable service totals 90 years is entitled, upon application, to a retirement annuity in an amount equal to the normal annuity provided in paragraph (b), without any reduction by reason of early retirement.

(d) This paragraph applies to a member who has become at least 55 years old and first became a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity amount when calculated under this paragraph and in conjunction with paragraph (e), is higher than it is when calculated under paragraph (b), in conjunction with paragraph (c). For a basic member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified by section 356.315, subdivision 4, for each year of service for a basic member shall determine the amount of the retirement annuity to which the basic member is entitled. The annuity of a basic member who was a member of the former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, must be determined according to the annuity formula under the articles of incorpo-

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ration of the former Minneapolis Teachers Retirement Fund Association in effect as of that date. For a coordinated member, the average salary, as defined in section 354.05, subdivision 13a, multiplied by the percent specified in section 356.315, subdivision 2, for each year of service rendered before July 1, 2006, and by the percent specified in section 356.315, subdivision 2b, for each year of service rendered on or after July 1, 2006, determines the amount of the retirement annuity to which the coordinated member is entitled.

(e) This paragraph applies to a person who has become at least 55 years old and first becomes a member of the association after June 30, 1989, and to any other member who has become at least 55 years old and whose annuity is higher when calculated under paragraph (d) in conjunction with this paragraph than when calculated under paragraph (b), in conjunction with paragraph (c). An employee who retires under the formula annuity before the normal retirement age shall be paid the normal annuity provided in paragraph (d) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would be payable to the employee if the employee deferred receipt of the annuity and the annuity amount were augmented at an annual rate of three percent compounded annually from the day the annuity begins to accrue until the normal retirement age if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006.

(f) No retirement annuity is payable to a former employee with a salary that exceeds 95 percent of the governor's salary unless and until the salary figures used in computing the highest five successive years average salary under paragraph (a) have been audited by the Teachers Retirement Association and determined by the executive director to comply with the requirements and limitations of section 354.05, subdivisions 35 and 35a.

**Subd. 6a. Extension of 1997 permanent increase.** (a) A percentage of the permanent increase for benefit recipients effective July 1, 1997, under Laws 1997, chapter 233, article 1, section 71, as specified in paragraph (b), is payable to:

(1) a member who terminates service after June 30, 1997, and whose benefit begins to accrue during the period of July 2, 1997, to July 1, 2002, based on the member's age at retirement;

(2) a member who is determined to be totally and permanently disabled under section 354.05, subdivision 14, after June 30, 1997, and whose benefit begins to accrue during the period of July 2, 1997, to July 1, 2002, based on the member's age at disability;

(3) the survivor of a member who terminates service and dies after June 30, 1997, and whose benefit begins to accrue during the period of July 2, 1997, to July 1, 2002.

(b) The percentage of the permanent increase is the amount designated for the applicable beginning benefit accrual date, as follows:

Beginning Benefit Accrual Date	Percentage of Permanent Increase
July 2, 1997, to July 1, 1998	50 percent
July 2, 1998, to July 1, 1999	40 percent
July 2, 1999, to July 1, 2000	30 percent
July 2, 2000, to July 1, 2001	20 percent
July 2, 2001, to July 1, 2002	10 percent

Subd. 7. [Repealed, 1990 c 570 art 12 s 64]

**Subd. 8. Annuity payment; evidence of receipt.** An annuity or benefit for a given month must be paid during the first week of that month. Evidence of receipt of the check issued or acknowledgment of the amount electronically transferred in payment of an annuity or benefit may be required from the payee on a form prescribed by the executive director. The evidence of receipt form may be required periodically at times specified by the board. In the event the evidence of receipt form is required, future annuities or benefits must be withheld until the form is submitted.

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Subd. 9. **Determining applicable law.** An employee who returns to covered service following a termination and who is not receiving a retirement annuity under this section must have earned at least 85 days of credited service following the return to covered service to be eligible for improved benefits resulting from any law change enacted subsequent to that termination.

**History:** *Ex1957 c 16 s 6; Ex1959 c 50 s 10-12; 1961 c 745 s 3; Ex1961 c 17 s 11; 1963 c 246 s 1; 1965 c 821 s 11; 1967 c 693 s 2; 1969 c 485 s 18,19; 1971 c 40 s 16; 1973 c 270 s 10; 1973 c 728 s 17-19; 1974 c 289 s 24-28; 1975 c 306 s 16-18; 1976 c 329 s 30; 1977 c 67 s 8; 1977 c 429 s 37; 1978 c 781 s 4; 1979 c 40 s 6; 1979 c 50 s 46,47; 1980 c 342 s 10-12; 1980 c 509 s 135; 1981 c 160 s 6,7; 1981 c 210 s 54; 1981 c 224 s 106-111; 1Sp1981 c 4 art 1 s 21; art 2 s 33; 1983 c 148 s 3; 1984 c 564 s 30; 1Sp1985 c 7 s 17,18; 1986 c 444; 1986 c 458 s 16; 1987 c 259 s 35; 1987 c 284 art 2 s 5; art 6 s 6; 1987 c 372 art 9 s 24; 1989 c 319 art 2 s 13-16; art 13 s 56-59; 1990 c 570 art 12 s 31; 1994 c 524 s 2; 1994 c 528 art 3 s 17-19; 1995 c 141 art 3 s 10,20; 1996 c 438 art 3 s 1,2; 1997 c 233 art 1 s 51,52; 2000 c 461 art 2 s 6; 2002 c 392 art 11 s 52; 2004 c 267 art 7 s 4-6; 1Sp2005 c 8 art 1 s 18; art 10 s 60; 2006 c 277 art 2 s 6; art 3 s 8*

## 354.445 NO ANNUITY REDUCTION.

(a) The annuity reduction provisions of section 354.44, subdivision 5, do not apply to a person who:

(1) retires from the Minnesota State Colleges and Universities system with at least ten years of combined service credit in a system under the jurisdiction of the Board of Trustees of the Minnesota State Colleges and Universities;

(2) was employed on a full-time basis immediately preceding retirement as a faculty member or as an unclassified administrator in that system;

(3) begins drawing an annuity from the teachers retirement association; and

(4) returns to work on not less than a one-third time basis and not more than a two-thirds time basis in the system from which the person retired under an agreement in which the person may not earn a salary of more than \$46,000 in a calendar year from employment after retirement in the system from which the person retired.

(b) Initial participation, the amount of time worked, and the duration of participation under this section must be mutually agreed upon by the president of the institution where the person returns to work and the employee. The president may require up to one-year notice of intent to participate in the program as a condition of participation under this section. The president shall determine the time of year the employee shall work. The employer or the president may not require a person to waive any rights under a collective bargaining agreement as a condition of participation under this section.

(c) Notwithstanding any law to the contrary, a person eligible under paragraphs (a) and (b) may not, based on employment to which the waiver in this section applies, earn further service credit in a Minnesota public defined benefit plan and is not eligible to participate in a Minnesota public defined contribution plan, other than a volunteer fire plan governed by chapter 424A. No employer or employee contribution to any of these plans may be made on behalf of such a person.

(d) For a person eligible under paragraphs (a) and (b) who earns more than \$46,000 in a calendar year from employment after retirement due to employment by the Minnesota state colleges and universities system, the annuity reduction provisions of section 354.44, subdivision 5, apply only to income over \$46,000.

(e) A person who returns to work under this section is a member of the appropriate bargaining unit and is covered by the appropriate collective bargaining contract. Except as provided in this section, the person's coverage is subject to any part of the contract limiting rights of part-time employees.

**History:** *1994 c 602 s 2; 1995 c 212 art 4 s 64; 1995 c 262 art 1 s 4; 1998 c 390 art 2 s 9; 1999 c 222 art 19 s 4; 2000 c 461 art 2 s 7*

**354.45 OPTIONAL RETIREMENT ANNUITIES; UNPAID ANNUITIES, DISPOSITION.**

Subdivision 1. **Optional annuity forms.** The retirement board shall establish optional annuities at retirement which shall take the form of an annuity payable for a period certain and for life thereafter or the form of a joint and survivor annuity. The board shall also establish an optional annuity which shall take the form of a guaranteed refund annuity paying the annuitant a fixed amount for life with the guarantee that in the event of death the balance of the accumulated deductions and interest accrued to the date of retirement will be paid to the designated beneficiary. Except as provided in subdivision 1a, any optional annuity forms shall be actuarially equivalent to the normal forms provided in section 354.44. In establishing these optional annuity forms, the board shall obtain the written recommendation of the actuary retained under section 356.214. The recommendations shall be a part of the permanent records of the board.

Subd. 1a. **Bounce-back annuity.** (a) If a former member or disabilitant selects a joint and survivor annuity option under subdivision 1 after June 30, 1989, the former member or disabilitant must receive a normal single life annuity if the designated optional annuity beneficiary dies before the former member or disabilitant. Under this option, no reduction may be made in the person's annuity to provide for restoration of the normal single life annuity in the event of the death of the designated optional annuity beneficiary.

(b) The annuity adjustment specified in paragraph (a) also applies to joint and survivor annuity options under subdivision 1 elected before July 1, 1989. The annuity adjustment under this paragraph occurs on July 1, 1989, or on the first day of the first month following the death of the designated optional annuity beneficiary, whichever is later. This paragraph may not be interpreted as authorizing retroactive payments.

Subd. 2. **Refund upon death of retired member.** Upon the death of the member after retirement where no designated beneficiary shall survive the member, any remaining unpaid guaranteed annuity payments shall be commuted at the applicable postretirement interest rate specified in section 356.215, subdivision 8, and paid in one sum to the estate of the member. Upon the death of the last designated beneficiary after the death of the member, the value of any unpaid guaranteed annuity payments shall be commuted at the applicable postretirement interest rate specified in section 356.215, subdivision 8, and paid in one sum to the estate of the designated beneficiary.

**History:** *Ex1957 c 16 s 7; Ex1961 c 17 s 12; 1963 c 845 s 5; 1971 c 40 s 17; 1973 c 728 s 20; 1987 c 259 s 36; 1989 c 319 art 13 s 60,61; 1990 c 570 art 12 s 32; 1Sp2001 c 9 art 15 s 32; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 37,47*

**354.46 PAYMENTS AFTER DEATH.**

Subdivision 1. **Basic program; benefits for spouse and children of teacher.** If a basic member who has at least 18 months of allowable service credit and who has an average salary as defined in section 354.44, subdivision 6, equal to or greater than \$75 dies prior to retirement or if a former basic member who, at the time of death, was totally and permanently disabled and receiving disability benefits pursuant to section 354.48 dies before attaining age 65 or reaching the five-year anniversary of the effective date of the disability benefit, whichever is later, the surviving spouse and dependent children of the basic member or former basic member are entitled to receive a monthly benefit as follows:

- (a) Surviving spouse . . . . . 50 percent of the basic member's monthly average salary paid in the last full fiscal year preceding death
- (b) Each dependent child . . . . . ten percent of the basic member's monthly average salary paid in the last full fiscal year preceding death

Payments for the benefit of any dependent child under the age of 22 years must be made to the surviving parent, or if there be none, to the legal guardian of the child. The maximum monthly benefit must not exceed \$1,000 for any one family, and the minimum benefit per

family must not be less than 50 percent of the basic member's average salary, subject to the foregoing maximum. The surviving dependent children's benefit must be reduced pro tanto when any surviving child is no longer dependent.

If the basic member and the surviving spouse are killed in a common disaster and if the total of all survivors benefits payable pursuant to this subdivision is less than the accumulated deductions plus interest payable, the surviving dependent children shall receive the difference in a lump sum payment.

If the survivor benefits provided in this subdivision exceed in total the monthly average salary of the deceased basic member, these benefits must be reduced to an amount equal to the deceased basic member's monthly average salary.

Prior to payment of any survivor benefit pursuant to this subdivision, in lieu of that benefit, the surviving spouse may elect to receive the joint and survivor annuity provided pursuant to subdivision 2, or may elect to receive a refund of accumulated deductions with interest in a lump sum as provided pursuant to section 354.47, subdivision 1. If there are any surviving dependent children, the surviving spouse may elect to receive the refund of accumulated deductions only with the consent of the district court of the district in which the surviving dependent child or children reside.

**Subd. 2. Surviving spouse survivor coverage.** (a) If the active or deferred member was at least age 55 and had credit for at least three years of allowable service on the date of death, the surviving spouse is entitled to the second portion of a 100 percent joint and survivor annuity specified under section 354.45, based on the age of the active or deferred member at the time of death and the age of the surviving spouse at the time the benefit accrues.

(b) If the active or deferred member was under age 55 and had credit for at least 30 years of allowable service on the date of death, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member on the date of death and the age of the surviving spouse at the time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is payable using the full early retirement reduction under section 354.44, subdivision 6, clause (3)(ii), to age 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

(c) If the active or deferred member was under age 55 and had credit for at least three years of allowable service on the date of death, but did not yet qualify for retirement, the surviving spouse may elect to receive the second portion of a 100 percent joint and survivor annuity based on the age of the active or deferred member at the time of death and the age of the surviving spouse at the time the benefit accrues. If section 354.44, subdivision 6, applies, the annuity is calculated using the full early retirement reduction under section 354.44, subdivision 6, to age 55 and one-half of the early retirement reduction from age 55 to the age the annuity begins.

(d) The surviving spouse eligible for surviving spouse benefits under this subdivision may apply for the annuity any time after the member's death. The benefit may not begin to accrue more than six months before the date the application is filed with the executive director and may not accrue before the member's death. The benefit is payable for life. Any benefit under this subdivision is in lieu of benefits under subdivision 1, if applicable, and in lieu of a refund of accumulated member contributions under section 354.47, subdivision 1.

(e) For purposes of this subdivision, a designated beneficiary must be a former spouse or a biological or adopted child of the member.

**Subd. 2a. Survivor coverage term certain.** In lieu of the 100 percent optional annuity under subdivision 2, or a refund under section 354.47, subdivision 1, the surviving spouse of a deceased member may elect to receive survivor coverage in a term certain of five, ten, 15, or 20 years, but monthly payments must not exceed 75 percent of the average high-five month-

ly salary of the deceased member. The monthly term certain annuity must be actuarially equivalent to the 100 percent optional annuity under subdivision 2.

If a surviving spouse elects a term certain payment and dies before the expiration of the specified term certain period, the commuted value of the remaining annuity payments must be paid in a lump sum to the surviving spouse's estate.

**Subd. 2b. Dependent child survivor coverage.** If there is no surviving spouse eligible for benefits under subdivision 2, each dependent child as defined in section 354.05, subdivision 8a, is eligible for monthly surviving child benefits. Surviving child benefits to a dependent child must be paid from the date of the member's death to the date the dependent child attains age 20 if the child is under age 15 on the date of the member's death. If the child is 15 years or older on the date of the member's death, the surviving child benefit is payable for five years. The dependent surviving child benefit is an amount that is actuarially equivalent to the value of a 100 percent optional annuity under subdivision 2 calculated using the age of the member and age of the dependent child as of the date of death in lieu of the age of the member and the spouse. If there is more than one dependent child, each dependent child is entitled to receive a proportionate share of the actuarial value of the member's account.

**Subd. 3. Payment after death of retiree.** If a former member dies after retirement, the former member or a designated beneficiary shall be entitled to the annuity payment due for the full month during which death occurs if no optional or reversionary annuity was designated by the member. If an optional or reversionary annuity has been designated by the member, a death benefit shall be paid in accordance with the provisions of such annuity as described in section 354.45.

**Subd. 4.** [Repealed, 1974 c 289 s 59]

**Subd. 5. Payment to designated beneficiary.** A member who is single or, if the member is married, a member and the spouse of the member jointly, may make a specification in writing on a form prescribed by the executive director that the benefits provided in subdivision 2, or in section 354.47, subdivision 1, must be paid only to a designated beneficiary or to designated beneficiaries. For purposes of subdivision 2, a designated beneficiary may only be either a former spouse or a biological or an adopted child of the member.

**Subd. 6. Application.** (a) A beneficiary designation and an application for benefits under this section must be in writing on a form prescribed by the executive director.

(b) Sections 354.55, subdivision 11, and 354.60 apply to a deferred annuity payable under this section.

(c) Unless otherwise specified, the annuity must be computed under section 354.44, subdivision 2 or 6, whichever is applicable.

**History:** *Ex1957 c 16 s 8; Ex1959 c 50 s 13,14,47; 1961 c 737 s 1-3; 1967 c 604 s 2; 1969 c 485 s 20; 1971 c 40 s 18; 1971 c 86 s 1; 1973 c 728 s 31; 1974 c 289 s 29-31; 1975 c 306 s 19; 1977 c 388 s 2; 1981 c 156 s 1-3; 1982 c 578 art 1 s 7,8; 1984 c 564 s 31,32; 1986 c 444; 1986 c 458 s 17; 1987 c 284 art 6 s 7; 1987 c 372 art 9 s 25; 1989 c 319 art 13 s 62; 1990 c 570 art 12 s 33,34; 1991 c 269 art 2 s 10; 1991 c 340 s 20; 1993 c 307 art 5 s 2; art 6 s 3; 1993 c 336 art 6 s 12-15; 1994 c 528 art 3 s 20,21; 2000 c 461 art 3 s 35; 2004 c 267 art 9 s 18-21*

### 354.465 MODIFICATION IN SURVIVOR COVERAGE IN CERTAIN INSTANCES.

Any person who elected joint and survivor annuity coverage pursuant to section 354.46, subdivision 2, prior to July 1, 1981, and the spouse of the person shall be entitled to modify that election by making a joint specification in writing on a form prescribed by the executive director that the benefits provided in section 354.46, subdivision 2, or 354.47, subdivision 1, whichever is applicable, shall be paid only to a designated beneficiary. Authority for any person and the spouse of the person to modify the prior election shall expire on the date of the retirement of the person who elected the coverage or the date of death of the person who elected the coverage whichever occurs first.

**History:** *1981 c 156 s 7; 1982 c 578 art 3 s 17*

**354.47 PAYMENT AFTER DEATH.**

Subdivision 1. **Death before retirement.** (a) If a member dies before retirement and is covered under section 354.44, subdivision 2, and neither an optional annuity, nor a reversionary annuity, nor a benefit under section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, the designated beneficiary is entitled to an amount equal to the member's accumulated deductions with interest credited to the account of the member to the date of death of the member. If the designated beneficiary is a minor, interest must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

(b) If a member dies before retirement and is covered under section 354.44, subdivision 6, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1, is payable to the survivors if the member was a basic member, then the surviving spouse, or if there is no surviving spouse, the designated beneficiary is entitled to an amount equal to the member's accumulated deductions credited to the account of the member as of June 30, 1957, and from July 1, 1957, to the date of death of the member, the member's accumulated deductions plus six percent interest compounded annually.

(c) If the designated beneficiary under paragraph (b) is a minor, any interest credited under that paragraph must be credited to the date the beneficiary reaches legal age, or the date of receipt, whichever is earlier.

Subd. 1a. **Uncashed annuity or benefit warrants.** Uncashed annuity or benefit warrants issued before the recipient's death are payable to the designated beneficiary, and if none, to the recipient's estate.

Subd. 2. **Benefits of \$1,500 or less.** If a member or a former member dies without having a surviving designated beneficiary and the amount to the credit of the decedent is \$1,500 or less, the board of trustees may 90 days after the date of death, in the absence of probate proceedings, make payment to the surviving spouse of the decedent. This payment is a bar to recovery of this payment from the association by any other person or persons. Any accrued retirement annuity, disability, or survivor benefit may be paid in the same manner.

Subd. 3. [Repealed, 1974 c 289 s 59]

**History:** *Ex1957 c 16 s 9; Ex1959 c 50 s 48; Ex1961 c 17 s 13; 1963 c 845 s 6; 1965 c 821 s 12; 1969 c 485 s 21; 1971 c 40 s 19; 1974 c 289 s 32; 1980 c 342 s 13; 1981 c 156 s 4; 1981 c 224 s 112; 1982 c 578 art 3 s 3; 1984 c 564 s 33; 1989 c 319 art 2 s 17; art 13 s 63; 1990 c 570 art 12 s 35; 1994 c 528 art 3 s 22; 2000 c 461 art 3 s 36*

**354.48 PERMANENT DISABILITY BENEFITS.**

Subdivision 1. **Age, service and salary requirements.** A member who is totally and permanently disabled and has at least three years of credited allowable service at the time that the total and permanent disability begins is entitled to a disability benefit based on this allowable service in an amount provided in subdivision 3. If the disabled member's teaching service has terminated at any time, at least two of the required three years of allowable service must have been rendered after last becoming a member. Any member whose average salary is less than \$75 per month is not entitled to disability benefits.

Subd. 2. **Applications; accrual.** (a) A person described in subdivision 1, or another person authorized to act on behalf of the person, may make written application on a form prescribed by the executive director for a total and permanent disability benefit only within the 18-month period following the termination of teaching service.

(b) The benefit accrues from the day following the commencement of the disability or the day following the last day for which salary is paid, whichever is later, but does not begin to accrue more than six months before the date on which the written application is filed with the executive director. If salary is being received for either annual or sick leave during the disability period, the disability benefit accrues from the day following the last day for which this salary is paid.

Subd. 3. **Computation of benefits.** (1) The amount of the disability benefit granted to members covered under section 354.44, subdivision 2, clauses (1) and (2), is an amount

equal to double the annuity which could be purchased by the member's accumulated deductions plus interest on the amount computed as though the teacher were at normal retirement age at the time the benefit begins to accrue and in accordance with the law in effect when the disability application is received. Any member who applies for a disability benefit after June 30, 1974, and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, shall have the disability benefit computed under this clause or clause (2), whichever is larger.

The benefit granted shall be determined by the following:

- (a) the amount of the accumulated deductions;
- (b) interest actually earned on these accumulated deductions to the date the benefit begins to accrue;
- (c) interest for the years from the date the benefit begins to accrue to the date the member attains normal retirement age at the rate of three percent;
- (d) annuity purchase rates based on an appropriate annuity table of mortality established by the board as provided in section 354.07, subdivision 1, and using the applicable postretirement interest rate assumption specified in section 356.215, subdivision 8.

In addition, a supplementary monthly benefit of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later, must be paid to basic members.

(2) The disability benefit granted to members covered under section 354.44, subdivision 6, shall be computed in the same manner as the annuity provided in section 354.44, subdivision 6. The disability benefit shall be the formula annuity without the reduction for each month the member is under normal retirement age when the benefit begins to accrue.

(3) For the purposes of computing a retirement annuity when the member becomes eligible, the amounts paid for disability benefits shall not be deducted from the individual member's accumulated deductions. If the disability benefits provided in this subdivision exceed the monthly average salary of the disabled member, the disability benefits shall be reduced to an amount equal to the disabled member's average salary.

**Subd. 3a. Optional annuity election.** A disabled member may elect to receive the normal disability benefit or an optional annuity as provided in section 354.45, subdivision 1. The election of an optional annuity shall be made prior to commencement of payment of the disability benefit and shall be effective and shall begin to accrue on the same date the disability benefit begins to accrue.

**Subd. 4. Determination by the executive director.** (a) The executive director shall have the member examined by at least two licensed physicians, licensed chiropractors, or licensed psychologists selected by the medical adviser.

(b) These physicians, chiropractors, or psychologists with respect to a mental impairment, shall make written reports to the executive director concerning the member's disability, including expert opinions as to whether or not the member is permanently and totally disabled within the meaning of section 354.05, subdivision 14.

(c) The executive director shall also obtain written certification from the last employer stating whether or not the member was separated from service because of a disability which would reasonably prevent further service to the employer and as a consequence the member is not entitled to compensation from the employer.

(d) If, upon the consideration of the reports of the physicians, chiropractors, or psychologists and any other evidence presented by the member or by others interested therein, the executive director finds that the member is totally and permanently disabled, the executive director shall grant the member a disability benefit.

(e) An employee who is placed on leave of absence without compensation because of disability is not barred from receiving a disability benefit.

**Subd. 5.** [Repealed, 1991 c 340 s 34]

**Subd. 6. Regular physical examinations.** At least once each year during the first five years following the allowance of a disability benefit to any member, and at least once in every



three-year period thereafter, the executive director shall require the disability beneficiary to undergo an expert examination by a physician or physicians, by a chiropractor or chiropractors, or by one or more psychologists with respect to a mental impairment, engaged by the executive director. If an examination indicates that the member is no longer permanently and totally disabled or that the member is engaged or is able to engage in a substantial gainful occupation, payments of the disability benefit by the association must be discontinued. The payments must be discontinued as soon as the member is reinstated to the payroll following sick leave, but payment may not be made for more than 60 days after the physicians, the chiropractors, or the psychologists engaged by the executive director find that the person is no longer permanently and totally disabled.

**Subd. 6a. Medical adviser; duties.** The state commissioner of health or a licensed physician on the staff of the Department of Health who is designated by the commissioner is the medical adviser of the executive director. The medical adviser shall designate licensed physicians, licensed chiropractors, or licensed psychologists with respect to a mental impairment, who shall examine applicants for disability benefits. The medical adviser shall pass upon all expert reports based on any examinations performed in order to determine whether a teacher is totally and permanently disabled as defined in section 354.05, subdivision 14. The medical adviser shall also investigate all health and medical statements and certificates by or on behalf of a teacher in connection with a disability benefit, and shall report in writing to the director setting forth any conclusions and recommendations on all matters referred to the medical adviser.

**Subd. 7. Partial reemployment.** If the disabled person resumes a gainful occupation in which earnings are less than the person's salary at the date of disability, the amount of earnings plus the disability benefit originally granted may not exceed the salary at the date of disability. If the sum of earnings plus the disability benefit originally granted exceeds the salary at the date of disability, the amount of excess earnings must be deducted from the disability benefit payable during the following calendar year. The provisions of this subdivision shall not prohibit the executive director from making a determination that a member is no longer totally and permanently disabled or that the member is engaged or is able to engage in a substantial gainful occupation based on the results of the regular physical examinations required by subdivision 6 or any other physical examinations required by the board. Payment of the disability benefit provided in this subdivision during a period of partial reemployment shall be discontinued if the executive director finds that the member is no longer totally and permanently disabled.

**Subd. 8. Refusal of examination.** If any disabled person refuses to submit to a medical examination as required under this section, payments by the association must be discontinued and all rights of the member in any disability benefit must be revoked by the executive director.

**Subd. 9. Return to teaching service.** Any person receiving a disability benefit who is restored to active teaching service shall have deductions taken for the retirement fund.

**Subd. 10. Retirement status at normal retirement age.** (a) No person is entitled to receive both a disability benefit and a retirement annuity provided by this chapter.

(b) The disability benefit paid to a person hereunder must terminate at the end of the month in which the person attains the normal retirement age. If the person is still totally and permanently disabled at the beginning of the month next following the month in which the person attains the normal retirement age, the person must be deemed to be on retirement status and, if the person had elected an optional annuity under subdivision 3a, must receive an annuity in accordance with the terms of the optional annuity previously elected, or, if the person had not elected an optional annuity under subdivision 3a, may elect to receive a straight life retirement annuity equal to the disability benefit paid before the date on which the person attains the normal retirement age or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later, or may elect to receive an optional annuity as provided in section 354.45, subdivision 1.

(c) Election of an optional annuity must be made within 90 days of the normal retirement age or the five-year anniversary of the effective date of the disability benefit, whichever is later.

(d) If an optional annuity is elected, the election is effective on the date on which the person attains the normal retirement age or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity begins to accrue on the first day of the month next following the month in which the person attains the normal retirement age or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later.

**History:** *Ex1957 c 16 s 10; Ex1959 c 50 s 15; 1961 c 597 s 3; 1963 c 845 s 7; 1969 c 485 s 22,23; 1973 c 728 s 21; 1974 c 289 s 33-35; 1975 c 306 s 20,21; 1975 c 359 s 23; 1981 c 68 s 25,26; 1981 c 160 s 8-10; 1981 c 224 s 113,114; 1982 c 578 art 3 s 4,19; 1984 c 564 s 34,35; 1Sp1985 c 7 s 19-21; 1986 c 444; 1987 c 259 s 37; 1987 c 284 art 6 s 8; 1987 c 372 art 9 s 26; 1989 c 319 art 2 s 18,19; art 13 s 64-66; 1990 c 570 art 12 s 36; 1991 c 340 s 21-25; 1993 c 307 art 5 s 3,4; 1994 c 528 art 3 s 23; 1995 c 141 art 3 s 20; 2000 c 461 art 3 s 37; 2002 c 392 art 11 s 52; 2004 c 267 art 8 s 26-30*

### 354.49 REFUND.

Subdivision 1. **Entitlement, application.** A person who ceases to render teaching service in any school or institution to which the provisions of this chapter apply is entitled to a refund provided in subdivision 2, or a deferred retirement annuity under section 354.55, subdivision 11. An application for a refund must not be made sooner than 30 days after termination of teaching service if the applicant has not again become a teacher. This payment must be made within 45 days after the receipt of an application for a refund or upon the receipt of member reporting data under section 354.52, subdivision 4a, and payroll cycle data under section 354.52, subdivision 4b, whichever is later.

Subd. 2. **Calculation.** Except as provided in section 354.44, subdivision 1, any person who ceases to be a member by reason of termination of teaching service, shall receive a refund in an amount equal to the accumulated deductions credited to the account as of June 30, 1957, and after July 1, 1957, the accumulated deductions with interest at the rate of six percent per annum compounded annually. For the purpose of this subdivision, interest shall be computed on fiscal year end balances to the first day of the month in which the refund is issued.

Subd. 3. **Refund in certain instances.** Any person not covered by the formula program who has attained normal retirement age with less than the minimum service required for an annuity and who ceases to be a member because of termination of teaching service is entitled upon application to a refund in an amount equal to the person's accumulated deductions plus interest at the rates used to compute annuities under section 354.44, subdivision 2 in lieu of a proportionate annuity pursuant to section 356.32. If a person who has attained normal retirement age is eligible for an annuity or is covered by the formula program, the refund is an amount equal to the accumulated deductions credited to the person's account as of June 30, 1957, and after July 1, 1957, the accumulated deductions plus interest at the rate of six percent compounded annually. For the purpose of this subdivision, interest must be computed on fiscal year end balances to the first day of the month in which the refund is issued.

Subd. 4. **Termination of membership.** Membership in the retirement association of any person shall terminate under the following conditions: (1) If a person takes a refundment pursuant to this section; (2) When a person's retirement annuity first begins to accrue as provided in section 354.44, subdivisions 1 and 4; (3) Upon the person's ceasing to be a "teacher" whether by resignation, dismissal, or termination of temporary or provisional employment for the purpose of determining eligibility for disability or survivorship benefits as provided in sections 354.48, subdivision 1 and 354.46, subdivision 1, respectively.

Subd. 5. **Nonrefunded money credited to fund.** If a person ceases to render teaching service in any school or institution to which the provisions of this chapter apply and does not make application for refund within five years after June 30th of the fiscal year in which the

last deduction was taken from salary for the retirement fund and if the accumulated deductions are \$500 or less, such deductions and interest shall be credited to and become a part of the retirement fund. In the event such person returns to render teaching service in any school or institution to which the provisions of this chapter apply and the deductions previously credited to the retirement fund are \$5 or more, such deductions and interest to date of restoration shall be restored to the person's individual account. If the deductions previously credited to the retirement fund are \$5 or more and such person applies for a refund pursuant to this section or an annuity pursuant to section 354.55, subdivision 3, such deductions credited to the retirement fund shall be restored to such person's individual account.

**History:** *Ex1957 c 16 s 11; Ex1959 c 50 s 16,17; Ex1967 c 6 s 1-3; 1969 c 485 s 24; 1971 c 40 s 20-22; 1973 c 270 s 11; 1974 c 289 s 36-38; 1975 c 306 s 22; 1977 c 67 s 9; 1977 c 97 s 3; 1979 c 40 s 7; 1984 c 564 s 36,37; 1Sp1985 c 7 s 22; 1986 c 444; 1987 c 372 art 9 s 27; 1989 c 319 art 13 s 67,68; 1990 c 570 art 12 s 37,38; 1991 c 340 s 26; 1994 c 528 art 3 s 24; 2000 c 461 art 3 s 38*

### 354.50 TERMINATION OF SERVICE CREDITS.

Subdivision 1. **Repayment of refund.** When any member accepts a refund provided in section 354.49, all existing service credits to which the member was entitled before accepting the refund terminate and are not restored until the former member acquires not less than two years allowable service credit after taking the last refund. In that event the former member may repay the refund. If more than one refund has been taken, all refunds must be repaid. Teaching service covered under the provisions of chapter 354B may be used to fulfill the two-year requirement of this subdivision.

Subd. 2. **Interest charge.** If a member desires to repay the refunds, payment shall include interest at an annual rate of 8.5 percent compounded annually from date of withdrawal to the date payment is made and shall be credited to the fund.

Subd. 3. [Repealed, 1974 c 289 s 59]

Subd. 4. **Repayment of refund.** Any person who has received a refund from the Teachers Retirement Association and who is a member of any public retirement fund referred to in section 354.60 may repay such refund with interest to the Teachers Retirement Association. Repayment of the refunds under the provisions of this subdivision will be in accordance with all the provisions of this section.

Subd. 5. **Refund of variable account accumulations.** A member who received a refund of variable account accumulations may repay this refund to the member's formula account under this section.

**History:** *Ex1957 c 16 s 12; Ex1961 c 17 s 14; Ex1967 c 6 s 4; 1969 c 485 s 25; 1971 c 40 s 23,24; 1973 c 728 s 22; 1974 c 289 s 39-41; 1977 c 67 s 10; 1981 c 224 s 115; 1986 c 444; 1989 c 319 art 9 s 2; 1990 c 570 art 12 s 39; 1991 c 340 s 27; 1992 c 598 art 3 s 3*

### 354.51 PAYMENTS TO RECEIVE CREDIT FOR PRIOR SERVICE; SHORTAGES IN MEMBER DEDUCTIONS.

Subdivision 1. **Eligibility to make payments.** No member shall be entitled to make payments in lieu of salary deductions to the retirement board to receive credit for any period of service prior to that date for which employee contributions were not deducted from the member's salary, except as provided in subdivision 4, or section 354.50 or 354.53.

Subd. 2. [Repealed, 1974 c 289 s 59]

Subd. 3. [Repealed, 1974 c 289 s 59]

Subd. 4. **Other state or school teaching service; purchase of credit.** Any teacher who has rendered teaching service prior to June 30, 1953, in another state, or in a state public school which is not an employing unit with employees for whom retirement coverage is provided pursuant to this chapter, or for the University of Minnesota, who was a member of the fund prior to or after the uncredited teaching service, who is not entitled to any benefits from

any other retirement system based on the uncredited teaching service, who has credit for at least 15 years of service as a member of the retirement fund with at least five years of service occurring subsequent to the period of uncredited teaching service, who became a member of the retirement fund prior to June 30, 1957, and who has not accepted a refund of accumulated member contributions or deductions and resumed teaching service covered by the retirement fund after July 1, 1957, shall be entitled to obtain service credit for the period of uncredited teaching service. To obtain service credit, a teacher shall make a payment equal to six percent of the average annual salary of the teacher for the five year period occurring immediately prior to the completion of the minimum service requirement or July 1, 1951, whichever is later, multiplied for the number of years of the period of uncredited teaching service, but not to exceed \$175 annually for any period of uncredited teaching service occurring prior to July 1, 1953, or \$216 annually for any period of uncredited teaching service occurring subsequent to June 30, 1953. The payment made by the teacher shall be accompanied by a matching payment representing the employer contribution. This matching employer contribution payment is to be made by the agency which formerly employed the teacher, except that, at its discretion, the payment may be made by the current employer of the teacher. The payments shall include interest at an annual rate of 8.5 percent compounded annually from the end of the year of uncredited service to the date on which payment is first made. Payment shall be made in a single payment unless the executive director authorizes installment payments. If the payment made is less than the full required payment, including interest, the formula service credit granted shall be adjusted in accordance with section 354.05, subdivision 25, clause (3). Any school district or institution which employs a teacher who makes a payment pursuant to this subdivision is authorized to make any required payments representing employer contributions and interest and the required amounts are hereby appropriated from any funds available to the school district or institution. Any payments made pursuant to this subdivision shall be considered accumulations made after July 1, 1957 for purposes of computing an annuity pursuant to section 354.44, subdivision 2. All payments shall be made to the executive director prior to July 1, 1973 or within one year after the completion of the minimum state teaching service requirements whichever is later.

**Subd. 5. Payment of shortages.** (a) Except as provided in paragraph (b), in the event that full required member contributions are not deducted from the salary of a teacher, payment must be made as follows:

(1) Payment of shortages in member deductions on salary earned after June 30, 1957, and before July 1, 1981, may be made any time before retirement. Payment must include interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest must be credited to the fund. If payment of a shortage in deductions is not made, the formula service credit of the member must be prorated under section 354.05, subdivision 25, clause (3).

(2) Payment of shortages in member deductions on salary earned after June 30, 1981, are the sole obligation of the employing unit and are payable by the employing unit upon notification by the executive director of the shortage with interest at an annual rate of 8.5 percent compounded annually from the end of the fiscal year in which the shortage occurred to the end of the month in which payment is made and the interest must be credited to the fund. Effective July 1, 1986, the employing unit shall also pay the employer contributions as specified in section 354.42, subdivisions 3 and 5 for the shortages. If the shortage payment is not paid by the employing unit within 60 days of notification, the executive director shall certify the amount of the shortage payment to the applicable county auditor, who shall spread a levy in the amount of the shortage payment over the taxable property of the taxing district of the employing unit if the employing unit is supported by property taxes, or to the commissioner of finance, who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit if the employing unit is not supported by property taxes.

(3) Payment may not be made for shortages in member deductions on salary earned before July 1, 1957, for shortages in member deductions on salary paid or payable under para-

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graph (b), or for shortages in member deductions for persons employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution that exceeds the most recent 36 months.

(b) For a person who is employed by the Minnesota State Colleges and Universities system in a faculty position or in an eligible unclassified administrative position and whose employment was less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution, upon the person's election under section 354B.21 of retirement coverage under this chapter, the shortage in member deductions on the salary for employment by the Minnesota State Colleges and Universities system institution of less than 25 percent of a full academic year, exclusive of the summer session, for the applicable institution for the most recent 36 months and the associated employer contributions must be paid by the Minnesota State Colleges and Universities system institution, plus annual compound interest at the rate of 8.5 percent from the end of the fiscal year in which the shortage occurred to the end of the month in which the Teachers Retirement Association coverage election is made. If the shortage payment is not made by the institution within 60 days of notification, the executive director shall certify the amount of the shortage payment to the commissioner of finance, who shall deduct the amount from any state appropriation to the system. An individual electing coverage under this paragraph shall repay the amount of the shortage in member deductions, plus interest, through deduction from salary or compensation payments within the first year of employment after the election under section 354B.21, subject to the limitations in section 16D.16. The Minnesota State Colleges and Universities system may use any means available to recover amounts which were not recovered through deductions from salary or compensation payments. No payment of the shortage in member deductions under this paragraph may be made for a period longer than the most recent 36 months.

**History:** *Ex1957 c 16 s 13; Ex1959 c 50 s 18,19; 1969 c 485 s 26; 1971 c 40 s 25,26; 1974 c 289 s 42; 1981 c 160 s 11; 1981 c 224 s 116-118; 1982 c 578 art 3 s 19; 1Sp1985 c 12 art 11 s 7; 1986 c 444; 1987 c 284 art 6 s 9; 1992 c 598 art 3 s 4,5; 2004 c 267 art 5 s 2*

**354.511** [Repealed, 1974 c 289 s 59]

## **354.52 REPORTS.**

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. [Repealed, 2000 c 461 art 3 s 47]

Subd. 2a. **Annual postretirement income reports.** On or before each February 15, a representative authorized by an employing unit must report to the executive director the amount of income earned during the previous calendar year by each retiree for teaching service performed after retirement. This annual report must be based on reemployment income as defined in section 354.44, subdivision 5, and it must be made on a form provided by the executive director. Signing the report has the force and effect of an oath as to the correctness of the amount of postretirement reemployment income earned.

Subd. 3. **Deduction requirements.** Every pay period, each employer shall deduct and withhold from the salary of every teacher who is a member of the fund the amount required under section 354.42. At the time of each deduction, the employer shall also furnish to each teacher a statement showing the amount of the deduction.

Subd. 4. **Reporting and remittance requirements.** An employer shall remit all amounts due to the association and furnish a statement indicating the amount due and transmitted with any other information required by the executive director. If an amount due is not received by the association within 14 calendar days of the payroll warrant, the amount accrues interest at an annual rate of 8.5 percent compounded annually from the due date until the amount is received by the association. All amounts due and other employer obligations not remitted within 60 days of notification by the association must be certified to the commis-

sioner of finance who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit.

Subd. 4a. **Member data reporting requirements.** (a) An employing unit must provide the member data specified in paragraph (b) in a format prescribed by the executive director. Data changes and the dates of those changes under this subdivision must be reported to the association in a format prescribed by the executive director on an ongoing basis within 14 calendar days after the date of the end of the payroll cycle in which they occur. These data changes must be reported with the payroll cycle data under subdivision 4b.

(b) Data on the member includes:

(1) legal name, address, date of birth, association member number, employer–assigned employee number, and Social Security number;

(2) association status, including, but not limited to, basic, coordinated, exempt annuitant, exempt technical college teacher, and exempt independent contractor or consultant;

(3) employment status, including, but not limited to, full time, part time, intermittent, substitute, or part–time mobility;

(4) employment position, including, but not limited to, teacher, superintendent, principal, administrator, or other;

(5) employment activity, including, but not limited to, hire, termination, resumption of employment, disability, or death;

(6) leaves of absence;

(7) county district number assigned by the association for the employing unit;

(8) data center identification number, if applicable;

(9) gender;

(10) position code; and

(11) other information as may be required by the executive director.

Subd. 4b. **Payroll cycle reporting requirements.** An employing unit shall provide the following data to the association for payroll warrants on an ongoing basis within 14 calendar days after the date of the payroll warrant in a format prescribed by the executive director:

(1) association member number;

(2) employer–assigned employee number;

(3) Social Security number;

(4) amount of each salary deduction;

(5) amount of salary as defined in section 354.05, subdivision 35, from which each deduction was made;

(6) reason for payment;

(7) service credit;

(8) the beginning and ending dates of the payroll period covered and the date of actual payment;

(9) fiscal year of salary earnings;

(10) total remittance amount including employee, employer, and additional employer contributions; and

(11) other information as may be required by the executive director.

Subd. 4c. **MNSCU service credit reporting.** For all part–time service rendered on or after July 1, 2004, the service credit reporting requirement in subdivision 4b for all part–time employees of the Minnesota State Colleges and Universities system must be met by the Minnesota State Colleges and Universities system reporting to the association on or before July 31 of each year the final calculation of each part–time member’s service credit for the immediately preceding fiscal year based on the employee’s assignments for the fiscal year.

Subd. 5. **Liability for moneys.** The commissioner of finance, the several county treasurers, and the treasurers of the various school districts and institutions to which the provi-

sions of this chapter apply shall be officially liable for the receipt, handling, and disbursement of all moneys coming into their hands belonging to the fund and the sureties on the official bonds of each of these treasurers and the commissioner of finance shall be liable for such moneys the same as for all other moneys belonging to the school funds of this state.

Subd. 6. **Noncompliance consequences.** An employing unit that does not comply with the reporting requirements under subdivision 2a, 4a, or 4b must pay a fine of \$5 per calendar day until the association receives the required data.

**History:** *Ex1957 c 16 s 16; 1963 c 584 s 1; 1965 c 447 s 1,2; 1969 c 485 s 27; 1974 c 289 s 43-45; 1981 c 160 s 12; 1981 c 224 s 119-121; 1983 c 148 s 4; 1986 c 444; 1990 c 570 art 12 s 40; 1991 c 340 s 28,29; 1992 c 598 art 3 s 6; 1994 c 528 art 3 s 25-30; 1995 c 141 art 3 s 11; 2000 c 461 art 3 s 39-42; 1Sp2001 c 10 art 3 s 18; 2003 c 112 art 2 s 42; 2004 c 267 art 6 s 2-4*

### 354.53 CREDIT FOR BREAK IN SERVICE TO PROVIDE UNIFORMED SERVICE.

Subdivision 1. **Eligibility; employee and employer contributions.** (a) Any teacher who is absent from employment by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), and who returns to the employer providing teaching service upon discharge from service in the uniformed service within the time frames required in United States Code, title 38, section 4312(e), may obtain service credit for the period of the uniformed service as further specified in this section, provided that the teacher did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

(b) The member may obtain credit by paying into the fund an equivalent employee contribution based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the teacher would have received if the teacher had continued to provide teaching service to the employer rather than provide uniformed service or if the determination of that rate is not reasonably certain, the annual salary rate is the teacher's average salary rate during the 12-month period immediately preceding the period, or, if the preceding period is less than 12 months, the annualized rate derived from the teacher's average salary rate during the period of teacher employment rendered immediately preceding the period of the uniformed service.

(c) The equivalent employer contribution and, if applicable, the equivalent additional contribution provided in section 354.42 must be paid by the employing unit as provided in section 354.52, subdivision 4, using the employer and employer additional contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent employee contribution.

Subd. 2. **Calculation of credit.** (a) For purposes of computing a money purchase annuity under section 354.44, subdivision 2, all payments into the fund under this section must be considered accumulations after July 1, 1957.

(b) For purposes of computing a formula annuity under section 354.44, subdivision 6, if the employee equivalent contributions provided in this section are not paid in full, the member's formula service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total employee contribution received by the total employee contribution otherwise required under this section.

Subd. 3. **Eligible payment period.** (a) To receive service credit under this section, the contributions specified in this section must be transmitted to the Teachers Retirement Association during the period which begins with the date on which the individual returns to teach-

ing service and which has a duration of three times the length of the uniformed service period, but not to exceed five years.

(b) Notwithstanding paragraph (a), if the payment period determined under paragraph (a) is less than one year, the contributions required under this section to receive service credit may be made within one year from the discharge date.

Subd. 4. **Limits on service credit.** The amount of service credit obtainable under this section may not exceed five years, unless a longer purchase period is required under United States Code, title 38, section 4312.

Subd. 5. **Interest requirements.** The employer shall pay interest on all equivalent employee and employer contribution amounts payable under this section. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received.

**History:** *Ex1957 c 16 s 17; Ex1959 c 50 s 20; 1965 c 821 s 13; 1967 c 834 s 7; 1971 c 40 s 27; 1973 c 270 s 12; 1974 c 289 s 46; 1975 c 306 s 23; 1977 c 67 s 11; 1977 c 97 s 4; 1981 c 224 s 122,123; 1Sp1985 c 12 art 11 s 8; 1992 c 598 art 3 s 7; 1996 c 305 art 1 s 81; 1997 c 233 art 1 s 53; 1999 c 222 art 16 s 17; 2004 c 267 art 3 s 6*

**354.531** [Repealed, 1989 c 319 art 2 s 28]

**354.532** [Repealed, 1989 c 319 art 2 s 28]

#### TEACHER RETIREMENT PLANS PRIOR SERVICE CREDIT PURCHASE

##### **354.533 PRIOR OR UNCREDITED MILITARY SERVICE CREDIT PURCHASE.**

Subdivision 1. **Service credit purchase authorized.** A teacher who has at least three years of allowable service credit with the Teachers Retirement Association and who performed service in the United States armed forces before becoming a teacher as defined in section 354.05, subdivision 2, or who failed to obtain service credit for a military leave of absence under the provisions of section 354.53, is entitled to purchase allowable and formula service credit for the initial period of enlistment, induction, or call to active duty without any voluntary extension by making payment under section 356.551 provided the teacher has not purchased service credit from any other Minnesota defined benefit public employee pension plan for the same period of service.

Subd. 2. **Application and documentation.** A teacher who desires to purchase service credit under subdivision 1 must apply with the executive director to make the purchase. The application must include all necessary documentation of the teacher's qualifications to make the purchase, signed written permission to allow the executive director to request and receive necessary verification of applicable facts and eligibility requirements, and any other relevant information that the executive director may require.

Subd. 3. **Service credit grant.** Allowable and formula service credit for the purchase period must be granted by the Teachers Retirement Association to the purchasing teacher upon receipt of the purchase payment amount. Payment must be made before the teacher's effective date of retirement.

**History:** *1999 c 222 art 16 s 1; 2004 c 267 art 17 s 4; 2005 c 10 art 5 s 4*

**NOTE:** This section, as added by Laws 1999, chapter 222, article 16, section 1, is repealed effective May 16, 2007. Laws 1999, chapter 222, article 16, section 16, as amended by Laws 2002, chapter 392, article 7, section 1; Laws 2003, First Special Session chapter 12, article 6, section 2; Laws 2004, chapter 267, article 17, section 6; and Laws 2005, First Special Session chapter 8, article 2, section 3.

**354.534** MS 2002 [Repealed 1999 c 222 art 16 s 16; 2002 c 392 art 7 s 1; 1Sp2003 c 12 art 6 s 2; 2004 c 267 art 17 s 6]

**354.535** MS 2002 [Repealed 1999 c 222 art 16 s 16; 2002 c 392 art 7 s 1; 1Sp2003 c 12 art 6 s 2; 2004 c 267 art 17 s 6]

**354.536** MS 2002 [Repealed 1999 c 222 art 16 s 16; 2002 c 392 art 7 s 1; 1Sp2003 c 12 art 6 s 2; 2004 c 267 art 17 s 6]



**354.537** MS 2002 [Repealed, 1999 c 222 art 16 s 16; 2002 c 392 art 7 s 1; 1Sp2003 c 12 art 6 s 2; 2004 c 267 art 17 s 6]

**354.538** MS 2002 [Repealed, 1999 c 222 art 16 s 16; 2002 c 392 art 7 s 1; 1Sp2003 c 12 art 6 s 2; 2004 c 267 art 17 s 6]

**354.539** MS 2002 [Expired]

**354.54** [Repealed, 1974 c 289 s 59]

**354.541** MS 2002 [Repealed, 1Sp2003 c 12 art 6 s 7]

**354.542** MS 2002 [Expired]

### **354.55 OPTIONS TO CERTAIN MEMBERS.**

Subdivision 1. [Repealed, 1974 c 289 s 59]

Subd. 2. **Pre-July 1, 1957, elections.** Any election made by a teacher pursuant to Minnesota Statutes 1953, section 135.10, subdivision 3, prior to July 1, 1957, shall continue in effect at such amount and subject to such conditions as the law then in effect permitted.

Subd. 3. **Pre-July 1, 1957, cessation of service.** Any person who ceased teaching service prior to July 1, 1957, who left accumulated deductions in the fund for the purpose of receiving when eligible, a retirement annuity shall have the annuity computed in accordance with the law in effect at the date the person ceased teaching service, except that if such person has ten or more years of allowable service credit, the retirement annuity shall be determined under the law in effect on June 30, 1969.

Subd. 4. [Repealed, 1974 c 289 s 59]

Subd. 5. [Repealed, 1989 c 319 art 2 s 28]

Subd. 6. **Annuities commenced between August 1, 1931, and June 30, 1965.** Each annuitant who as a member of the association commenced drawing the annuity between August 1, 1931 and June 30, 1965, but not including the annuitant's beneficiaries, shall be paid ten percent of the present monthly annuity if such annuitant retired pursuant to Minnesota Statutes 1965, sections 354.33 and 354.34 and 15 percent of the present monthly annuity if such annuitant retired pursuant to Minnesota Statutes 1953, section 135.10 and Minnesota Statutes 1965, sections 354.44 and 354.45, in addition to the amounts such annuitant is otherwise entitled to receive under the provisions of Minnesota Statutes 1965, chapter 354.

Subd. 7. [Repealed, 1974 c 289 s 59]

Subd. 8. [Repealed, 1974 c 289 s 59]

Subd. 9. [Repealed, 1974 c 289 s 59]

Subd. 10. **Reduced benefits.** Any benefit to which any person may be entitled under this chapter may be reduced in amount upon application of the person entitled thereto to the board of trustees, provided that such person shall first relinquish in writing all claim to that part of the full benefit which is the difference between the benefit which the person would be otherwise entitled to receive and the benefit which the person will receive. The reduced benefit shall be payment in full of all amounts due under this chapter for the month for which the payment is made and acceptance of the reduced benefit releases the retirement association from all obligation to pay to such person the difference between the amount of the reduced benefit and the full amount of the benefit which such person would otherwise have received. After July 1, 1971, any benefit reduced under the provisions of this subdivision may not again be restored.

Subd. 11. **Deferred annuity; augmentation.** (a) Any person covered under section 354.44, subdivision 6, who ceases to render teaching service, may leave the person's accumulated deductions in the fund for the purpose of receiving a deferred annuity at retirement. Eligibility for an annuity under this subdivision is governed pursuant to section 354.44, subdivision 1, or 354.60.

(b) The amount of the deferred retirement annuity is determined by section 354.44, subdivision 6, and augmented as provided in this subdivision. The required reserves related to

that portion of the annuity which had accrued when the member ceased to render teaching service must be augmented by interest compounded annually from the first day of the month following the month during which the member ceased to render teaching service to the effective date of retirement. There shall be no augmentation if this period is less than three months or if this period commences prior to July 1, 1971. The rates of interest used for this purpose must be five percent compounded annually commencing July 1, 1971, until January 1, 1981, and three percent compounded annually thereafter until January 1 of the year following the year in which the former member attains age 55 and from that date to the effective date of retirement, the rate is five percent compounded annually if the employee became an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee becomes an employee after June 30, 2006. If a person has more than one period of uninterrupted service, a separate average salary determined under section 354.44, subdivision 6, must be used for each period and the required reserves related to each period must be augmented by interest pursuant to this subdivision. The sum of the augmented required reserves so determined shall be the basis for purchasing the deferred annuity. If a person repays a refund, the service restored by the repayment must be considered as continuous with the next period of service for which the person has credit with this fund. If a person does not render teaching service in any one fiscal year or more consecutive fiscal years and then resumes teaching service, the formula percentages used from the date of the resumption of teaching service must be those applicable to new members. The mortality table and interest assumption used to compute the annuity must be the applicable mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption under section 356.215 in effect when the member retires. A period of uninterrupted service for the purposes of this subdivision means a period of covered teaching service during which the member has not been separated from active service for more than one fiscal year.

(c) In no case shall the annuity payable under this subdivision be less than the amount of annuity payable pursuant to section 354.44, subdivision 6.

(d) The requirements and provisions for retirement before normal retirement age contained in section 354.44, subdivision 6, clause (3) or (5), shall also apply to an employee fulfilling the requirements with a combination of service as provided in section 354.60.

(e) The augmentation provided by this subdivision applies to the benefit provided in section 354.46, subdivision 2.

(f) The augmentation provided by this subdivision shall not apply to any period in which a person is on an approved leave of absence from an employer unit covered by the provisions of this chapter.

(g) The retirement annuity or disability benefit of, or the survivor benefit payable on behalf of, a former teacher who terminated service before July 1, 1997, which is not first payable until after June 30, 1997, must be increased on an actuarial equivalent basis to reflect the change in the postretirement interest rate actuarial assumption under section 356.215, subdivision 8, from five percent to six percent under a calculation procedure and tables adopted by the board as recommended by an approved actuary and approved by the actuary retained under section 356.214

**Subd. 12. Pre-1973 law retirements.** Any member who retires under the law in effect prior to July 1, 1973, shall have that portion of the member's annuity based on accumulations after June 30, 1957, under Minnesota Statutes 1971, section 354.44, subdivision 2, and all accumulations under Minnesota Statutes 1971, section 354.33, subdivision 1, calculated using the mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption specified in section 356.215 used at the time of that retirement to transfer the required reserves to the Minnesota postretirement investment fund.

**Subd. 13. Pre-1969 law retirements.** Any person who ceased teaching service prior to July 1, 1968, who has ten years or more of allowable service and left accumulated deductions in the fund for the purpose of receiving when eligible a retirement annuity, and retires shall have the annuity computed in accordance with the law in effect on June 30, 1969, except that the portion of the annuity based on accumulations after June 30, 1957, under Minnesota Stat-

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utes 1967, section 354.44, subdivision 2, and accumulations under Minnesota Statutes 1967, section 354.33, subdivision 1, shall be calculated using the mortality table established by the board under section 354.07, subdivision 1, and the interest rate assumption specified in section 356.215, to transfer the required reserves to the Minnesota postretirement investment fund.

**Subd. 14. Annuity increases.** All annuities payable from the Minnesota postretirement investment fund which are in effect on June 30, 1973 shall be increased in the same ratio that the actuarially computed reserve for such annuities determined by using an interest assumption of 3-1/2 percent bears to the actuarially computed reserve for such annuities determined by using an interest assumption of five percent. The reserves upon which such increases shall be based shall be the actuarially determined reserves for all Minnesota postretirement investment fund annuities which were in effect on June 30, 1972, in accordance with the mortality assumptions then in effect and at interest assumptions of 3-1/2 percent and five percent. Such ratio of increase computed to the last full 1/100 of one percent shall be applied to all annuities payable from the Minnesota postretirement investment fund which are in effect on June 30, 1973. Increases in annuity payments pursuant to this subdivision will be made automatically unless written notice is filed by the annuitant with the Teachers Retirement Association board requesting that the increase shall not be made.

**Subd. 15. Additional annuity increases.** Notwithstanding the maximum benefit provisions of section 354.46, subdivision 1, all benefits and annuities payable pursuant to sections 354.48; 354.46, subdivision 1 and Laws 1915, chapter 199, as amended, which are in effect on June 30, 1973 shall be increased 25 percent. Such increase shall begin to accrue January 1, 1974. Increases in benefit and annuity payments pursuant to this subdivision will be made automatically unless written notice is filed by the annuitant with the Teachers Retirement Association board requesting that the increase shall not be made.

**Subd. 16. 1972-1973 retirements.** Any member who ceased to render teaching service during the 1972-1973 fiscal year whose application for retirement becomes effective after June 30, 1973, shall be eligible to receive the new retirement benefits provided by the law in effect on July 1, 1973.

**Subd. 17. Post 1973 retirements.** Teachers who retire after June 30, 1973 and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, subdivision 1, clause (1) and subdivision 2, clause (1) shall have their annuity at retirement computed under section 354.44, subdivision 2 or 6, whichever is larger.

**Subd. 18. 1972-1973 retirements; no election.** (1) Teachers who retired after June 30, 1972 and before July 1, 1973 who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, subdivision 1, clause (1) shall have their annuity recomputed under the law in effect on June 30, 1973 under the provisions of either Minnesota Statutes 1971, section 354.33, subdivision 1 or 7, whichever is larger.

(2) Teachers who retired after June 30, 1972 and before July 1, 1973 and who failed to make an election pursuant to Minnesota Statutes 1971, section 354.145, subdivision 2, clause (1) shall have their annuity recomputed under the law in effect on June 30, 1973 under the provisions of either section 354.44, subdivision 2 or 6, whichever is larger.

**Subd. 19. Refunds.** Any member or retired former member who is covered by the formula in effect after June 30, 1973, and who made payments to the fund pursuant to Minnesota Statutes 1965, section 354.511, shall upon request receive a refund of such payments.

**History:** *Ex1957 c 16 s 20; Ex1959 c 50 s 21,22; 1965 c 644 s 1; 1967 c 654 s 1; 1967 c 715 s 1; 1969 c 399 s 1; 1969 c 485 s 28; 1971 c 40 s 28-31; 1971 c 87 s 1; 1971 c 88 s 1; 1973 c 270 s 13; 1973 c 728 s 23-25,27; 1974 c 289 s 47-53; 1975 c 306 s 24-27; 1977 c 97 s 5-7; 1978 c 796 s 43; 1980 c 607 art 14 s 45 subd 2; 1980 c 614 s 142; 1981 c 224 s 124; 1Sp1985 c 7 s 23; 1986 c 444; 1986 c 458 s 18; 1987 c 259 s 40-42; 1987 c 284 art 6 s 10; 1989 c 319 art 13 s 69; 1990 c 570 art 12 s 41,42; 1995 c 141 art 3 s 20; 1996 c 305 art 1 s 82,83; 1997 c 233 art 1 s 54; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 47; 2006 c 277 art 2 s 7*

**354.56** [Repealed, 1989 c 319 art 2 s 28]

**354.57** [Repealed, 1994 c 528 art 3 s 34]

**354.58 SUPPLEMENTAL RETIREMENT ANNUITY.**

A supplemental retirement annuity shall be paid only to a member who retires pursuant to section 354.44, subdivision 2, and the applicable optional retirement annuities as established in sections 354.35 and 354.45. In establishing this supplemental retirement annuity, the board shall ascertain the member's accumulated deduction including interest for the period of allowable service prior to July 1, 1957, and the member shall receive a retirement credit of 100 percent of this amount. The retirement credit so established shall be the basis for purchasing a supplemental retirement annuity using an annuity purchase rate based on the applicable annuity table of mortality with an interest assumption as provided in section 354.07, subdivision 1. This supplemental retirement annuity shall be doubled.

**History:** *Ex1959 c 50 s 25; 1969 c 485 s 29; 1974 c 289 s 55; 1977 c 67 s 12; 1977 c 97 s 8; 1987 c 259 s 43*

**354.581** [Repealed, 1974 c 289 s 59]

**354.59** [Repealed, 1Sp2005 c 8 art 10 s 81]

**354.60 SERVICE IN OTHER PUBLIC RETIREMENT FUNDS; ANNUITY.**

Any person who has been a member of the Minnesota state retirement system or the Public Employees Retirement Association including the Public Employees Retirement Association police and fire fund or the Teachers Retirement Association or the Minnesota State Patrol Retirement Association, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be entitled when qualified to an annuity from each fund if the person's total allowable service in all three funds or in any two of these funds totals three or more years, provided no portion of the allowable service upon which the retirement annuity from one fund is based is again used in the computation for benefits from another fund and provided further that the person has not taken a refund from any one of these three funds since the person's membership in that association has terminated. The annuity from each fund shall be determined by the appropriate provisions of the law except that the requirement that an annuitant have at least three years' membership service or three years of allowable service in the respective association shall not apply for the purposes of this section provided the combined service in two or more of these funds equals three or more years.

**History:** *Ex1961 c 17 s 15; 1971 c 87 s 2; 1973 c 35 s 59; 1977 c 429 s 63; 1981 c 37 s 2; 1981 c 224 s 127; 1987 c 372 art 9 s 28; 1989 c 319 art 13 s 70*

**354.61** [Repealed, 2Sp1981 c 1 s 8]

**354.62** [Repealed, 1990 c 570 art 12 s 64]

**354.621** [Repealed, 1Sp1985 c 7 s 36]

**354.63 PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.**

Subdivision 1. **Authorization.** The Teachers Retirement Association is hereby authorized to participate in the Minnesota postretirement investment fund.

Subd. 2. **Valuation of assets; adjustment of benefits.** (1) The required reserves for retirement annuities determined under this chapter must be transferred to the Minnesota postretirement investment fund no later than the last business day of the month in which the retirement annuity begins. The required reserves shall be determined in accordance with the appropriate annuity table of mortality adopted by the board of trustees as provided in section 354.07, subdivision 1, based on the experience of the fund as recommended by the actuary

retained under section 356.214 and using the interest assumption specified in section 356.215, subdivision 8.

(2) Annuity payments shall be adjusted as provided in section 11A.18. In making these adjustments, members who retire effective July 1 shall be considered to have retired effective the preceding June 30.

(3) An increase in annuity payments under this section will be made automatically unless written notice is filed by the annuitant with the executive director of the Teachers Retirement Association requesting that the increase not be made.

**History:** 1969 c 485 s 31; 1971 c 40 s 34; 1971 c 414 s 10; 1973 c 728 s 29; 1974 c 289 s 58; 1980 c 607 art 14 s 45 subd 2; s 46; 1983 c 148 s 5; 1987 c 259 s 45; 1995 c 141 art 3 s 20; 1996 c 305 art 1 s 84; 2000 c 461 art 3 s 43; 2002 c 392 art 11 s 52; 2006 c 271 art 3 s 47

### 354.64 EFFECT OF RECORDS.

The records of the Teachers Retirement Association as determined to be correct by the board of trustees shall govern rights, benefits, and status of each member, former member, or annuitant of the association.

**History:** 1969 c 485 s 35

### 354.65 [Repealed, 1994 c 528 art 3 s 34]

### 354.66 QUALIFIED PART-TIME TEACHERS; MEMBERSHIP IN ASSOCIATION.

Subdivision 1. **Teachers, defined.** As used in this section, the term “teachers” shall have the meaning given it in section 122A.15, subdivision 1, except that the term shall not include superintendents. The term shall also have the meaning given it in section 136F.43, subdivision 1.

Subd. 1a. **Board, defined.** For purposes of this section, the term “board” means a school district board and the Board of Trustees of the Minnesota State Colleges and Universities.

Subd. 1b. **District, defined.** For purposes of this section, the term “district” means a school district or the Minnesota State Colleges and Universities system.

Subd. 1c. **Participation.** (a) Except as indicated in paragraph (b), participation in the part-time mobility program must be based on a full fiscal year and the employment pattern of the teacher during the most recent fiscal year.

(b) For a teacher in the Minnesota State Colleges and Universities system who teaches only during the first semester in an academic year and retires immediately after the first semester, participation in the part-time mobility program must be based on one-half of a full fiscal year and the employment pattern of the teacher during the most recent one-half of the most recent fiscal year.

Subd. 2. **Qualified part-time teacher program participation requirements.** (a) A teacher in a Minnesota public elementary school, a Minnesota secondary school, or the Minnesota State Colleges and Universities system who has three years or more of allowable service in the association or three years or more of full-time teaching service in Minnesota public elementary schools, Minnesota secondary schools, or the Minnesota State Colleges and Universities system, by agreement with the board of the employing district or with the authorized representative of the board, may be assigned to teaching service in a part-time teaching position under subdivision 3. The agreement must be executed before October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4. A copy of the executed agreement must be filed with the executive director of the association. If the copy of the executed agreement is filed with the association after October 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4, the employing unit shall pay the fine specified in section 354.52, subdivision 6, for each calendar day that elapsed since the October 1 due date. The association may not accept an executed

agreement that is received by the association more than 15 months late. The association may not waive the fine required by this section.

(b) Notwithstanding paragraph (a), if the teacher is also a legislator:

(1) the agreement in paragraph (a) must be executed before March 1 of the school year for which the teacher requests to make retirement contributions under subdivision 4; and

(2) the fines specified in paragraph (a) apply if the employing unit does not file the executed agreement with the executive director of the association by March 1.

**Subd. 3. Part-time teaching position, defined.** (a) For purposes of this section, the term "part-time teaching position" means a teaching position within the district in which the teacher is employed for at least 50 full days or a fractional equivalent thereof as prescribed in section 354.091, and for which the teacher is compensated in an amount not exceeding 80 percent of the compensation established by the board for a full-time teacher with identical education and experience with the employing unit.

(b) For a teacher to which subdivision 1c, paragraph (b), applies, the term "part-time teaching position" means a teaching position within the district in which the teacher is employed for at least 25 full days or a fractional equivalent thereof as prescribed in section 354.091, and for which the teacher is compensated in an amount not exceeding 40 percent of the compensation established by the board for a full-time teacher, with identical education and experience with the employing unit.

**Subd. 4. Retirement contributions.** Notwithstanding any provision to the contrary in this chapter relating to the salary figure to be used for the determination of contributions or the accrual of service credit, a teacher assigned to a part-time position under this section shall continue to make employee contributions to and to accrue allowable service credit in the retirement fund during the period of part-time employment on the same basis and in the same amounts as would have been paid and accrued if the teacher had been employed on a full-time basis provided that, prior to June 30 each year, or within 30 days after notification by the association of the amount due, whichever is later, the member and the employing board make that portion of the required employer contribution to the retirement fund, in any proportion which they may agree upon, that is based on the difference between the amount of compensation that would have been paid if the teacher had been employed on a full-time basis and the amount of compensation actually received by the teacher for the services rendered in the part-time assignment. The employing unit shall make that portion of the required employer contributions to the retirement fund on behalf of the teacher that is based on the amount of compensation actually received by the teacher for the services rendered in the part-time assignment. The employee and employer contributions shall be based upon the rates of contribution prescribed by section 354.42. Full accrual of allowable service credit and employee contributions for part-time teaching service pursuant to this section and section 354A.094 shall not continue for a period longer than ten years.

Subd. 4a. [Repealed, 1987 c 398 art 7 s 43]

**Subd. 5. Other membership precluded.** A teacher entitled to full accrual of allowable service credit and employee contributions for part-time teaching service pursuant to this section shall not be entitled during the same period of time to be a member of, accrue allowable service credit in or make employee contributions to any other Minnesota public employee pension plan, except the plan established in chapter 3A, the plan established in chapter 352D if the teacher also is a legislator, or a volunteer firefighters' relief association governed by sections 69.771 to 69.776.

**Subd. 6. Insurance.** A board of an employing district entering into an agreement authorized by this section shall take all steps necessary to assure continuance of any insurance programs furnished or authorized a full-time teacher on an identical basis and with identical sharing of costs for a part-time teacher pursuant to this section, provided, however, that the requirements of this sentence may be modified by a collective bargaining agreement between a board and an exclusive representative pursuant to chapter 179. Teachers as defined in section 136F.43 employed on a less than 75 percent time basis pursuant to this section shall be eligible for state paid insurance benefits as if the teachers were employed full time.

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Subd. 7. **Eligibility for credit.** Only teachers who are public employees as defined in section 179A.03, subdivision 14, during the school year preceding the period of part-time employment pursuant to this section shall qualify for full accrual of service credit from, and employee contributions to the retirement fund for part-time teaching service pursuant to subdivision 4. Notwithstanding the provisions of section 179A.03, subdivision 14, clauses (e) and (f), teachers who are employed on a part-time basis for purposes of this section and who would therefore be disqualified from the bargaining unit by one or both of those provisions, shall continue to be in the bargaining unit during the period of part-time employment pursuant to this section for purposes of compensation, fringe benefits and the grievance procedure.

Subd. 8. **Restrictions on accrual.** No teacher shall qualify for full accrual of service credit from and employee contributions to the retirement association or a teachers retirement fund association for part-time teaching service pursuant to subdivision 4 or section 354A.094, subdivision 4, in more than one district at the same time. No teacher shall qualify for full accrual of service credit from and employee contributions to the retirement association or a teachers retirement fund association for part-time teaching service during part-time employment in a district pursuant to this section in any year when the teacher also takes a full-time or part-time teaching position in another Minnesota school district.

Subd. 9. [Repealed, 1987 c 398 art 7 s 43]

Subd. 10. **Board power not restricted.** Nothing in this section shall be construed to limit the authority of a board to assign a teacher to a part-time teaching position which does not qualify for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section.

Subd. 11. **Substitute teaching.** Neither subdivision 5 nor 8 shall be construed to prohibit a teacher who qualifies for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section in any year from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of sections 354.091 and 354.42, a teacher may not qualify for full accrual of service credit from and employee contributions to the retirement fund for other teaching service rendered for any part of any year for which the teacher qualifies for full accrual of service credit from and employee contributions to the retirement fund pursuant to this section or section 354A.094.

**History:** 1977 c 447 art 9 s 4; 1978 c 764 s 118,119; 1979 c 334 art 8 s 16-19; 1980 c 454 s 6-13; 1980 c 618 s 5; 1981 c 224 s 129; 1981 c 358 art 8 s 13; 1982 c 548 art 4 s 15; 1982 c 578 art 3 s 5; 1983 c 314 art 10 s 9-11; 1984 c 462 s 27; 1Sp1985 c 12 art 6 s 19; art 11 s 9; 1986 c 444; 1987 c 258 s 12; 1987 c 384 art 2 s 1; 1989 c 246 s 2; 1989 c 319 art 9 s 22; art 18 s 3; 1990 c 426 art 1 s 44; 1990 c 570 art 12 s 44; 1994 c 521 s 1,2; 1994 c 528 art 3 s 31-33; 1994 c 572 s 6; 1995 c 141 art 3 s 20; 1995 c 262 art 1 s 5; 1996 c 305 art 1 s 85,86; 1997 c 7 art 1 s 131; 1997 c 183 art 3 s 38; 1998 c 397 art 11 s 3; 1998 c 390 art 3 s 1,2; 1999 c 222 art 8 s 1; art 19 s 5-7; 2000 c 260 s 97; 2004 c 267 art 4 s 1

## 354.69 INFORMATION SUPPLIED BY DISTRICT.

Each school district covered by the provisions of this chapter and the Minnesota State Colleges and Universities system shall furnish to the Teachers Retirement Association all information and reports deemed necessary by the executive director to administer the provisions of section 354.66.

**History:** 1977 c 447 art 9 s 5; 1980 c 454 s 14; 1981 c 224 s 130; 1Sp2001 c 1 art 2 s 23

## 354.70 CONSOLIDATION OF MINNEAPOLIS TEACHERS RETIREMENT FUND ASSOCIATION.

Subdivision 1. **Membership transfer.** All active, inactive, and retired members of the Minneapolis Teachers Retirement Fund Association are transferred to the Teachers Retirement

ment Association and are no longer members of the Minneapolis Teachers Retirement Fund Association as of July 1, 2006.

**Subd. 2. Teachers Retirement Association membership.** A person first hired as a teacher by Special School District No. 1, Minneapolis, after June 30, 2006, and who is a teacher as defined in section 354.05, subdivision 2, is a member of the Teachers Retirement Association for the person's teaching service.

**Subd. 3. Service credit and liability transfer.** All allowable service and salary credit of the members and other individuals transferred under subdivision 1 as specified in the records of the Minneapolis Teachers Retirement Fund Association on the transfer date is allowable service credit under section 354.05, subdivision 13, formula service credit under section 354.05, subdivision 25, and salary credit under section 354.05, subdivision 35, for the Teachers Retirement Association.

**Subd. 4. Transfer of records.** On or before June 30, 2006, the chief administrative officer of the Minneapolis Teachers Retirement Fund Association shall transfer all records and documents relating to the funds and the benefit plans of the association to the executive director of the Teachers Retirement Association. To the extent possible, original copies of all records and documents must be transferred.

**Subd. 5. Transfer of assets.** (a) On or before June 30, 2006, the chief administrative officer of the Minneapolis Teachers Retirement Fund Association shall transfer to the Teachers Retirement Association the entire assets of the special retirement fund of the Minneapolis Teachers Retirement Fund Association. The transfer of the assets of the Minneapolis Teachers Retirement Fund Association special retirement fund must include any accounts receivable that are determined by the executive director of the State Board of Investment as reasonably capable of being collected. Legal title to account receivables that are determined by the executive director of the State Board of Investment as not reasonably capable of being collected transfers to Special School District No. 1, Minneapolis, as of the date of the determination of the executive director of the State Board of Investment. If the account receivables transferred to Special School District No. 1, Minneapolis, are subsequently recovered by the school district, the superintendent of Special School District No. 1, Minneapolis, shall transfer the recovered amount to the executive director of the Teachers Retirement Association, in cash, for deposit in the teachers retirement fund, less the reasonable expenses of the school district related to the recovery.

(b) As of June 30, 2006, assets of the special retirement fund of the Minneapolis Teachers Retirement Fund Association are assets of the Teachers Retirement Association to be invested by the State Board of Investment pursuant to the provisions of section 354.07, subdivision 4. The Teachers Retirement Association is the successor in interest to all claims which the Minneapolis Teachers Retirement Fund Association may have or may assert against any person and is the successor in interest to all claims which could have been asserted against the former Minneapolis Teachers Retirement Fund Association, subject to the following exceptions and qualifications:

(1) the Teachers Retirement Association is not liable for any claim against the Minneapolis Teachers Retirement Fund Association, its former board or board members, which is founded upon a claim of breach of fiduciary duty, where the act or acts constituting the claimed breach were not done in good faith;

(2) the Teachers Retirement Association may assert any applicable defense to any claim in any judicial or administrative proceeding that the former Minneapolis Teachers Retirement Fund Association or its board would otherwise have been entitled to assert;

(3) the Teachers Retirement Association may assert any applicable defense that the Teachers Retirement Association may assert in its capacity as a statewide agency; and

(4) the Teachers Retirement Association shall indemnify any former fiduciary of the Minneapolis Teachers Retirement Fund Association consistent with the provisions of the Public Pension Fiduciary Responsibility Act, in section 356A.11.



(c) From the assets of the former Minneapolis Teachers Retirement Fund Association transferred to the Teachers Retirement Association, an amount equal to the percentage figure that represents the ratio between the market value of the Minnesota postretirement investment fund as of June 30, 2006, and the required reserves of the Minnesota postretirement investment fund as of June 30, 2006, applied to the present value of future benefits payable to annuitants of the former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, including any postretirement adjustment from the Minnesota postretirement investment fund expected to be payable on January 1, 2007, must be transferred to the Minnesota postretirement investment fund. The executive director of the State Board of Investment shall estimate this ratio at the time of the transfer. By January 1, 2007, after all necessary financial information becomes available to determine the actual funded ratio of the Minnesota postretirement investment fund, the postretirement investment fund must refund to the Teachers Retirement Association any excess assets or the Teachers Retirement Association must contribute any deficiency to the Minnesota postretirement investment fund with interest under section 11A.18, subdivision 6. The balance of the assets of the former Minneapolis Teachers Retirement Fund Association after the transfer to the Minnesota postretirement investment fund must be credited to the Teachers Retirement Association.

If the assets transferred by the Minneapolis Teachers Retirement Fund Association to the Teachers Retirement Association are insufficient to meet its obligation to the Minnesota postretirement investment fund, additional assets must be transferred by the executive director of the Teachers Retirement Association to meet the amount required.

**Subd. 6. Benefit calculation.** (a) For every deferred, inactive, disabled, and retired member of the Minneapolis Teachers Retirement Fund Association transferred under subdivision 1, and the survivors of these members, annuities or benefits earned before the date of the transfer, other than future postretirement adjustments, must be calculated and paid by the Teachers Retirement Association under the laws, articles of incorporation, and bylaws of the former Minneapolis Teachers Retirement Fund Association that were in effect relative to the person on the date of the person's termination of active service covered by the former Minneapolis Teachers Retirement Fund Association.

(b) Former Minneapolis Teachers Retirement Fund Association members who retired before July 1, 2006, must receive postretirement adjustments after December 31, 2006, only as provided in section 11A.18. All other benefit recipients of the former Minneapolis Teachers Retirement Fund Association must receive postretirement adjustments after December 31, 2006, only as provided in section 356.41.

(c) This consolidation does not impair or diminish benefits for an active, deferred, or retired member or a survivor of an active, deferred, or retired member under the former Minneapolis Teachers Retirement Fund Association in existence at the time of the consolidation, except that any future guaranteed or investment-related postretirement adjustments must be paid after July 1, 2006, in accordance with paragraph (b), and all benefits based on service on or after July 1, 2006, must be determined only by laws governing the Teachers Retirement Association.

**Subd. 7. Termination of Minneapolis Teachers Retirement Fund Association special retirement fund.** (a) As of June 30, 2006, the Minneapolis Teachers Retirement Fund Association ceases to exist.

(b) Contracts, records, and obligations of the Minneapolis Teachers Retirement Fund Association special retirement fund existing at the time of consolidation with the Teachers Retirement Association are transferred to the Teachers Retirement Association pursuant to the provisions of section 15.039, subdivisions 5 and 5a, except that contracts, records, and obligations of the Minneapolis Teachers Retirement Fund Association special retirement fund related to investment and safekeeping of assets are transferred to the State Board of Investment pursuant to the provisions of section 15.039, subdivisions 5 and 5a. The State Board of Investment has the authority to pay the investment-related liabilities and obligations from the assets transferred from the Minneapolis Teachers Retirement Fund Association incurred by the Teachers Retirement Association. The audit or examination of the Min-

neapolis Teachers Retirement Fund Association for year-end June 30, 2006, must be performed by either the state auditor or the legislative auditor under an agreement with the Teachers Retirement Association. The costs of the audit or examination must be paid by the Teachers Retirement Association. Between May 27, 2006, and June 30, 2006, the Minneapolis Teachers Retirement Fund Association cannot incur a new or additional enforceable contractual liability or obligation without approval of the Teachers Retirement Association.

**History:** 2006 c 277 art 3 s 9

### **354.71 MINNEAPOLIS EMPLOYEES RETIREMENT FUND STATE AID REDEDICATED.**

Subdivision 1. **Appropriation.** The positive difference, if any, between the actual state aid paid to the Minneapolis Employees Retirement Fund under section 422A.101, subdivision 3, and \$8,065,000 annually is appropriated from the general fund to the commissioner of finance for deposit in the Teachers Retirement Association to offset all or a portion of the current and future unfunded actuarial accrued liability of the Minneapolis Teachers Retirement Fund Association.

Subd. 2. **Financial requirements.** The appropriation in subdivision 1 is available to the extent that financial requirements of the Minneapolis Employees Retirement Fund under section 422A.101, subdivision 3, have been satisfied.

**History:** 2006 c 277 art 3 s 10