

## CHAPTER 354B

## INDIVIDUAL RETIREMENT ACCOUNT PLAN

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**354B.01 DEFINITIONS.**

*[For text of subds 1 to 5, see M.S.1992]*

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

**History:** 1993 c 239 art 1 s 3

**354B.02 COVERED PERSONS.**

Subdivision 1. **Plan participants.** (a) Except as provided in subdivision 2, or unless the person has elected retirement coverage under section 352D.02, subdivision 1a, a person who was first employed in covered employment under section 354B.01, subdivision 2 or 3, after June 30, 1989, shall participate in the plan.

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

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

*[For text of subd 2, see M.S.1992]*

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 [Repealed, 1993 c 239 art 2 s 8]

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

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

*[For text of subd 3b, see M.S.1992]*

**Subd. 3c. Higher education board employees.** Employees in covered employment under section 354B.01, subdivision 6, may elect coverage under the plan. Election to participate in the plan must be made by December 31, 1993, or within 120 days of the start of covered employment, whichever is later, and is irrevocable during any period of covered employment in a position listed in section 352D.02, subdivision 1, paragraph (b), clause (14), which is established by the higher education board or the higher education facilities authority. These employees are not eligible for the supplemental retirement plan specified in sections 354B.07 to 354B.09.

*[For text of subd 4, see M.S.1992]*

**History:** 1993 c 239 art 1 s 4-6

### 354B.04 CONTRIBUTIONS.

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

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

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

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

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

*[For text of subd 3, see M.S.1992]*

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

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

**History:** 1993 c 239 art 2 s 1-3

### 354B.045 SABBATICAL LEAVE; CONTRIBUTIONS.

**Subdivision 1. Definition.** A "sabbatical leave" for the purpose of this section

means a sabbatical leave as defined in the applicable personnel policy of the state university and community college boards.

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

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

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

**History:** 1993 c 239 art 2 s 4

### **354B.05 ADMINISTRATION.**

**Subdivision 1. Governing boards.** The state university board shall administer the plan for persons in covered employment under section 354B.01, subdivisions 2, 4, and 5. The community college board shall administer the plan for persons in covered employment under section 354B.01, subdivision 3.

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

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

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

The state board of investment must periodically review at least every three years each financial institution selected by the state board of investment. The state board of investment may retain consulting services to assist in the periodic review, may establish a budget for its costs in the periodic review process, and may charge a proportional share of those costs to each financial institution selected by the state board of investment. All contracts must be approved by the state board of investment before execution by the state university board and the community college board. The state board of

investment shall also establish policies and procedures under section 11A.04, clause (2), to carry out this subdivision.

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

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

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

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

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

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

**History:** 1993 c 192 s 88; 1993 c 239 art 2 s 5

#### **354B.085 PAYMENT OF BENEFITS.**

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

**History:** 1993 c 239 art 2 s 6