**S.F. 2359**
(Pogemiller)**H.F. xxx****Executive Summary of Commission Staff Materials**

<i>Affected Pension Plan(s):</i>	MnSCU
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Chapters 136F, 354B, 354D
<i>General Nature of Proposal:</i>	MnSCU Administrative Provisions
<i>Date of Summary:</i>	February 10, 2006

Specific Proposed Changes

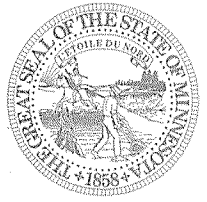
- Revises a MnSCU tax-sheltered annuity minimum vendor provision, creates unclaimed account procedures, revises employee and employer contribution rates for State Arts Board and Humanities Commission employees who elect Individual Retirement Account Plan (IRAP) coverage to be consistent with rates applicable to MnSCU/IRAP, and repeals an obsolete higher education mandatory retirement age provision.

Policy Issues Raised by the Proposed Legislation

1. Vague nature of unclaimed amount definition.
2. Disposition procedure issues
3. Consistency with federal requirements.
4. Consistency within MnSCU-administered plans.
5. Potential for added cost
6. Employee support.
7. Need for change.
8. Timing of contribution rate change.

Potential Amendments

- S2359-A1 is an amendment requested by MnSCU, and would revise Section 3 of the bill, so that MnSCU would use only reserve account investment earnings, rather than some portion of reserve account assets and investment earnings on the reserve account, to offset necessary and reasonable IRAP expenses.
- S2359-A2 is an alternative effort to define unclaimed plan account amounts.
- S2359-A3 is an alternative to S2359-A2, and could be used if the Commission feels that the unclaimed asset definition and procedure need additional thought before it is ready for passage.
- S2359-A4 is an alternative to S2359-A3, and could be used to set an amount other than \$25 as the threshold value for reestablishing an account.
- S2359-A5 removes the contribution rate changes by deleting Section 5.
- S2359-A6 can be used in lieu of S2359-A5 if the Commission desires to create a different effective date for the contribution rate change.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: S.F. 2359 (Pogemiller); H.F. xxx: MnSCU Administrative Provisions

DATE: February 9, 2006

General Summary of S.F. 2359 (Pogemiller); H.F. xxx

S.F. 2359 (Pogemiller); H.F. xxx revises a MnSCU tax-sheltered annuity minimum vendor provision, creates unclaimed account procedures, revises employee and employer contribution rates for State Arts Board and Humanities Commission employees who elect Individual Retirement Account Plan (IRAP) coverage to be consistent with rates applicable to MnSCU/IRAP, and repeals an obsolete higher education mandatory retirement age provision.

Section-by-Section Summary of S.F. 2359 (Pogemiller); H.F. xxx and Policy Comments

Section 1 amends Minnesota Statutes, Section 354B.20, a MnSCU Section 403(b) vendor contract provision, by removing the requirement that MnSCU include at least five insurance annuity providers and a few low-cost and no-load mutual fund providers. (Page 1, lines 15-28; page 2, lines 1-9)

Comments: Section 1 removes language which Commission staff has been told that both MnSCU and the faculty group agree is no longer needed. According to MnSCU, many insurance company 403(b) providers are leaving this market, replaced by an increased number of mutual fund providers. MnSCU intends to provide ample access to low cost and no load providers.

Section 2 amends Minnesota Statutes, Section 354B.20, the MnSCU/IRAP definition section, by adding a subdivision defining "unclaimed plan account amounts," which are defined as any distributable accounts of any plan participant, surviving spouse, beneficiary, or estate that the plan administrator is unable to locate in accordance with Internal Revenue Service (IRS) due diligence requirements. (Page 2, lines 10-15)

Section 3 amends Minnesota Statutes, Section 354B.25, by adding a subdivision specifying the disposition of abandoned public pension amounts. If the unclaimed account remains unclaimed six months after the plan administrator first attempts to locate the former member, surviving spouse, or other beneficiary, the amount is forfeited and the Board will transfer the assets to a MnSCU reserve account. MnSCU can use reserve account assets and reserve account investment earnings to offset necessary and reasonable IRAP expenses. If an unclaimed plan account amount exceeded \$25 and a valid claim to the forfeited amount later is made, MnSCU will transfer money from the reserve account and reestablish the member account at the member account's value on the date of the initial forfeiture. If the reserve account has insufficient assets to reestablish a member account when necessary, MnSCU must cover the transfer using other available MnSCU revenues. (Page 2, lines 16-34)

Note: MnSCU has requested an amendment (Amendment S2359-A1, attached) and which would use only reserve account investment earnings, rather than some portion of reserve account assets and investment earnings on the reserve account, to offset necessary and reasonable IRAP expenses.

Section 4 creates a new section, proposed coding as Section 354C.151, making the MnSCU/IRAP unclaimed account procedure also applicable to the MnSCU Supplemental Retirement Plan. (Page 32, lines 1-3)

Comments: Currently, MnSCU/IRAP does not have an unclaimed account provision in the MnSCU/IRAP chapter, Minnesota Statutes, Chapter 354B. If a plan lacks such a provision, generally Minnesota Statutes, Section 356.65, Disposition of Abandoned Public Pension Fund Amounts, applies. Section 356.65 includes a definition of unclaimed public pension fund amounts and specifies that these abandoned amounts are to be forfeited to the "pension fund." Under that section, if an account was valued at more than \$25 and the lost participant again becomes a plan member or applies for an annuity, the account is to be reestablished.

MnSCU reviewed Section 356.65 and noted that the process described in the provision is not well suited to defined contribution plans like IRAP, and the provision may not be intended to apply to IRAP. The most serious problem is that Section 356.65 requires abandoned amounts to be forfeited to the "pension fund." IRAP is an employee-directed defined contribution plan and does not have a pension fund. IRAP is a collection of individual accounts. There is no identifiable pension fund to receive any forfeit amounts.

Policy Issues: Sections 2 to 4

Sections 2 to 4 reflect MnSCU's attempt to develop a workable procedure for the MnSCU defined contribution plans. The sections define unclaimed plan account amounts for MnSCU/IRAP and the Higher Education Supplemental Retirement Plan (a supplemental plan providing additional coverage to many MnSCU employees), establishes a reserve account to receive these forfeited assets, and creates a mechanism to reestablish an account if the ex-employee or beneficiary is located. MnSCU estimates that at the current time slightly more than \$1 million would be forfeited to the reserve account. Policy issues raised by Sections 2 to 4 are:

1. Vague Nature of Unclaimed Amount Definition. The issue is whether Section 2, which defines "unclaimed plan account amounts," is sufficiently specific. "Unclaimed plan account amounts" are the "distributable accounts" of a participant, survivor, or beneficiary which the plan administrator is unable to locate. "Distributable" is not defined in this chapter and could be open to several interpretations. The term suggests that amounts in this category are those that must be distributed to be consistent with federal requirements, such as the requirement that an individual who has left covered employment must begin benefit receipt by approximately age 70.5, or amounts that must be distributed to a survivor or other beneficiary following the death of an active employee or deferred annuitant. The plan administrator, MnSCU or an agent acting on its behalf, ultimately will decide the full scope of this definition. The Commission may wish to seek testimony from a representative of the covered plan membership to ensure that the membership is comfortable with this proposed language. The faculty and other members of the covered group may be concerned that because of the vague nature of the definition, MnSCU may transfer amounts to the reserve account which should not have been forfeited.
2. Disposition Procedure Issues
 - a. The first issue is whether a threshold value should be used if an account is to be reestablished. As drafted, if an account value was \$25 or less when forfeiture occurred, the account would not be reestablished if an ex-member or beneficiary later tried to claim the account. The threshold allows MnSCU to not expend resources reestablishing trivial account amounts, and it may also allow MnSCU to avoid spending resources to locate an ex-employee or beneficiary when the account amounts make it uneconomical to do so. The Commission may wish to consider either a lesser or greater threshold amount, although the \$25 threshold is consistent with similar laws for other plans (Section 356.65, the provision mentioned previously which establishes abandoned property procedures for plans lacking abandoned account provisions specific to the plan, and various comparable Minnesota State Retirement System (MSRS) provisions in Section 352D.09, Subdivision 5, and Section 352.12, Subdivision 8).
 - b. The second issue is the lack of any interest payment or other investment earnings on a reestablished account between the time that the account is initially forfeited and the date the account is reestablished. This proposed procedure is consistent with similar existing law. This treatment is consistent with Section 356.65, Subdivision 2, which indicates that a cancelled amount must be restored if a forfeited amount is claimed, but there is no mention of paying interest or other investment earnings on the forfeited amount. Procedures for the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), which like IRAP is a defined contribution plan, provides no interest to a reestablished account. The process also appears consistent with Public Employees Retirement Association (PERA) law.
3. Consistency with Federal Requirements. The issue is whether the unclaimed plan account definition and the proposed disposition procedure are consistent with federal requirements for MnSCU/IRAP to remain a qualified plan. MnSCU has obtained advice from the Office of the Attorney General in reviewing this bill, and the process is believed to be consistent with federal requirements.

Section 5 amends Section 354D.05, the Arts Board, Humanities Commission, Minnesota Historical Society contribution rate provision, by revising the employee and employer contribution rates for Arts Board and Humanities Commission employees who are IRAP members to equal the rates applicable for MnSCU/IRAP members, rather than the contribution rates applicable for the MSRS, PERA, or Teachers Retirement Association (TRA) plan that would otherwise provide coverage if the individual were not an IRAP member. (Page 3, lines 4-34; page 4, lines 1-2)

Comments. In addition to administering the Higher Education IRAP for its college and university faculty, MnSCU administers an IRAP program for supervisory and professional employees of the State Arts Board and the Minnesota Humanities Commission who elect IRAP coverage in lieu of the defined benefit plan

that would otherwise provide coverage. Under existing law, the IRAP employee and employer contribution rates for these Arts Board and Humanities Commission IRAP members are those applicable for the defined benefit plan that would otherwise provide the coverage. Depending on the employee and the organization, the applicable defined benefit plan would be MSRS-General, PERA-General, or TRA.

The Legislature passed legislation in 1994 which allowed professional employees of the State Arts Board and Humanities Commission employees access to a defined contribution plan, by allowing a choice between a defined benefit and defined contribution plan. Similar legislation passed in 1996 for any employee of the Minnesota Historical Society, although the Historical Society administers its own program, rather than having MnSCU administer it. Interest by these three employee groups in having defined contribution plan coverage stemmed in part from periods of high investment returns during the 1980s and 1990s. Employee interest in defined contribution plans tends to coincide with periods of high investment returns.

To minimize any employer resistance to a defined contribution plan, the initial laws were drafted so that the employer contribution to the defined contribution plan was the same as the contribution the employer would pay to the defined benefit plan that would otherwise provide the coverage. Thus, the proposal was cost neutral for the employer.

For MnSCU, however, this structure means that the few State Arts Board and Humanities Commission employees in the MnSCU-administered IRAP plan have different employee and employer contribution rates than its higher education IRAP members.

At the current time, to minimize any special coding and related procedures in MnSCU/IRAP to handle any State Arts Board or Humanities Commission members, MnSCU is recommending that all IRAP-covered employees in plans administered by MnSCU or its agents should use the 4.5 percent employee rate and 6.0 percent employer contribution rate currently applicable for higher education IRAP-covered employees. If enacted, any Arts Board or Humanities Commission IRAP members and their employer would pay rates that differ from the rates they are currently paying, since the current rates match those of the defined benefit plan that would have otherwise provided the coverage. The MSRS-General employee and employer contribution rates are both 4.0 percent of salary, although MSRS is seeking to increase the contribution rates for that plan. The PERA-General employee and employer rates as a percent of salary are, respectively, 5.1 percent and 5.53 percent, but under existing law these are scheduled to increase gradually by January 2010 to a 6.0 percent employee rate and a 7.0 percent employer rate. The TRA employee rate and employer rate are both 5.0 percent. Therefore, at least at the current time, if the Arts Board or Humanities Commission has IRAP-covered employees, the employer would pay a higher employer rate than is currently applicable, since the 6.0 percent employer contribution rate applicable for the MnSCU plan is higher than that of any applicable defined benefit plan. For any applicable employees, the 4.5 percent MnSCU/IRAP employee contribution rate is higher than the corresponding MSRS-General rate, but lower than the applicable PERA or TRA rate.

In addition to any impact on existing employees, the change will impact future elections by new employees in ways that are not full predictable. Applying MnSCU/IRAP rates rather than those of the defined benefit plan that would otherwise provide coverage will change the value of the defined contribution plan coverage relative to the defined benefit plan coverage option.

Policy issues raised by Section 5 are:

1. Implications of the Change

- a. Consistency within MnSCU-Administered Plans. MnSCU seeks to have consistent IRAP contribution rates for all the employees and employers in plans that it administers. This creates consistency within the MnSCU-administered IRAP plan and eliminates the need for special coding or other procedures for handling any IRAP members in its plan who are not direct employees of MnSCU.
- b. Potential for Added Cost. A drawback is that the change may impose an added cost to the Arts Board and the Minnesota Humanities Commission due to higher employer contribution rates. The impact, however, is minimal. An attachment indicates that there were three IRAP members at the Arts Board, but due to downsizing there is now only one, and apparently there are no Minnesota Humanities Commission employees in IRAP. Thus, currently there is no financial impact on the Humanities Commission and a minimal one on the Arts Board.

- c. Employee Support. A final issue is whether the current employee that would be impacted by this proposal supports the change.

Section 6 repeals Minnesota Statutes, Section 43A.34, Subdivision 1. This subdivision specified that higher education faculty members who are state executive branch employees covered by a TRA or an MSRS plan must retire no later than age 70. (Page 4, lines 3-4)

Comments: The policy issue for Section 6 is:

- Need for Change. MnSCU contends that this provision is obsolete due to changes in federal law. MnSCU or the Department of Employee Relations should be prepared to indicate the federal changes that make this provision obsolete.

Section 7 (Effective Date). Sections 1 to 5 are effective on the day following final enactment. Any contribution rate changes due to Section 5 start for the first full pay period occurring after the effective date. (Page 4, lines 5-8)

Comments: The policy issue for Section 7 is:

- Timing of Contribution Rate Change. If Section 5 is retained, the section which revises certain IRAP contribution rates for Arts Board and Humanities Commission employees, the issue is when that contribution rate change should occur. As drafted, the changes are effective at the start of the first full pay period occurring after final enactment. Alternatives are to have the change coincide with the new fiscal year, commencing with the first full pay period on or after July 1, 2006. Another alternative is to delay until July 1, 2007. This would give the employer plenty of time to plan for the change, but it could cause slight harm to the employee by delaying any increase in contributions to their defined contribution account. These effects are minimal, however. The contribution rate change is not large and only a single individual is impacted.

Potential Amendments for Commission Consideration

Amendment S2359-A1 is an amendment requested by MnSCU, and would revise Section 3 of the bill, so that MnSCU would use only reserve account investment earnings, rather than some portion of reserve account assets and investment earnings on the reserve account, to offset necessary and reasonable IRAP expenses. MnSCU has indicated that it plans to take actions which will result in less forfeitures in the future, and MnSCU believes that the total assets in the MnSCU reserve account will be considerably less than currently is the case. MnSCU may wish to testify on this matter.

Amendment S2359-A2 is an alternative effort to define unclaimed plan account amounts. Instead of the definition in Section 1, "unclaimed plan account amounts" would be defined as the account of a former participant who fails to start benefit receipt by age 70.5, or within five years after termination of service, whichever is later, or any amount of a deceased member if the surviving spouse, beneficiary, or estate fails to apply for benefits within ten years after the death of the plan member. An issue with Amendment S2359-A2 is whether all sources of unclaimed account balances are identified in the proposed definition.

Amendment S2359-A3 is an alternative to S2359-A2, and could be used if the Commission feels that the unclaimed asset definition and procedure need additional thought before it is ready for passage. S2359-A3 would remove Sections 2 to 4.

Amendment S2359-A4 is an alternative to S2359-A3, and could be used to set an amount other than \$25 as the threshold value for reestablishing an account. The amendment strikes \$25 and inserts an amount to be specified.

Amendment S2359-A5 removes the contribution rate changes by deleting Section 5.

Amendment S2359-A6 can be used in lieu of S2359-A5 if the Commission desires to create a different effective date for the contribution rate change. The change would occur at the start of the first payroll period after a date to be specified by the Commission.

From: <Charisse.McPherson@wellsfargo.com>
To: <gary.janikowski@so.mnscu.edu>
Date: 11/29/2004 7:55:05 AM
Subject: Lost Participant Report

Gary,

I have attached the missing participant report for the DCR Plan. I have protected the file and will call you with the password. The overall statistics are as follows:

- * 177 Total Participants
- * \$1,170,911.12 Total Market Value
- * 21 Participants with balances < \$100
- * 91 Participants with balances between \$100 and \$5000
- * 65 Participants with balances > \$5000
- * Highest Single Participant Balance \$80,600
- * 9 Participants are Deceased (Are unable to locate beneficiary)

In addition, Vicky and I have reviewed the TSA Plan and believe that we have found the few lost participants we had to date. As always, let me know if you have any questions on the information provided. Thanks,
<<MnSCU DCR Missing Participants 2004.xls>>

Charisse McPherson
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From: <Charisse.McPherson@wellsfargo.com>
To: <gary.janikowski@so.mnscu.edu>
Date: 1/18/2005 2:42:48 PM
Subject: Lost Participant Follow-up

Gary, please review the additional information I received on information that the committee inquired about. Let me know if you want to forward, as is, to those in attendance at our meeting, or if you would like us to deliver this information more formally. Let me know.

* SSN Administration Forwarding Process, including what they are willing to provide us in terms of information during this process - We typically have shied away from using the Social Security Administration letter forwarding program. The letter forwarding program does not allow us any control and provides no follow-up on whether or not the letter was ever received. The SSA requires their ability to review all letters that they send. The charge is \$25.00 per person.

* IRS Forwarding Process, including what they are willing to provide us in terms of information during this process - The IRS Forwarding process allows 49 names per year w/o a fee. If over 50 names they charge a flat fee of \$1,750 plus .01 per address search and .50 per letter forwarded. FYI - We've sent 118 names in the past couple of years and resulted in locating 59 participants - 50% success rate. They do not let us know if they were able to successfully forwarded letters so we only know if it works if a participant responds to the notice. We still have roughly a 160 missing participants and of that 56 names have been submitted to the IRS. Balance is just over one million.

* Web Search vehicles Wells Fargo uses in internet searches - we use several search vehicles to locate participants.

- * Ancestry - ssn death search

- * Google - search by participant name - we have had success finding pcps at other colleges

- * Qwest Dex - cold calling

- * AnyWho Search - cold calling

- * Reverse Directory - cold calling

* High level overview of Wells Fargo "Lost Participant" search process - Review Wells Fargo image documentation for any phone, address, beneficiary, campus information. Check ancestry web site for deceased information from there using all other search vehicles to start looking for participants. After all efforts of trying to locate the pcps Wells Fargo will submit the name and social and a letter to the IRS to forward our letter to the participant to call us with updated address information. On occasion we have emailed the campus to see if they have additional information - most times they are unable to help. If the person is deceased we try to find beneficiary information by locating the obit from the newspaper and then mailing letters or cold calling relatives.

* List of lost participants that Wells Fargo has found (including balance information if possible) - We have not been tracking this information however I would estimate that we've located several hundred participants and the balances exceed a million dollars.

* % of lost participants we have found to total lost participants on file (estimate will be okay if that is all you have to work with) - 50% using the IRS forwarding service. I would guess we have a 70 - 75% success rate by our cold calling.

* Number of additional lost participants that are typically added per annum (estimate will be okay) - we get around 50 - 60 lost participant on

an annual basis.

* Please add all pertinent indicative data to the current lost participant list (including all dates we have on file, address we are last aware of, campus if possible and any beneficiary information we may have) - due to the privacy laws within MnSCU this information is not available to others.

Note: Due to legislation, MnSCU has current privacy laws, so that even across campuses they do not share address information (see last bullet above). Wells Fargo does not use outside sources to locate missing participant's, however, some of our other clients hire outside services to help locate participants. Typically, they charge around \$25 - \$30 per person and also receive a calculated % of the value of the balance in fees for everyone found. The fee is sometimes based on the dollar amount of the market values and can run between 1 - 20%.

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Ed Burek

From: Mary Millar [Mary.Millar@so.mnscu.edu]
Sent: Tuesday, January 03, 2006 10:13 AM
To: Ed Burek
Subject: State Arts Board Membership in IRAP

Ed,
At the time of our meeting the latest information I had from Wells Fargo was that there were three State Arts Board individuals in IRAP. Since then, Gary Janikowski talked to Gail Burke, Executive Secretary/HR Manager at the State Arts Board and she indicated that due to some recent downsizing from 12 positions to 6 positions that there is only one person who is now contributing to the MnSCU IRAP plan. Thanks for checking.

Mary J. Millar
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Workers' Comp Administrator
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>>> "Ed Burek" <edward.burek@lcpr.leg.mn> 12/28/2005 2:52:01 PM >>>
Mary,

At the meeting where we discussed the MNSCU pension proposals, I thought I remember you indicating that the total MNSCU-covered membership from the Arts Board and Minnesota Humanities Commission was only three individuals. However, in the materials I received from MNSCU I am not finding anything specifying a number. Is my memory correct that there are only three individuals?

Thank you in advance for your response.

Ed Burek

Minnesota Statutes 2005, 356.65

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Minnesota Statutes 2005, Table of Chapters

Table of contents for Chapter 356

356.65 Disposition of abandoned public pension fund amounts.

Subdivision 1. **Definitions.** For purposes of this section, unless the context clearly indicates otherwise, each of the following terms has the meaning given to it:

(a) "Public pension fund" means any public pension plan as defined in section 356.63, paragraph (b), and any Minnesota volunteer firefighters relief association which is established under chapter 424A and governed under sections 69.771 to 69.776.

(b) "Unclaimed public pension fund amounts" means any amounts representing accumulated member contributions, any outstanding unpaid annuity, service pension or other retirement benefit payments, including those made on warrants issued by the commissioner of finance, which have been issued and delivered for more than six months prior to the date of the end of the fiscal year applicable to the public pension fund, and any applicable interest to the credit of:

(1) an inactive or former member of a public pension fund who is not entitled to a defined retirement annuity and who has not applied for a refund of those amounts within five years after the last member contribution was made; or

(2) a deceased inactive or former member of a public pension fund if no survivor is entitled to a survivor benefit and no survivor, designated beneficiary or legal representative of the estate has applied for a refund of those amounts within five years after the date of death of the inactive or former member.

Subd. 2. **Disposition of abandoned amounts.** Any unclaimed public pension fund amounts existing in any public pension fund are presumed to be abandoned, but are not subject to the provisions of sections 345.31 to 345.60. Unless the benefit plan of the public pension fund specifically provides for a different disposition of unclaimed or abandoned funds or amounts, any unclaimed public pension fund amounts cancel and must be credited to the public pension fund. If the unclaimed public pension fund amount exceeds \$25 and the inactive or former member again becomes a member of the applicable public pension plan or applies for a retirement annuity under section 3A.12, 352.72, 352B.30, 352C.051, 353.71, 354.60, 356.30, or 422A.16, subdivision 8, whichever applies, the canceled amount must be restored to the credit of the person.

HIST: 1981 c 224 s 178; 1983 c 286 s 17; 1992 c 513 art 4 s 41; 2001 c 7 s 67; 2002 c 392 art 11 s 47,48

Minnesota Statutes 2005, 354D.05

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Minnesota Statutes 2005, Table of Chapters

Table of contents for Chapter 354D

354D.05 Contributions.

Subdivision 1. **Member contributions.** Eligible employees who would otherwise be eligible to participate in the Minnesota State Retirement System, the Public Employees Retirement Association, or the Teachers Retirement Association, but who participate in the individual retirement account plan, shall make a member contribution in an amount equal to the member contribution amount required by the plan for which the individual was originally eligible for membership. The contribution must be made by payroll deduction each pay period and must be in accordance with either section 403(b) or 414(h) of the Internal Revenue Code.

Subd. 2. **Employer contributions.** The employer of eligible employees described in subdivision 1 who are eligible to participate in either the Minnesota State Retirement System or the Public Employees Retirement Association shall make an employer contribution to the plan in an amount equal to the employer contribution amount required by the plan for which the individual was originally eligible for membership. The employer of eligible employees described in subdivision 1 who are eligible to participate in the Teachers Retirement Association shall make an employer contribution to the plan in an amount equal to the employer contribution required by section 354.42, subdivision 3, and shall make an employer contribution to the Teachers Retirement Association in an amount equal to the employer contribution required by section 354.42, subdivision 5.

HIST: 1994 c 508 art 2 s 5; 1995 c 141 art 4 s 30

Minnesota Statutes 2005, 43A.34

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Minnesota Statutes 2005, Table of Chapters

Table of contents for Chapter 43A

43A.34 Retirement.

Subdivision 1. **Mandatory retirement age.** Employees in the executive branch who are subject to the provisions of the Minnesota State Retirement System or the Teachers Retirement Association and who are serving as faculty members or administrators under a contract of unlimited terms or similar arrangement providing for unlimited tenure at an institution of higher education, as defined by United States Code, title 20, section 1141(a), as amended through December 31, 1986, must retire from employment by the state upon reaching the age of 70, except as provided in other law. Other employees in the executive branch who are subject to the provisions of the Minnesota State Retirement System or the Teachers Retirement Association, except as provided in subdivision 3 or 4, or as provided in section 354.44, subdivision 1a, are not subject to a mandatory retirement age provision.

Subd. 2. Repealed, 1987 c 186 s 16; 1987 c 284 art 2 s 9

Subd. 3. **Correctional personnel exempted.** Any employee of the state of Minnesota in a covered classification as defined in section 352.91, who is a member of the special retirement program for correctional personnel established pursuant to sections 352.90 to 352.95, may elect to retire from employment in the covered correctional position upon reaching the age of 55 years.

Subd. 4. **Officers exempted.** Notwithstanding any provision to the contrary, (a) conservation officers and crime bureau officers who were first employed on or after July 1, 1973, and who are members of the State Patrol retirement fund by reason of their employment, and members of the Minnesota State Patrol Division and Alcohol and Gambling Enforcement Division of the Department of Public Safety who are members of the State Patrol Retirement Association by reason of their employment, shall not continue employment after attaining the age of 60 years, except for a fractional portion of one year that will enable the employee to complete the employee's next full year of allowable service as defined pursuant to section 352B.01, subdivision 3; and (b) conservation officers and crime bureau officers who were first employed and are members of the State Patrol retirement fund by reason of their employment before July 1, 1973, shall not continue employment after attaining the age of 70 years.

HIST: 1981 c 37 s 2; 1981 c 210 s 34; 1982 c 578 art 3 s 1; 1984 c 654 art 5 s 58; 1986 c 444; 1987 c 186 s 12,13; 1987 c 284 art 2 s 1,2; 1990 c 570 art 1 s 1; 1997 c 129 art 2 s 2; 2005 c 114 s 2

- 1.1 moves to amend S.F. No. 2359; H.F. No., as follows:
- 1.2 Page 2, line 25, delete "A portion of this reserve account and"

1.1 moves to amend S.F. No. 2359; H.F. No., as follows:

1.2 Page 2, delete lines 13 to 15 and insert "means any amounts in the account of a
1.3 former participant who fails to make a claim for benefits by age 70.5, or within five
1.4 years after termination of covered service, whichever is later. "Unclaimed plan account
1.5 amounts" also means any amount in the account of a deceased member whose beneficiary,
1.6 surviving spouse, or estate fails to make application for benefits or for the account value
1.7 within ten years after the death of the plan member."

- 1.1 moves to amend S.F. No. 2359; H.F. No., as follows:
- 1.2 Pages 2 and 3, delete sections 2, 3, and 4
- 1.3 Page 4, line 6, delete "6" and insert "3"
- 1.4 Page 4, line 7, delete "5" and insert "2"
- 1.5 Renumber the sections in sequence and correct the internal references
- 1.6 Amend the title accordingly

- 1.1 moves to amend S.F. No. 2359; H.F. No., as follows:
- 1.2 Page 2, line 29, delete "\$25" and insert "\$..."

- 1.1 moves to amend S.F. No. 2359; H.F. No., as follows:
- 1.2 Pages 3 and 4, delete section 5
- 1.3 Page 4, line 6, delete "6" and insert "5" and delete everything after the period
- 1.4 Page 4, delete lines 7 and 8
- 1.5 Renumber the sections in sequence and correct the internal references
- 1.6 Amend the title accordingly

- 1.1 moves to amend S.F. No. 2359; H.F. No., as follows:
- 1.2 Page 4, line 6, after "to" insert "4 and"
- 1.3 Page 4, line 8, delete "the effective date" and insert "....."

A bill for an act

relating to retirement; various individual retirement account plans; revising Minnesota State Colleges and Universities system tax-sheltered annuity minimum vendor requirements; creating unclaimed account procedures for the Minnesota State Colleges and Universities system individual retirement account plan and supplemental plan; revising contribution rates for State Arts Board and Minnesota Humanities Commission individual retirement account plan members to equal those of Minnesota State Colleges and Universities system individual retirement account plan; repealing obsolete higher education mandatory retirement age provision; amending Minnesota Statutes 2004, sections 136F.45, subdivision 1a; 354B.20, by adding a subdivision; 354B.25, by adding a subdivision; 354D.05; proposing coding for new law in Minnesota Statutes, chapter 354C; repealing Minnesota Statutes 2004, section 43A.34, subdivision 1.

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

Section 1. Minnesota Statutes 2004, section 136F.45, subdivision 1a, is amended to read:

Subd. 1a. **Subsequent vendor contracts.** (a) The board may limit the number of vendors under subdivision 1.

(b) In addition to any other tax-sheltered annuity program investment options, the board may offer as an investment option the Minnesota supplemental investment fund administered by the State Board of Investment under section 11A.17.

~~(c) For the tax-sheltered annuity program vendor contracts executed after July 1, 2000, The board shall actively solicit participation of and shall include as vendors lower expense and "no-load" mutual funds or equivalent investment products as those terms are defined by the federal Securities and Exchange Commission. To the extent possible, in addition to a range of insurance annuity contract providers and other mutual fund provider arrangements, the board must assure that no less than five insurance annuity providers and no less than one nor more than three lower expense and "no-load" mutual funds or~~

~~equivalent investment products will be made available for direct access by employee participants.~~ To the extent that offering a lower expense "no-load" product increases the total necessary and reasonable expenses of the program and if the board is unable to negotiate a rebate of fees from the mutual fund or equivalent investment product providers, the board may charge the participants utilizing the lower expense "no-load" mutual fund products a fee to cover those expenses. The participant fee may not exceed one percent of the participant's annual contributions or \$20 per participant per year, whichever is greater. Any excess fee revenue generated under this subdivision must be reimbursed to participant accounts in the manner provided in subdivision 3a.

Sec. 2. Minnesota Statutes 2004, section 354B.20, is amended by adding a subdivision to read:

Subd. 19. **Unclaimed plan account amounts.** "Unclaimed plan account amounts" means the distributable accounts of any plan participant, surviving spouse, beneficiary, or estate that the plan administrator is unable to locate in accordance with Internal Revenue Service due diligence requirements.

Sec. 3. Minnesota Statutes 2004, section 354B.25, is amended by adding a subdivision to read:

Subd. 6. **Disposition of abandoned public pension amounts.** (a) Any unclaimed plan account amounts are presumed to be abandoned, but are not subject to the provisions of sections 345.31 to 345.60. If the account remains unclaimed after six months following the date that the plan administrator first attempts to locate the former member, surviving spouse, or other beneficiary, the unclaimed plan account amount cancels and must be credited to the reserve account specified in paragraph (b).

(b) The board must establish a separate account to receive unclaimed plan account amounts. A portion of this reserve account and any investment earnings attributable to this reserve account are to be used to offset the reasonable and necessary expenses of the individual retirement account plan, including costs incurred in efforts to locate lost participants, surviving spouses, or other beneficiaries.

(c) If the unclaimed plan account amount exceeded \$25 and the inactive member, surviving spouse, or beneficiary, whichever is applicable, establishes a valid claim to the forfeited account, the forfeited account is to be reestablished in an amount equal to the amount originally forfeited. The board must ensure that the reserve account has sufficient assets to cover any transfers needed to reestablish accounts. If reserve account assets are insufficient to make a transfer, the board must cover any shortfall from other revenues.

Sec. 4. **[354C.155] UNCLAIMED PLAN ACCOUNT AMOUNTS.**

Section 354B.25, subdivision 6, applies to the supplemental retirement plan.

Sec. 5. Minnesota Statutes 2004, section 354D.05, is amended to read:

354D.05 CONTRIBUTIONS.

Subdivision 1. **Member contributions.** ~~Eligible employees~~ (a) Participants in the individual retirement account plan who are specified in section 354D.02, subdivision 2, clause (1) or (2), and who would otherwise be eligible to participate in the members of a Minnesota State Retirement System, the Public Employees Retirement Association, or the Teachers Retirement Association plan, but who participate in the individual retirement account plan, shall make a member contribution in an amount equal to the member contribution amount required by the plan for which the individual was originally eligible for membership. The contribution as specified in section 354B.23, subdivision 1.

(b) For individual retirement account plan members specified in section 354D.02, subdivision 2, clause (3), the member contribution is the employee contribution specified in applicable law for the Minnesota State Retirement System, Public Employees Retirement Association, or Teachers Retirement Association plan in which the individual would otherwise be a member.

(c) Contributions under this subdivision must be made by payroll deduction each pay period and must be in accordance with either section 403(b) or 414(h) of the Internal Revenue Code.

Subd. 2. **Employer contributions.** (a) The employer of ~~eligible employees~~ an employee described in subdivision 1 who are eligible to participate in either the Minnesota State Retirement System or the Public Employees Retirement Association shall, paragraph (a), must make an employer contribution to the employee's individual retirement account plan in an amount equal to the employer contribution amount required by the plan for which the individual was originally eligible for membership account as specified in section 354B.23, subdivisions 3 and 4.

(b) The employer of ~~eligible employees~~ an employee described in subdivision 1 who are eligible to participate in the Teachers Retirement Association shall, paragraph (b), must make an employer contribution to the employee's individual retirement account plan in an amount account equal to the employer contribution including, if applicable, any employer additional contribution required by section 354.42, subdivision 3, and shall make an employer contribution to the applicable plan law for the Minnesota State Retirement System, Public Employees Retirement Association, or Teachers Retirement

4.1 Association in an amount equal to which the employer contribution required by section
 4.2 ~~354.42, subdivision 5~~ individual would otherwise be a member.

4.3 Sec. 6. **REPEALER.**

4.4 Minnesota Statutes 2004, section 43A.34, subdivision 1, is repealed.

4.5 Sec. 7. **EFFECTIVE DATE.**

4.6 Sections 1 to 6 are effective the day following final enactment. Any contribution
 4.7 rate changes due to section 5 commence as of the start of the first full payroll period
 4.8 beginning after the effective date.