

Legislative Commission on Pensions and Retirement

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TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Chad Burkitt, Analyst

DATE: March 22, 2019

RE: H.F. 2683 (Murphy, by request); S.F. xxxx: Higher Education Individual Retirement Account Plan and Supplemental Plan; Removing a sunset date for incentive program and administrative provisions

Introduction and Background

Minnesota Statutes, Chapters 354B and 354C, provide for two defined contribution plans to be administered by Minnesota State Colleges and Universities (“Minnesota State”) for its unclassified employees. The first plan is the Individual Retirement Account Plan (IRAP), which is a mandatory plan intended to provide a primary retirement benefit. The second plan is the Supplemental Retirement Plan and is a voluntary plan to which employees may contribute to receive a capped matching contribution from Minnesota State.

H.F. 2683 (Murphy, by request); S.F. xxxx, makes administrative changes to the IRAP and Supplemental Plan. The administrative and technical changes for the IRAP include recodifying the existing eligibility and coverage section into a new Section 354B.211. The intent and effect of the recodification is to better organize the section to improve readability and reduce ambiguity. Other changes to Chapters 354B and 354C, include changes to the deduction and enrollment processes for the Supplemental Retirement Plan and administrative conforming changes.

This bill also removes the sunset clause for an early retirement incentive program administered by Minnesota State. The program allows Minnesota State to offer cash incentives with a value not to exceed one year’s pay and contributions to the State’s Health Care Savings Plan to induce employees to retire early. Under current law the program expires on June 30, 2019.

Section by Section Summary

Sections 1, 3, 4, 8, 9, 10, 17, and 18 make conforming changes, most of which are updating the current statutory references to the new Section 354B.211.

Section 2 removes the sunset clause for the early retirement incentive program in Section 136F.481. See discussion below for more detail.

Section 5 makes conforming changes by replacing “Department of Education” with “Professional Educator Licensing and Standards Board” and removing references to outdated plan election options.

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Section 6 modifies the definition of “covered employment.”

Section 7 creates a new definition for “Eligible unclassified faculty position.” This definition aligns with current statute by incorporating an eligibility requirement found in 354B.21 into the new definition.

Section 11 establishes new Section 354B.211. The new section contains the same requirements as the current coverage section, but is reorganized to account for the several iterations of changes that have occurred since 1995.

Sections 12 and 16 replace the interest rate charged on omitted member deductions to refer to a new section added by the 2018 Omnibus Retirement Bill that compiles the interest rates for all the statewide plans into one section.

Sections 13 and 14. The changes in these sections require an eligible member to be automatically enrolled in the SRP upon hire. Under the current process, a member is automatically enrolled on the July 1 following first becoming eligible.

Section 15. Under current law, the contributions made to the Supplemental Plan are only made on salary contributed after the participant has earned \$6,000 and ceases once a participant has earned \$15,000. This section removes the window requirement so that contributions will be made on all salary but are capped at \$2,700 per year. Contributions to this plan can only be made when authorized by collective bargaining agreement or personnel policy.

Section 19 repeals Section 354B.20, subdivision 8, defining “faculty.” This has been replaced by a new defined term, “eligible unclassified faculty position,” which can be found in section 7 of this bill. It also repeals the entire Section 354B.21, which is being replaced by new Section 354B.211.

Discussion and Analysis

Most of the changes in this bill are of an administrative or technical nature. However, the removal of the sunset provision is more substantive.

With regards to the early retirement incentive program, the program allows Minnesota State to offer cash incentives with a value not to exceed one year’s pay and contributions to the state’s Health Care Savings Plan to induce employees to retire early. Employees are not eligible for the inducement unless they are over the age of 55 and have been employed at least five years with Minnesota State.

Minnesota State is required to establish and periodically revise additional eligibility requirements for the program. It is also required to report on those revisions to the House Higher Education Finance and Policy Division and the Senate Higher Education Finance and Policy Committee as well as the House Ways and Means Committee and the Senate Finance Committee.

Minnesota State has indicated a belief that the program creates a net savings for the system.



MINNESOTA STATE

Minnesota State Colleges and Universities
Board Early Separation Incentive (BESI) Payments
Separated Employees in Fiscal Year 2018

College/University:	Number of Incentives Offered and Utilized	BESI Allocation		
		HCSP	Cash	Total
Anoka Technical College	1	\$ 30,000	\$ -	\$ 30,000
Anoka Ramsey Community College	1	\$ 30,000	\$ -	\$ 30,000
Central Lakes College	1	\$ 30,000	\$ -	\$ 30,000
Dakota County Technical College	4	\$ 45,000	\$ 85,567	\$ 130,567
Inver Hills Community College	4	\$ 142,108	\$ 63,068	\$ 205,175
Minneapolis Community and Technical College	3	\$ 20,000	\$ 37,157	\$ 57,157
Minnesota State University, Mankato*	1	\$ -	\$ 36,443	\$ 36,443
Southwest Minnesota State University	2	\$ 29,960	\$ 86,471	\$ 116,431
Vermilion Community College	1	\$ -	\$ 64,859	\$ 64,859
TOTAL:	13	\$ 327,068	\$ 373,565	\$ 700,633

*FY17 separation, payment made late into FY18, missed in FY17 report.

Prepared by:

Toni T. Munos

System Director, Academic HR

September 11, 2018



Board Policy 4.11 Board Early Separation Incentive Program

Part 1. Purpose

The purpose of this policy is to implement time-limited early separation incentives authorized by Minnesota Statutes section 136F.481 (2009 Laws of Minnesota, Chapter 169, Article 6, Sections 1 and 2). The goal of the incentive program is to encourage early separation of selected employees from employment with Minnesota State Colleges and Universities, in order to:

1. Reduce salary and benefit obligations in anticipation of reduced state funding;
2. Reallocate resources to departments and programs in response to changing needs or strategic objectives; or
3. Achieve other cost savings or efficiencies.

This early separation incentive is intended to supplement the range of budget management options available to the presidents and chancellor. Nothing in this policy shall be construed to create an employee right or entitlement to an early separation incentive.

Part 2. Definitions

Subpart A. Board early separation incentive

Board early separation incentive means the total amount provided under this policy to an eligible employee through a contribution to the health care savings plan administered by the Minnesota State Retirement System or cash payment, or both, in exchange for the employee's voluntary separation from employment on a specified date.

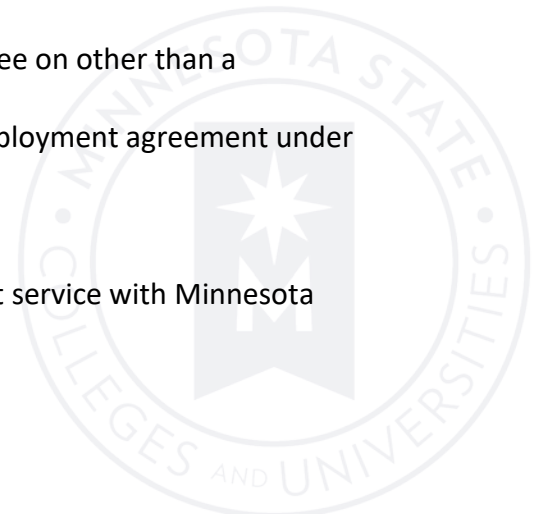
Subpart B. Continuing position

A continuing position means an employment position of a classified or unclassified employee of Minnesota State Colleges and Universities that:

1. Has no specified end-date and is occupied by an employee with tenure, probationary, non-tenure track, or permanent status; or
2. Is an unclassified position occupied by an at-will employee on other than a temporary, interim or acting basis.
3. Is not held by an at-will employee with an individual employment agreement under Minnesota Statutes § 136F.40.

Subpart C. Continuous service

Continuous service means five years of continuous employment service with Minnesota State Colleges and Universities that meets one of the following:



1. Non-faculty employees with academic seasonal appointments and faculty members must have completed ten consecutive semesters of employment with Minnesota State Colleges and Universities immediately prior to separation from employment. The ten consecutive semesters includes any paid or unpaid leaves of absence, but does not include summer academic terms.
2. An administrator or other employee with a full year appointment must have five years of continuous employment, including any paid or unpaid leaves of absence, with Minnesota State Colleges and Universities immediately prior to separation.
3. Employees who have a combination of faculty, academic seasonal, and full year employment in the five years immediately prior to separation may meet the five year continuous service requirement if their employment history is reviewed and approved by the chancellor or designee as meeting the intent of the law and this policy.

Part 3. Eligibility

Subpart A. Intent

A board early separation incentive shall be approved by a president or the chancellor only if the incentive is designed to meet the intent and purposes of this policy.

Subpart B. Authority

1. The president or chancellor has sole discretion over whether to provide a board early separation incentive.
2. Presidents may identify positions at their college or university for elimination or replacement. The chancellor may identify positions for elimination or replacement within the system office.

Subpart C. Employee eligibility

An employee may be provided a board early separation incentive only if all of the following conditions are met:

1. The employee occupies a continuing position within Minnesota State Colleges and Universities at the time of separation from employment;
2. The employee's position is identified for elimination or replacement by the president or chancellor;
3. The employee is at least 55 years of age at the time of separation from employment;
4. The employee has completed at least five years of continuous service as provided in this policy;
5. The employee is eligible for employer contributions for health and dental insurance premiums, whether or not the employee chooses to receive them; and
6. The employee voluntarily accepts the board early separation incentive and signs a statement indicating his or her voluntary acceptance of the board early separation incentive and the date of the separation from employment. .

Part 4. Amount and Form of Incentive

The president or chancellor shall determine the amount of the board early separation incentive and the separation date, subject to the limitations and requirements of this policy.

Subpart A. Maximum amount

The total cost of a board early separation incentive paid under this policy shall not exceed the employee's annual base salary rate in effect at the time of separation. When determining the amount of a board early separation incentive, the president or chancellor shall consider any other separation payments or incentives available to affected employees.

Subpart B. Allocation of incentive

The board early separation incentive shall be allocated between health care savings plan contributions and cash payments as follows:

1. To the health care savings account, to the extent that:
 - a. The president or chancellor has made available board early separation incentive funding for the individual in accordance with this policy; and
 - b. Projected health care insurance premiums from the date of separation to age 70 (age 65 for faculty members represented by the Inter Faculty Organization and the Minnesota State College Faculty) would not otherwise be covered by the individual's applicable collective bargaining agreement or compensation plan.
2. If the board separation incentive exceeds the amount necessary to meet the contribution in paragraph 1 of this part, payment shall be made in cash to the individual. A cash payment shall not exceed the lesser of:
 - a. The amount of the board early separation incentive available to the individual after contributions made under 1, above; or
 - b. The established limitations on cash payments in Minnesota Statutes sections 136F.481 and 43A.17, Subd. 11.
3. If any portion of the identified board early separation incentive remains following allocation under paragraphs 1 and 2 above, the remainder shall be contributed to the individual's health care savings plan.

Subpart C. Notice Period

An employee shall be provided not fewer than 21 calendar days to consider whether to accept a board early separation incentive.

Part 5. Other Separation Incentives

The receipt of a board early separation incentive under this policy shall not affect an employee's eligibility, if any, for severance pay, early separation incentives, early notice of retirement incentives or other separation payments available to the employee.

Part 6. Re-employment

An employee who accepts and receives a board separation incentive pursuant to this policy shall not be re-employed or enter into a contract for services within Minnesota State Colleges and Universities, including its colleges, universities or the system office, for at least one year

following separation from employment, unless authorized by the chancellor or designee because of exigent circumstances facing the college, university, or system office. Thereafter, employment of a recipient of a board early separation incentive is subject to Board Policy 4.6.

Part 7. Report

The chancellor shall establish annual reporting requirements concerning board early separation incentives paid, and annually shall submit a report to the board and legislature.

Date of Adoption: 07/22/09

Date of Implementation: 08/01/09

Date of Policy Expiration: 06/30/19

Date of Last Review:

Date and Subject of Amendments:

03/18/15 - technical amendment to the expiration date to align with statutory authority.

Minn.Stat 136F.481 (j) which states, "The early retirement incentive authority under this section expires on June 30, 2019."

Additional HISTORY.

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETY-FIRST SESSION

H. F. No. **2683**

1.1 A bill for an act
1.2 relating to retirement; Minnesota State; eliminating the expiration of an early
1.3 retirement incentive program; modifying eligibility rules in the higher education
1.4 supplemental retirement plan; making various nonsubstantive style and form
1.5 changes; amending Minnesota Statutes 2018, sections 136F.47; 136F.481; 354.05,
1.6 subdivision 2a; 354.51, subdivision 5; 354A.011, subdivision 27; 354B.20,
1.7 subdivisions 4, 7, 12, by adding a subdivision; 354B.22, subdivision 2; 354B.23,
1.8 subdivision 5; 354C.11, subdivisions 1, 2; 354C.12, subdivisions 1, 2; 355.01,
1.9 subdivision 3c; 355.091; proposing coding for new law in Minnesota Statutes,
1.10 chapter 354B; repealing Minnesota Statutes 2018, sections 354B.20, subdivision
1.11 8; 354B.21, subdivisions 1, 1a, 2, 3, 3a, 3b, 4, 5, 6, 7.

1.12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.13 Section 1. Minnesota Statutes 2018, section 136F.47, is amended to read:

1.14 **136F.47 PENSION PLAN.**

1.15 The board shall assume the administrative responsibility for the individual retirement
1.16 account plans in chapters 354B and 354C formerly administered separately by the State
1.17 University Board and the Community College Board. The separate plans and the former
1.18 plan administration must be merged into a single individual retirement account plan and
1.19 plan administration covering eligible employees of the board, eligible employees of system
1.20 institutions, and other eligible employee groups who are covered by the plan under section
1.21 ~~354B.21~~ 354B.211.

1.22 **EFFECTIVE DATE.** This section is effective July 1, 2019.

2.1 Sec. 2. Minnesota Statutes 2018, section 136F.481, is amended to read:

2.2 **136F.481 EARLY SEPARATION INCENTIVE PROGRAM.**

2.3 (a) Notwithstanding any provision of law to the contrary, the board may offer a targeted
2.4 early separation incentive program for its employees.

2.5 (b) The early separation incentive program may include one or both of the following:

2.6 (1) cash incentives, not to exceed one year of base salary; or

2.7 (2) employer contributions to the postretirement health care savings plan established
2.8 under section 352.98.

2.9 (c) To be eligible to receive an incentive, an employee must be at least age 55 and must
2.10 have at least five years of employment by the Minnesota State Colleges and Universities
2.11 System. The board shall establish and periodically revise the eligibility requirements for
2.12 system employees to receive an incentive. The board shall file a copy of its proposed revised
2.13 eligibility requirements with the chairs and ranking members of the senate committee with
2.14 higher education within its jurisdiction and the senate finance division with higher education
2.15 within its jurisdiction and with the chair and ranking members of the committee in the house
2.16 of representatives with higher education within its jurisdiction and of the house of
2.17 representatives Committee on Ways and Means, at least 30 days before the final adoption
2.18 of the proposed revised eligibility requirements by the board, shall post the same document
2.19 on the system website at the same time, and shall hold a public hearing on the proposed
2.20 eligibility requirements. The type and any additional amount of the incentive to be offered
2.21 may vary by employee classification, as specified by the board.

2.22 (d) The president of a college or university, consistent with paragraphs (b) and (c), may
2.23 designate:

2.24 (1) specific departments or programs at the college or university whose employees are
2.25 eligible to be offered the incentive program; or

2.26 (2) positions at the college or university eligible to be offered the incentive program.

2.27 (e) The chancellor, consistent with paragraphs (b) and (c), may designate:

2.28 (1) system office divisions whose employees are eligible to be offered the incentive
2.29 program; or

2.30 (2) positions at the system office eligible to be offered the incentive program.

3.1 (f) Acceptance of the offered incentive must be voluntary on the part of the employee
3.2 and must be in writing. The incentive may only be offered at the sole discretion of the
3.3 president of the applicable college or university.

3.4 (g) A decision by the president of a college or university or by the chancellor not to offer
3.5 an incentive may not be challenged.

3.6 (h) The cost of the incentive is payable by the college or university on whose behalf the
3.7 president offered the incentive or from the system office budget if the chancellor offered
3.8 the incentive. If a college or university is merged, the remaining cost of any early separation
3.9 incentive must be borne by the successor institution. If a college or university is closed, the
3.10 remaining cost of any early separation incentive must be borne by the board.

3.11 (i) Annually, the chancellor and the president of each college or university must report
3.12 on the number and types of early separation incentives which were offered and utilized
3.13 under this section. The report must be filed annually with the board and with the Legislative
3.14 Reference Library on or before September 1.

3.15 ~~(j) The early retirement incentive authority under this section expires on June 30, 2019.~~

3.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.17 Sec. 3. Minnesota Statutes 2018, section 354.05, subdivision 2a, is amended to read:

3.18 Subd. 2a. **Exceptions.** (a) Notwithstanding subdivision 2, a person specified in paragraph
3.19 (b) is not a member of the association except for purposes of Social Security coverage unless
3.20 the person is covered by section ~~354B.21~~ 354B.211, and elects coverage by the Teachers
3.21 Retirement Association.

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

3.25 **EFFECTIVE DATE.** This section is effective July 1, 2019.

3.26 Sec. 4. Minnesota Statutes 2018, section 354.51, subdivision 5, is amended to read:

3.27 Subd. 5. **Payment of shortages.** (a) Except as provided in paragraph (b), in the event
3.28 that full required member contributions are not deducted from the salary of a teacher,
3.29 payment of shortages in member deductions on salary earned are the sole obligation of the
3.30 employing unit and are payable by the employing unit upon notification by the executive
3.31 director of the shortage. The amount of the shortage shall be paid with interest at the

4.1 applicable annual rate or rates specified in section 356.59, subdivision 4, compounded
4.2 annually, from the end of the fiscal year in which the shortage occurred to the end of the
4.3 month in which payment is made and the interest must be credited to the fund. The employing
4.4 unit shall also pay the employer contributions as specified in section 354.42, subdivisions
4.5 3 and 5 for the shortages. If the shortage payment is not paid by the employing unit within
4.6 60 days of notification, and if the executive director does not use the recovery procedure
4.7 in section 354.512, the executive director shall certify the amount of the shortage to the
4.8 applicable county auditor, who shall spread a levy in the amount of the shortage payment
4.9 over the taxable property of the taxing district of the employing unit if the employing unit
4.10 is supported by property taxes. Payment may not be made for shortages in member deductions
4.11 on salary paid or payable under paragraph (b) or for shortages in member deductions for
4.12 persons employed by the Minnesota State Colleges and Universities system in a faculty
4.13 position or in an eligible unclassified administrative position and whose employment was
4.14 less than 25 percent of a full academic year, exclusive of the summer session, for the
4.15 applicable institution that exceeds the most recent 36 months.

4.16 (b) For a person who is employed by the Minnesota State Colleges and Universities
4.17 system in a faculty position or in an eligible unclassified administrative position and whose
4.18 employment was less than 25 percent of a full academic year, exclusive of the summer
4.19 session, for the applicable institution, upon the person's election under section ~~354B.21~~
4.20 354B.211 of retirement coverage under this chapter, the shortage in member deductions on
4.21 the salary for employment by the Minnesota State Colleges and Universities system institution
4.22 of less than 25 percent of a full academic year, exclusive of the summer session, for the
4.23 applicable institution for the most recent 36 months and the associated employer contributions
4.24 must be paid by the Minnesota State Colleges and Universities system institution, plus
4.25 interest at the applicable annual rate or rates specified in section 356.59, subdivision 4,
4.26 compounded annually, from the end of the fiscal year in which the shortage occurred to the
4.27 end of the month in which the Teachers Retirement Association coverage election is made.
4.28 An individual electing coverage under this paragraph shall repay the amount of the shortage
4.29 in member deductions, plus interest, through deduction from salary or compensation
4.30 payments within the first year of employment after the election under section ~~354B.21~~
4.31 354B.211, subject to the limitations in section 16D.16. The Minnesota State Colleges and
4.32 Universities system may use any means available to recover amounts which were not
4.33 recovered through deductions from salary or compensation payments. No payment of the
4.34 shortage in member deductions under this paragraph may be made for a period longer than
4.35 the most recent 36 months.

5.1 **EFFECTIVE DATE.** This section is effective July 1, 2019.

5.2 Sec. 5. Minnesota Statutes 2018, section 354A.011, subdivision 27, is amended to read:

5.3 Subd. 27. **Teacher.** (a) "Teacher" means any person who renders service for a ~~public~~
5.4 ~~school district, other than a charter school, located in the corporate limits of:~~

5.5 (1) Independent School District No. 625, St. Paul, as any of the following:

5.6 ~~(1)~~ (i) a full-time employee in a position for which a valid license from the ~~state~~
5.7 ~~Department of Education~~ Professional Educator Licensing and Standards Board is required;

5.8 ~~(2) an employee of the teachers retirement fund association located in the city of St.~~
5.9 ~~Paul;~~

5.10 ~~(3)~~ (ii) a part-time employee in a position for which a valid license from the ~~state~~
5.11 ~~Department of Education~~ Professional Educator Licensing and Standards Board is required;

5.12 or

5.13 ~~(4)~~ (iii) a part-time employee in a position for which a valid license from the ~~state~~
5.14 ~~Department of Education~~ Professional Educator Licensing and Standards Board is required

5.15 who also renders other nonteaching services for the school district, unless the board of
5.16 trustees of the teachers retirement fund association determines that the combined employment
5.17 is on the whole so substantially dissimilar to teaching service that the service may not be
5.18 covered by the association-;

5.19 (2) the teachers retirement fund association located in the city of St. Paul as an employee;

5.20 or

5.21 (3) the Minnesota State Colleges and Universities as an employee who has continuing
5.22 coverage under this chapter through section 354B.211, subdivision 3, paragraph (c).

5.23 (b) The term does not mean any person who renders service in the school district as any
5.24 of the following:

5.25 (1) an independent contractor or the employee of an independent contractor;

5.26 (2) an employee who is a full-time teacher covered by the Teachers Retirement
5.27 Association under chapter 354;

5.28 (3) an employee who is exempt from licensure pursuant to section 122A.30; or

5.29 ~~(4) an employee who is a teacher in a technical college located in a city of the first class~~
5.30 ~~unless the person elects coverage by the first class city teacher retirement fund association~~
5.31 ~~under section 354B.21, subdivision 2;~~

- 6.1 ~~(5) a teacher employed by a charter school, irrespective of the location of the school;~~
- 6.2 ~~(6) an employee who is a part-time teacher in a technical college in the city of St. Paul~~
- 6.3 ~~and who has elected coverage by the first class city teacher retirement fund association~~
- 6.4 ~~under section 354B.21, subdivision 2, but (i) the teaching service is incidental to the regular~~
- 6.5 ~~nonteaching occupation of the person; (ii) the applicable technical college stipulates annually~~
- 6.6 ~~in advance that the part-time teaching service will not exceed 300 hours in a fiscal year;~~
- 6.7 ~~and (iii) the part-time teaching actually does not exceed 300 hours in the fiscal year to which~~
- 6.8 ~~the certification applies; or~~
- 6.9 ~~(7)~~ (4) a person who is receiving a retirement annuity from the teachers retirement fund
- 6.10 association and is employed after retirement by the school district associated with the
- 6.11 retirement fund association.

6.12 **EFFECTIVE DATE.** This section is effective July 1, 2019.

6.13 Sec. 6. Minnesota Statutes 2018, section 354B.20, subdivision 4, is amended to read:

6.14 Subd. 4. **Covered employment.** ~~(a)~~ "Covered employment" means employment by a

6.15 ~~person eligible for coverage by this retirement program under section 354B.21 in a faculty~~

6.16 ~~position or in an eligible unclassified administrative position~~ an employee in the fiscal year

6.17 in which the employee first attains eligible employee status, as determined under section

6.18 354B.211, subdivision 1, and thereafter all employment by that individual in an eligible

6.19 unclassified administrative position as defined in subdivision 6 or in an eligible unclassified

6.20 faculty position as defined in subdivision 6a.

6.21 ~~(b)~~ "Covered employment" does not mean employment specified in paragraph (a) by a

6.22 ~~faculty member employed in the Minnesota State Colleges and Universities system if the~~

6.23 ~~person's initial appointment is specified as constituting less than 25 percent of a full academic~~

6.24 ~~year, exclusive of summer session, for the applicable institution.~~

6.25 **EFFECTIVE DATE.** This section is effective July 1, 2019.

6.26 Sec. 7. Minnesota Statutes 2018, section 354B.20, is amended by adding a subdivision to

6.27 read:

6.28 Subd. 6a. **Eligible unclassified faculty position.** "Eligible unclassified faculty position"

6.29 means employment by an employing unit in:

6.30 (1) a classification included in the:

6.31 (i) state university instructional unit;

- 7.1 (ii) state university administrative faculty unit; or
- 7.2 (iii) state college instructional unit under section 179A.10, subdivision 2; or
- 7.3 (2) an employment position that meets the definition of "teacher" under section 354.05,
- 7.4 subdivision 2, or 354A.011, subdivision 27.

7.5 **EFFECTIVE DATE.** This section is effective July 1, 2019.

7.6 Sec. 8. Minnesota Statutes 2018, section 354B.20, subdivision 7, is amended to read:

7.7 Subd. 7. **Employing unit.** "Employing unit," if the agency employs any persons covered

7.8 by the individual retirement account plan under section ~~354B.21~~ 354B.211, means:

- 7.9 (1) the board;
- 7.10 (2) the Minnesota Office of Higher Education; and
- 7.11 (3) the Higher Education Facilities Authority.

7.12 **EFFECTIVE DATE.** This section is effective July 1, 2019.

7.13 Sec. 9. Minnesota Statutes 2018, section 354B.20, subdivision 12, is amended to read:

7.14 Subd. 12. **Participant.** "Participant" means a person who is employed in covered

7.15 employment by the board and who elects coverage by the plan under section ~~354B.21~~

7.16 354B.211.

7.17 **EFFECTIVE DATE.** This section is effective July 1, 2019.

7.18 Sec. 10. Minnesota Statutes 2018, section 354B.22, subdivision 2, is amended to read:

7.19 Subd. 2. **Public pension coverage as condition of employment.** Coverage by a public

7.20 pension plan under section ~~354B.21~~ 354B.211 is a condition of initial employment or

7.21 continued employment ~~as a faculty member~~ in an eligible unclassified faculty position or

7.22 an eligible unclassified administrative position by the board or other employing unit.

7.23 **EFFECTIVE DATE.** This section is effective July 1, 2019.

7.24 Sec. 11. **[354B.211] COVERAGE.**

7.25 Subdivision 1. Eligibility. (a) The following persons are eligible to have coverage by

7.26 the individual retirement account plan or coverage by another plan as further specified in

7.27 this section:

8.1 (1) employees who are employed for at least 25 percent of a full academic year, exclusive
8.2 of the summer session, in eligible unclassified faculty positions under section 354B.20,
8.3 subdivision 6a; and

8.4 (2) employees who are employed for at least 25 percent of a full fiscal year in eligible
8.5 unclassified administrative positions under section 354B.20, subdivision 6.

8.6 (b) An employee who becomes eligible under clause (1) or (2) remains eligible regardless
8.7 of (i) a break in service, or (ii) the percentage of full time worked in any covered employment.

8.8 Subd. 2. **Default coverage.** (a) The default retirement coverage specified under this
8.9 subdivision for an eligible employee applies to all covered employment unless the eligible
8.10 employee makes a coverage election under subdivision 4.

8.11 (b) The individual retirement account plan is the default coverage if:

8.12 (1) the eligible employee does not have continuing coverage under subdivision 3; and

8.13 (2) the eligible employee:

8.14 (i) was employed before July 1, 2011; or

8.15 (ii) is employed on or after July 1, 2011 and does not have allowable service credit or
8.16 an account in any retirement plan listed in section 356.30, subdivision 3.

8.17 (c) The Teachers Retirement Association is the default coverage if the eligible employee
8.18 (1) does not have continuing coverage under subdivision 3, paragraphs (c) or (d), (2) is
8.19 employed on or after July 1, 2011, and (3) has allowable service credit or an account in any
8.20 retirement plan listed in section 356.30, subdivision 3.

8.21 (d) At the time of hire, the employee must certify to the employer the existence of any
8.22 allowable service credit or an account within any plan listed in section 356.30, subdivision
8.23 3. If an employee fails to provide certification, the Minnesota State Colleges and Universities
8.24 system and its board shall be held harmless and, notwithstanding any law to the contrary,
8.25 any resulting cost or financial liability becomes the employee's responsibility.

8.26 Subd. 3. **Coverage continuation; certain technical college employees.** (a) If an
8.27 employee was employed in a technical college faculty position with Teachers Retirement
8.28 Association coverage on or before June 30, 1997, that coverage continues for all covered
8.29 employment unless the employee elects coverage under paragraph (e).

8.30 (b) If an employee was employed in a technical college faculty position on or before
8.31 June 30, 1995, and covered by a former first class city teacher retirement fund association,

9.1 the Teachers Retirement Association shall provide coverage for all covered employment
9.2 unless the employee elects coverage under paragraph (e).

9.3 (c) If an employee was employed in a technical college faculty position with St. Paul
9.4 Teachers Retirement Fund Association coverage on or before June 30, 1995, that coverage
9.5 continues for all covered employment unless the employee elects coverage under paragraph
9.6 (e).

9.7 (d) If an employee was employed in a technical college position with Public Employee
9.8 Retirement Association coverage on or before June 30, 1995, that coverage continues for
9.9 all covered employment unless the employee elects coverage under paragraph (e).

9.10 (e) If an employee under this subdivision changes employment within the Minnesota
9.11 State Colleges and Universities system, the employee is authorized to elect prospective
9.12 coverage by the individual retirement account plan pursuant to subdivision 4 for all
9.13 subsequent covered employment.

9.14 Subd. 4. **Coverage; election for new employment position.** (a) Unless a timely coverage
9.15 election is made as specified below, an eligible employee retains the default coverage
9.16 specified in subdivision 2 for all covered employment.

9.17 (1) An eligible employee who has default coverage with the individual retirement account
9.18 plan under subdivision 2 may elect prospective Teachers Retirement Association coverage.

9.19 (2) An eligible employee who has default coverage with the Teachers Retirement
9.20 Association under subdivision 2 may elect prospective coverage by the individual retirement
9.21 account plan.

9.22 (b) An election under paragraph (a) must be made within one year of commencing
9.23 covered employment. If an election is not made within one year of commencing covered
9.24 employment and the employee separated from such covered employment prior to completion
9.25 of the year, an election may be made within 90 days of returning to covered employment.

9.26 (c) Except as provided in subdivision 6, purchasing service credit in the Teachers
9.27 Retirement Association for any period of Minnesota State Colleges and Universities system
9.28 employment occurring before the election under this section is prohibited.

9.29 (d) An election made under this subdivision is irrevocable unless a subsequent election
9.30 is made under subdivision 6.

9.31 Subd. 5. **Required notice.** (a) No later than 90 days before the end of any applicable
9.32 election period specified in this section, the employer must provide an eligible employee
9.33 the following information:

10.1 (1) the eligible employee's default retirement coverage;

10.2 (2) the form for electing alternative coverage other than the default coverage; and

10.3 (3) the website addresses for the plan providing default coverage and comparable
10.4 information for the applicable optional coverage.

10.5 (b) The election of coverage forms must include a certification statement that the
10.6 employee has received and reviewed materials on the alternative and default coverages prior
10.7 to making the election.

10.8 Subd. 6. Coverage; election for tenure. (a) A faculty member, defined as a person
10.9 employed in an eligible unclassified faculty position under section 354B.20, subdivision
10.10 6a, who is a member of the individual retirement account plan may elect to transfer retirement
10.11 coverage to the Teachers Retirement Association within one year of the faculty member
10.12 first achieving tenure or its equivalent at a Minnesota state college or university.

10.13 (b) A faculty member electing Teachers Retirement Association coverage must purchase
10.14 service credit in the Teachers Retirement Association for the entire period of time covered
10.15 under the individual retirement account plan. The purchase payment amount must be
10.16 determined under section 356.551. The Teachers Retirement Association may charge a
10.17 faculty member transferring coverage a reasonable fee to cover the costs associated with
10.18 computing the actuarial cost of purchasing service credit and making the transfer.

10.19 (c) A faculty member purchasing service credit in the Teachers Retirement Association
10.20 may use:

10.21 (1) any balances in the faculty member's individual retirement account plan or higher
10.22 education supplemental retirement plan established under chapter 354C; or

10.23 (2) any source specified in section 356.441, subdivision 1.

10.24 If the total amount of payments under this paragraph are less than the total purchase payment
10.25 amount under section 356.551, and the employee fails to make timely payments as determined
10.26 by the Teachers Retirement Association, all payment amounts must be refunded to the
10.27 applicable source.

10.28 Subd. 7. Coverage; acting, interim, or temporary appointments. An employee on a
10.29 leave of absence from a classified position who is appointed to an acting, interim, or
10.30 temporary unclassified position retains the retirement coverage that the employee had in
10.31 the prior classified position for up to one year of covered employment. If the employee
10.32 continues in the unclassified position, the employee has the option to make an election under
10.33 subdivision 4, provided no previous election had been made under that subdivision.

11.1 Subd. 8. Coverage; certain part-time employees. Notwithstanding subdivision 1, an
 11.2 employee in a part-time eligible unclassified administrative position or eligible unclassified
 11.3 faculty position that constitutes less than 25 percent of a full academic year is eligible for
 11.4 Teachers Retirement Association coverage for all covered employment if the person certifies
 11.5 to the employer existing membership in the Teachers Retirement Association.

11.6 **EFFECTIVE DATE.** This section is effective July 1, 2019.

11.7 Sec. 12. Minnesota Statutes 2018, section 354B.23, subdivision 5, is amended to read:

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

11.13 (b) If the employing unit of a plan participant fails to deduct the member contribution
 11.14 from the participant's salary and that omission continues for at least 60 days from the date
 11.15 on which the deduction should have been made, the employing unit must pay the amount
 11.16 representing the omitted member contribution, and the full required employer contribution,
 11.17 plus compound interest at ~~an annual rate of 8.5 percent~~ the applicable annual rate or rates
 11.18 specified in section 356.59, subdivision 2. The contributions and any interest must be made
 11.19 within one year of the date on which the omission was discovered.

11.20 **EFFECTIVE DATE.** This section is effective July 1, 2019.

11.21 Sec. 13. Minnesota Statutes 2018, section 354C.11, subdivision 1, is amended to read:

11.22 Subdivision 1. **Authorization.** Individuals employed by the Board of Trustees of the
 11.23 Minnesota State Colleges and Universities are authorized to participate in the supplemental
 11.24 retirement plan, effective ~~on the next following July 1, after meeting~~ upon hire if the
 11.25 individual meets the eligibility requirements specified in subdivision 2.

11.26 **EFFECTIVE DATE.** This section is effective January 1, 2020.

11.27 Sec. 14. Minnesota Statutes 2018, section 354C.11, subdivision 2, is amended to read:

11.28 Subd. 2. **Eligibility.** (a) An individual ~~must participate~~ is automatically enrolled in the
 11.29 supplemental retirement plan if the individual is employed by the Board of Trustees in the
 11.30 unclassified service of the state and has completed at least two years with a full-time contract

12.1 of applicable unclassified employment with the board or an applicable predecessor board
 12.2 in any of the positions specified in paragraph (b).

12.3 (b) Eligible positions or employment classifications are:

12.4 (1) an unclassified administrative position as defined in section 354B.20, subdivision
 12.5 6;

12.6 (2) an employment classification included in one of the following collective bargaining
 12.7 units under section 179A.10, subdivision 2:

12.8 (i) the state university instructional unit;

12.9 (ii) the state college instructional unit; and

12.10 (iii) the state university administrative unit; or

12.11 (3) an unclassified employee of the board:

12.12 (i) included in the general professional unit or the supervisory employees unit under
 12.13 section 179A.10, subdivision 2; or

12.14 (ii) an employee who is excluded from one of those units due to the employee's
 12.15 confidential status under section 179A.10, subdivision 1, clause (7).

12.16 **EFFECTIVE DATE.** This section is effective January 1, 2020.

12.17 Sec. 15. Minnesota Statutes 2018, section 354C.12, subdivision 1, is amended to read:

12.18 Subdivision 1. **Basic contributions and deductions.** (a) The employer of personnel
 12.19 covered by the supplemental retirement plan as provided in section 354C.11 shall deduct a
 12.20 ~~sum~~ an amount equal to five percent of the annual salary of the person ~~between \$6,000 and~~
 12.21 ~~\$15,000~~, not to exceed the employer contribution amount defined in section 356.24,
 12.22 subdivision 1, clause (6). The employer may accomplish this deduction by making equal
 12.23 deductions each payroll period, based on anticipated annual salary. The employer may adjust
 12.24 these deductions as necessary to deduct the correct amount annually. Deductions cease upon
 12.25 termination of employment covered by the supplemental retirement plan.

12.26 (b) The basic contribution deduction must be made in the same manner as other retirement
 12.27 deductions are made from the salary of the person under section 352.04, subdivision 4;
 12.28 352D.04, subdivision 2; 354.42, subdivision 2; or 354A.12, whichever applies.

12.29 (c) The employer shall also make a contribution to the supplemental retirement plan on
 12.30 behalf of covered personnel equal to the salary deduction made under paragraph (a).

12.31 **EFFECTIVE DATE.** This section is effective January 1, 2020.

13.1 Sec. 16. Minnesota Statutes 2018, section 354C.12, subdivision 2, is amended to read:

13.2 Subd. 2. **Omitted deductions.** If the employer of personnel covered by the supplemental
13.3 retirement plan as provided in section 354C.11 fails to deduct the member basic contribution
13.4 from the covered employee's salary and a period of less than 60 days from the date on which
13.5 the deduction should have been made has elapsed, the employer must obtain the omitted
13.6 member deduction by an additional payroll deduction during the pay period next following
13.7 the discovery of the omission. If the employer fails to deduct the member basic contribution
13.8 from the covered employee's salary and that omission continues for at least 60 days from
13.9 the date on which the member basic contribution deduction should have been made, the
13.10 employer must pay the amount representing the omitted member basic contribution, and
13.11 the full required omitted employer basic contribution, plus compound interest at ~~an annual~~
13.12 ~~rate of 8.5 percent~~ the applicable annual rate or rates specified in section 356.59, subdivision
13.13 2. The contributions must be made within one year of the date on which the omission was
13.14 discovered.

13.15 **EFFECTIVE DATE.** This section is effective July 1, 2019.

13.16 Sec. 17. Minnesota Statutes 2018, section 355.01, subdivision 3c, is amended to read:

13.17 Subd. 3c. **Higher education employee.** "Higher education employee" means an employee
13.18 of the state of Minnesota who performs services in a Minnesota State Colleges and
13.19 Universities system in a position covered by the individual retirement account plan under
13.20 section ~~354B.21~~ 354B.211 and who remains a member of the Teachers Retirement
13.21 Association for purposes of Social Security coverage only.

13.22 **EFFECTIVE DATE.** This section is effective July 1, 2019.

13.23 Sec. 18. Minnesota Statutes 2018, section 355.091, is amended to read:

13.24 **355.091 DIVISION OF RETIREMENT PLANS.**

13.25 (a) The public retirement plans enumerated in paragraph (b) must be divided into two
13.26 parts in accordance with section 218(d)(6)(c) of the Social Security Act, with one part
13.27 composed of plan members who did not elect Social Security coverage in the applicable
13.28 referendum and the other part composed of plan members who did elect Social Security
13.29 coverage in the applicable referendum.

13.30 (b) The applicable public retirement plans are:

13.31 (1) the elective state officers retirement plan;

- 14.1 (2) the judges retirement plan;
- 14.2 (3) the legislators retirement plan;
- 14.3 (4) the Minneapolis Teachers Retirement Fund Association;
- 14.4 (5) the general employees retirement plan of the Public Employees Retirement
- 14.5 Association;
- 14.6 (6) the St. Paul Teachers Retirement Fund Association; and
- 14.7 (7) the Teachers Retirement Association.
- 14.8 (c) Plan participants and persons electing participation under section ~~354B.21~~ 354B.211
- 14.9 remain members of the Teachers Retirement Association for purposes of Social Security
- 14.10 coverage only, and remain covered by the applicable agreement entered into under section
- 14.11 355.01, but are not members of the Teachers Retirement Association for any other purpose
- 14.12 while employed in covered employment.
- 14.13 **EFFECTIVE DATE.** This section is effective July 1, 2019.
- 14.14 Sec. 19. **REPEALER.**
- 14.15 Minnesota Statutes 2018, sections 354B.20, subdivision 8; and 354B.21, subdivisions
- 14.16 1, 1a, 2, 3, 3a, 3b, 4, 5, 6, and 7, are repealed.
- 14.17 **EFFECTIVE DATE.** This section is effective July 1, 2019.

354B.20 DEFINITIONS.

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

354B.21 COVERAGE.

Subdivision 1. **Eligibility.** The following persons are eligible to have coverage by the individual retirement account plan or coverage by another plan as further specified in this section:

(1) employees of the board who are employed as faculty in an employment classification included in the state university instructional unit or the state college instructional unit under section 179A.10, subdivision 2;

(2) the chancellor and employees of the board in eligible unclassified administrative positions;

(3) the employees in eligible unclassified administrative positions in the state universities;

(4) the employees in eligible unclassified administrative positions in the technical colleges; and

(5) the employees in eligible unclassified administrative positions of the Minnesota Office of Higher Education or of the community colleges.

Subd. 1a. **Required notice; counseling.** (a) No later than 90 days before the end of any applicable election period specified in this section, the employer must provide to a person beginning work in a position subject to this section for which an option to elect alternative retirement plan coverage is authorized the following information:

(1) the default retirement coverage;

(2) election procedures, if applicable, for electing coverage other than the default coverage; and

(3) the website and the telephone number for the plan providing default coverage and comparable information for the plan which the person is eligible to elect.

(b) The election of coverage forms must include a certification statement that the employee has received and reviewed materials on the optional coverage and the default coverage prior to making the election.

Subd. 2. **Coverage; election.** (a) An eligible person employed by the board has the default coverage specified in subdivision 3, or other subdivisions of this section, whichever is applicable, and retains that coverage for the period of covered employment unless a timely election to change that coverage is made as specified in this section.

(b) An eligible person under subdivision 3, paragraph (b) or (c), is authorized to elect prospective Teachers Retirement Association plan coverage.

(c) An eligible person under subdivision 3, paragraph (d), is authorized to elect prospective coverage by the plan established by this chapter.

(d) The election under paragraph (a) must be made within one year of commencing eligible Minnesota State Colleges and Universities system employment. If an election is not made within the specified election period due to a termination of Minnesota State Colleges and Universities system employment, an election may be made within 90 days of returning to eligible Minnesota State Colleges and Universities system employment. Except as specified in paragraph (f), all elections are irrevocable.

(e) Except as provided in paragraph (f), a purchase of service credit in the Teachers Retirement Association plan for any period or periods of Minnesota State Colleges and Universities system employment occurring before the election under this section is prohibited.

(f) Notwithstanding other paragraphs in this subdivision, a faculty member who is a member of the individual retirement account plan may elect to transfer retirement coverage to the teachers retirement plan within one year of the faculty member first achieving tenure or its equivalent at a Minnesota state college or university. The faculty member electing Teachers Retirement Association coverage under this paragraph must purchase service credit in the Teachers Retirement Association for the entire period of time covered under the individual retirement account plan and the purchase payment amount must be determined under section 356.551. The Teachers Retirement Association may charge a faculty member transferring coverage a reasonable fee to cover the costs associated with computing the actuarial cost of purchasing service credit and making the transfer. A faculty member transferring from the individual retirement account plan to the Teachers Retirement

Association may use any balances to the credit of the faculty member in the individual retirement account plan, any balances to the credit of the faculty member in the higher education supplemental retirement plan established under chapter 354C, or any source specified in section 356.441, subdivision 1, to purchase the service credit in the Teachers Retirement Association. If the total amount of payments under this paragraph are less than the total purchase payment amount under section 356.551, the payment amounts must be refunded to the applicable source.

Subd. 3. Default coverage. (a) Prior to making an election under subdivision 2, or if an eligible person fails to elect coverage by the plan under subdivision 2 or if the person fails to make a timely election, the coverage specified in this subdivision applies.

(b) If an eligible person is employed by the board before July 1, 2011, in an eligible unclassified administrative position or in a faculty position in a technical college, community college, or state university, the retirement coverage is by the plan established by this chapter, unless otherwise specified in this section.

(c) An eligible person described in paragraph (b), except that first employment by the board is on or after July 1, 2011, has retirement coverage by the plan established by this chapter if the eligible person has no:

(1) allowable service credit in any plan listed in section 356.30, subdivision 3; or

(2) prior employment covered by the state unclassified employees retirement program under chapter 352D.

(d) An eligible person described in paragraph (c) has retirement coverage by the Teachers Retirement Association if the person has:

(1) prior employment covered by the state unclassified employees retirement program under chapter 352D and has not withdrawn or transferred assets from that account; or

(2) allowable service credit in a plan listed in section 356.30, subdivision 3.

(e) To ensure that coverage is provided by the proper plan, the employee must certify to the board the existence of any service credit in any plan listed in section 356.30, subdivision 3, or whether the person retains a state unclassified employees retirement program account. If an employee fails to correctly certify prior membership in a plan or the existence of an unclassified program account, the Minnesota State Colleges and Universities system and its board shall be held harmless, and notwithstanding any law to the contrary, any resulting cost or financial liability becomes the employee's responsibility.

Subd. 3a. Plan coverage and election; certain past service technical college faculty. (a) Notwithstanding subdivision 3, if an employee of the board was employed in a faculty position in a technical college on June 30, 1997, with coverage by the Teachers Retirement Association, the employee retains that coverage. If the employee was a technical college faculty member on June 30, 1995, covered by a first class city teacher retirement fund established under chapter 354A, the retirement coverage continues with the St. Paul Teachers Retirement Fund Association, whichever is applicable. If the person was a technical college faculty member on June 30, 1995, covered by the former Minneapolis Teachers Retirement Fund Association or the former Duluth Teachers Retirement Fund Association, the Teachers Retirement Association shall provide coverage.

(b) An employee under paragraph (a) who has coverage by the St. Paul Teachers Retirement Fund Association retains that coverage for the duration of the person's employment by the board unless, within one year of a change in employment within the Minnesota State Colleges and Universities system, the person elects the individual retirement account plan for all future employment by the board. The election is irrevocable.

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

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

plan in which the employment position should have retirement coverage consistent with subdivision 2.

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

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

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

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

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

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

Subd. 6. Continuation of coverage. Except as otherwise specified in this section, once a person is employed in a position that qualifies for participation in the individual retirement account plan and elects to participate in the plan, all subsequent service by the person as a faculty member or in an eligible unclassified administrative position employed by the board or other employing unit is covered by the individual retirement account plan.

Subd. 7. Coverage; certain part-time employees. A person employed in a part-time faculty position or in a part-time eligible unclassified administrative position who does not meet the definition of covered employment under section 354B.20, subdivision 4, because the employment does not meet the threshold required under that provision, must certify prior membership in the Teachers Retirement Association to the Minnesota State Colleges and Universities system. If the certification is incorrect, the employee, and not the employer, is required to pay interest on the employee and employer contributions, and, if applicable, on the employer additional contributions to the Teachers Retirement Association under section 354.52, subdivision 4.