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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 782

- 01/25/2023 Authored by Becker-Finn; Her; Wolgamott; Nelson, M.; Tabke and others  
The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy
- 03/15/2023 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
- 03/22/2023 By motion, recalled and re-referred to the Committee on Ways and Means
- 04/25/2023 Adoption of Report: Placed on the General Register as Amended  
Read for the Second Time
- 05/01/2023 Calendar for the Day, Amended  
Read Third Time as Amended  
Passed by the House as Amended and transmitted to the Senate to include Floor Amendments
- 05/12/2023 Passed by the Senate as Amended and returned to the House  
The House concurred in the Senate Amendments  
Read Third Time as Amended by the Senate  
Repassed the bill as Amended by the Senate

1.1 A bill for an act

1.2 relating to retirement; establishing the Minnesota Secure Choice retirement

1.3 program; providing for civil penalties; transferring money; appropriating money;

1.4 proposing coding for new law as Minnesota Statutes, chapter 187.

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

1.6 Section 1. **[187.01] MINNESOTA SECURE CHOICE RETIREMENT PROGRAM;**

1.7 **CITATION.**

1.8 This chapter shall be known as and may be cited as the "Minnesota Secure Choice

1.9 Retirement Program Act."

1.10 Sec. 2. **[187.03] DEFINITIONS.**

1.11 Subdivision 1. **Applicability.** For purposes of this chapter, the terms defined in this

1.12 section have the meanings given them.

1.13 Subd. 2. **Board.** "Board" or "board of directors" means the board of directors of the

1.14 Minnesota Secure Choice retirement program.

1.15 Subd. 3. **Compensation.** "Compensation" means compensation within the meaning of

1.16 Section 219(f)(1) of the Internal Revenue Code that is received by a covered employee

1.17 from, or with respect to service performed for, a covered employer.

1.18 Subd. 4. **Contribution rate.** "Contribution rate" means the percentage of compensation

1.19 withheld from a covered employee's compensation and deposited in an account established

1.20 for the covered employee under the program.

2.1 Subd. 5. **Covered employee.** (a) "Covered employee" means a person who is employed  
2.2 by a covered employer and who satisfies any other criteria established by the board.

2.3 (b) Covered employee does not include:

2.4 (1) a person who, on December 31 of the preceding calendar year, was younger than 18  
2.5 years of age;

2.6 (2) a person covered under the federal Railway Labor Act, as amended, United States  
2.7 Code, title 45, sections 151 et seq.;

2.8 (3) a person on whose behalf an employer makes contributions to a Taft-Hartley  
2.9 multiemployer pension trust fund; or

2.10 (4) a person employed by the government of the United States, another country, the state  
2.11 of Minnesota, another state, or any subdivision thereof.

2.12 Subd. 6. **Covered employer.** (a) "Covered employer" means a person or entity:

2.13 (1) engaged in a business, industry, profession, trade, or other enterprise in Minnesota,  
2.14 whether for profit or not for profit;

2.15 (2) that employs five or more covered employees; and

2.16 (3) that does not sponsor or contribute to and did not in the immediately preceding 12  
2.17 months sponsor or contribute to a retirement savings plan for its employees.

2.18 (b) Covered employer does not include:

2.19 (1) an employer that has not engaged in a business, industry, profession, trade, or other  
2.20 enterprise in Minnesota, whether for profit or not for profit, at any time during the  
2.21 immediately preceding 12 months; and

2.22 (2) a state or federal government or any political subdivision thereof.

2.23 Subd. 7. **Executive director.** "Executive director" means the chief executive and  
2.24 administrative head of the program.

2.25 Subd. 8. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue  
2.26 Code of 1986, as amended, United States Code, title 26.

2.27 Subd. 9. **Program.** "Program" means the Minnesota Secure Choice retirement program.

2.28 Subd. 10. **Retirement savings plan.** "Retirement savings plan" means a plan or program  
2.29 offered by an employer that permits contributions to be set aside for retirement on a pretax  
2.30 or after-tax basis and permits all employees of the employer to participate except those  
2.31 employees who have not satisfied participation eligibility requirements that are no more

3.1 restrictive than the eligibility requirements permitted under section 410(b) of the Internal  
3.2 Revenue Code. Retirement savings plan includes but is not limited to a plan described in  
3.3 section 401(a) of the Internal Revenue Code, an annuity plan or annuity contract described  
3.4 in section 403(a) or 403(b) of the Internal Revenue Code, a plan within the meaning of  
3.5 section 457(b) of the Internal Revenue Code, a simplified employee pension (SEP) plan, a  
3.6 savings incentive match plan for employees (SIMPLE) plan, an automatic enrollment payroll  
3.7 deduction individual retirement account, and a multiemployer pension plan described in  
3.8 section 414(f) of the Internal Revenue Code.

3.9 Subd. 11. **Secure Choice administrative fund.** "Secure Choice administrative fund"  
3.10 or "administrative fund" means the fund established under section 187.06, subdivision 2.

3.11 Subd. 12. **Secure Choice trust.** "Secure Choice trust" or "trust" means a trust established  
3.12 under section 187.06, subdivision 1, to hold contributions and investment earnings thereon  
3.13 under the program.

3.14 Subd. 13. **Roth IRA.** "Roth IRA" means an individual retirement account established  
3.15 under section 408A of the Internal Revenue Code to hold and invest after-tax assets.

3.16 Subd. 14. **Traditional IRA.** "Traditional IRA" means an individual retirement account  
3.17 established under section 408 of the Internal Revenue Code to hold and invest pretax assets.

3.18 **Sec. 3. [187.05] SECURE CHOICE RETIREMENT PROGRAM.**

3.19 Subdivision 1. **Program established.** (a) The board must operate an employee retirement  
3.20 savings program whereby employee payroll deduction contributions are transmitted on an  
3.21 after-tax or pretax basis by covered employers to individual retirement accounts established  
3.22 under the program.

3.23 (b) The board must establish procedures for opening a Roth IRA, a traditional IRA, or  
3.24 both a Roth IRA and a traditional IRA for each covered employee whose covered employer  
3.25 transmits employee payroll deduction contributions under the program.

3.26 (c) Contributions must be made on an after-tax (Roth) basis, unless the covered employee  
3.27 elects to contribute on a pretax basis.

3.28 Subd. 2. **Compliance with Internal Revenue Code.** The board must establish and  
3.29 administer each Roth IRA and traditional IRA opened under the program in compliance  
3.30 with section 408 or 408A of the Internal Revenue Code, as applicable, for the benefit of the  
3.31 covered employee for whom the account was opened.

4.1 Subd. 3. **Contributions held in trust.** Each covered employer must transmit employee  
4.2 payroll deduction contributions to an account established for the benefit of the covered  
4.3 employee in a trust established to hold contributions under the program.

4.4 Subd. 4. **Contribution rate.** (a) The board must establish default, minimum, and  
4.5 maximum employee contribution rates and an escalation schedule to automatically increase  
4.6 each covered employee's contribution rate annually until the contribution rate is equal to  
4.7 the maximum contribution rate.

4.8 (b) A covered employee must have the right, annually or more frequently as determined  
4.9 by the board, to change the contribution rate, opt out or elect not to contribute, or cease  
4.10 contributions.

4.11 Subd. 5. **Vesting.** Covered employees are 100 percent vested in their accounts at all  
4.12 times.

4.13 Subd. 6. **Withdrawals and distributions.** The board must establish alternatives  
4.14 permitting covered employees to take a withdrawal of all or a portion of the covered  
4.15 employee's account while employed and one or more distributions following termination  
4.16 of employment. Distribution alternatives must include lifetime income options.

4.17 Subd. 7. **Individuals not employed by a covered employer.** The board may allow  
4.18 individuals to open and contribute to an account in the program, in which case the individual  
4.19 shall be considered a covered employee for purposes of sections 187.05 to 187.11.

4.20 Subd. 8. **Employee leasing companies.** (a) For purposes of this chapter, in the case of  
4.21 a taxpaying employer described in section 268.046 that contracts with an employee leasing  
4.22 company, professional employer organization, or other similar entity to obtain workers for  
4.23 the taxpaying employer from the entity for a fee, the workers covered by the contract must  
4.24 be treated as employed by the taxpaying employer and not by the entity, except that if the  
4.25 entity provides the workers with a retirement savings plan, the taxpaying employer is not  
4.26 a covered employer.

4.27 (b) A covered employer that is a taxpaying employer described in section 268.046 may  
4.28 contract with an employee leasing company, professional employer organization, or other  
4.29 similar entity to assist the taxpaying employer with the performance of some or all of the  
4.30 taxpaying employer's responsibilities under this chapter.

5.1       Sec. 4. **[187.06] ESTABLISHMENT OF SECURE CHOICE TRUST AND**  
5.2 **ADMINISTRATIVE FUND; EMPLOYEE ACCOUNTS; INVESTMENTS.**

5.3       Subdivision 1. **Secure Choice trust established.** The Secure Choice trust is established  
5.4 as an instrumentality of the state to hold employee payroll deduction contributions and  
5.5 earnings on the contributions. The board must appoint a financial institution to act as trustee  
5.6 or custodian. The trustee or custodian must manage and administer trust assets for the  
5.7 exclusive purposes of providing benefits and defraying reasonable expenses of administering  
5.8 the program.

5.9       Subd. 2. **Secure Choice administrative fund established; money appropriated.** (a)  
5.10 The Secure Choice administrative fund is established in the state treasury as a fund separate  
5.11 and apart from the Secure Choice trust.

5.12       (b) The board of directors may assess administrative fees on each covered employee's  
5.13 account to be applied toward the expenses of administering the program. Money in the  
5.14 administrative fund is appropriated to the board to pay administrative expenses of  
5.15 administering the program if fees from the trust are not sufficient to cover expenses. The  
5.16 board must determine which administrative expenses will be paid using money in the  
5.17 administrative fund and which administrative expenses will be paid using money in the trust  
5.18 in the exercise of its fiduciary duty.

5.19       (c) The board may receive and deposit into the administrative fund any gifts, grants,  
5.20 donations, loans, appropriations, or other moneys designated for the administrative fund  
5.21 from the state, any unit of federal or local government, any other entity, or any person.

5.22       (d) Any interest or investment earnings that are attributable to money in the administrative  
5.23 fund must be deposited into the administrative fund.

5.24       Subd. 3. **Individual accounts established.** The trustee or custodian, as applicable, must  
5.25 maintain an account for employee payroll deduction contributions with respect to each  
5.26 covered employee. Interest and earnings on the amount in the account are credited to the  
5.27 account and losses are deducted.

5.28       Subd. 4. **Investments.** The board must make available for investment a diversified array  
5.29 of investment funds selected by the State Board of Investment. Members of the board, the  
5.30 executive director and members of the State Board of Investment, and all other fiduciaries  
5.31 are relieved of fiduciary responsibility for investment losses resulting from a covered  
5.32 employee's investment directions. Each covered employee is entitled to direct the investment  
5.33 of the contributions credited to the covered employee's account in the trust and earnings on  
5.34 the contributions into the array of investment funds selected by the State Board of Investment.

6.1 Subd. 5. **Default investment fund.** The board must designate a default investment fund  
6.2 that is diversified to minimize the risk of large losses and consists of target date funds, a  
6.3 balanced fund, a capital preservation fund, or any combination of the foregoing funds.  
6.4 Accounts for which no investment direction has been given by the covered employee must  
6.5 be invested in the default investment fund. Members of the board, the executive director of  
6.6 the State Board of Investment, and all other fiduciaries are relieved of fiduciary duty with  
6.7 regard to investment of assets in the default investment fund.

6.8 Subd. 6. **Inalienability of accounts.** No account under the program is subject to  
6.9 assignment or alienation, either voluntarily or involuntarily, or to the claims of creditors,  
6.10 except as provided in section 518.58.

6.11 Subd. 7. **Accounts not property of the state or covered employers.** The assets of the  
6.12 Secure Choice trust shall be preserved, invested, and expended solely for the purposes of  
6.13 the trust and no property rights in the trust assets shall exist in favor of the state or any  
6.14 covered employer. The assets of the Secure Choice trust shall not be transferred or used by  
6.15 the state for any purpose other than the purposes of the trust, including reasonable  
6.16 administrative expenses of the program. Amounts deposited in the trust shall not constitute  
6.17 property of the state and shall not be commingled with state funds, and the state shall have  
6.18 no claim to or against, or interest in, the assets of the Secure Choice trust.

6.19 **Sec. 5. [187.07] RESPONSIBILITIES OF COVERED EMPLOYERS.**

6.20 Subdivision 1. **Requirement to enroll employees.** Each covered employer must enroll  
6.21 its covered employees in the program and withhold payroll deduction contributions from  
6.22 each covered employee's paycheck, unless the covered employee has elected not to contribute.

6.23 Subd. 2. **Remitting contributions.** A covered employer must timely remit contributions  
6.24 as required by the board.

6.25 Subd. 3. **Distribution of information.** Covered employers must provide information  
6.26 prepared by the board to all covered employees regarding the program. The information  
6.27 must be provided to each covered employee at least 30 days prior to the date of the first  
6.28 paycheck from which employee contributions could be deducted for transmittal to the  
6.29 program, if the covered employee does not elect to opt out of the program.

6.30 Subd. 4. **No fiduciary responsibility.** Except for the responsibilities described in  
6.31 subdivisions 1 to 3, a covered employer has no obligations to covered employees and is not  
6.32 a fiduciary for any purpose under the program or in connection with the Secure Choice

7.1 trust. Covered employers are not responsible for the administration, investment performance,  
7.2 plan design, or benefits paid to covered employees.

7.3 Subd. 5. **Employer liability.** A covered employer is not liable to a covered employee  
7.4 for damages alleged to have resulted from a covered employee's participation in or failure  
7.5 to participate in the program.

7.6 Subd. 6. **Enforcement.** (a) The board may impose statutory civil penalties against any  
7.7 covered employer that fails to comply with subdivisions 1, 2, and 3.

7.8 (b) At the request of the board, the attorney general shall enforce the penalties imposed  
7.9 by the board against a covered employer. Proceeds of such penalties, after deducting  
7.10 enforcement expenses, must be deposited in the Secure Choice administrative fund and are  
7.11 appropriated to the program.

7.12 (c) The board must provide covered employers with written warnings for the first year  
7.13 of noncompliance before assessing penalties.

7.14 Sec. 6. **[187.08] SECURE CHOICE RETIREMENT PROGRAM BOARD OF**  
7.15 **DIRECTORS.**

7.16 Subdivision 1. **Membership.** The policy-making function of the program is vested in a  
7.17 board of directors consisting of seven members as follows:

7.18 (1) the executive director of the Minnesota State Retirement System or the executive  
7.19 director's designee;

7.20 (2) the executive director of the State Board of Investment or the executive director's  
7.21 designee;

7.22 (3) three members chosen by the Legislative Commission on Pensions and Retirement,  
7.23 one from each of the following experience categories:

7.24 (i) executive or operations manager with substantial experience in record keeping 401(k)  
7.25 plans;

7.26 (ii) executive or operations manager with substantial experience in individual retirement  
7.27 accounts; and

7.28 (iii) executive or other professional with substantial experience in retirement plan  
7.29 investments;

8.1 (4) a human resources or retirement benefits executive from a private company with  
8.2 substantial experience in administering the company's 401(k) plan, appointed by the governor;  
8.3 and

8.4 (5) a small business owner or executive appointed by the governor.

8.5 Subd. 2. **Appointment.** Members appointed by the governor must be appointed as  
8.6 provided in section 15.0597.

8.7 Subd. 3. **Membership terms.** (a) Board members serve for two-year terms, except for  
8.8 the executive directors of the Minnesota State Retirement System and the State Board of  
8.9 Investment, who serve indefinitely.

8.10 (b) Board members' terms may be renewed, but no member may serve more than two  
8.11 consecutive terms.

8.12 Subd. 4. **Resignation; removal; vacancies.** (a) A board member may resign at any time  
8.13 by giving written notice to the board.

8.14 (b) A board member may be removed by the appointing authority and a majority vote  
8.15 of the board following notice and hearing before the board. For purposes of this subdivision,  
8.16 the chair may invite the appointing authority or a designee of the appointing authority to  
8.17 serve as a voting member of the board if necessary to constitute a quorum.

8.18 (c) If a vacancy occurs, the Legislative Commission on Pensions and Retirement or the  
8.19 governor, as applicable, shall appoint a new member within 90 days.

8.20 Subd. 5. **Compensation.** Public members are compensated and expenses reimbursed as  
8.21 provided under section 15.0575, subdivision 3.

8.22 Subd. 6. **Chair.** The board shall select a chair from among its members. The chair shall  
8.23 serve a two-year term. The board may select other officers as necessary to assist the board  
8.24 in performing the board's duties.

8.25 Subd. 7. **Executive director; staff.** The board must appoint an executive director,  
8.26 determine the duties of the director, and set the compensation of the executive director. The  
8.27 board may also hire staff as necessary to support the board in performing its duties.

8.28 Subd. 8. **Duties.** In addition to the duties set forth elsewhere in this chapter, the board  
8.29 has the following duties:

8.30 (1) to establish secure processes for enrolling covered employees in the program and  
8.31 for transmitting employee and employer contributions to accounts in the trust;

- 9.1 (2) to prepare a budget and establish procedures for the payment of costs of administering  
9.2 and operating the program;
- 9.3 (3) to lease or otherwise procure equipment necessary to administer the program;
- 9.4 (4) to procure insurance in connection with the property of the program and the activities  
9.5 of the board, executive director, and other staff;
- 9.6 (5) to determine the following:
- 9.7 (i) any criteria for a covered employee other than employment with a covered employer  
9.8 under section 187.03, subdivision 5;
- 9.9 (ii) contribution rates and an escalation schedule under section 187.05, subdivision 4;
- 9.10 (iii) withdrawal and distribution options under section 187.05, subdivision 6; and
- 9.11 (iv) the default investment fund under section 187.06, subdivision 5;
- 9.12 (6) to keep annual administrative fees, costs, and expenses as low as possible:
- 9.13 (i) except that any administrative fee assessed against the accounts of covered employees  
9.14 may not exceed a reasonable amount relative to the fees charged by auto-IRA or defined  
9.15 contribution programs of similar size in the state of Minnesota or another state; and
- 9.16 (ii) the fee may be asset-based, flat fee, or a hybrid combination of asset-based and flat  
9.17 fee;
- 9.18 (7) to determine the eligibility of an employer, employee, or other individual to participate  
9.19 in the program and review and decide claims for benefits and make factual determinations;
- 9.20 (8) to prepare information regarding the program that is clear and concise for  
9.21 dissemination to all covered employees and includes the following:
- 9.22 (i) the benefits and risks associated with participating in the program;
- 9.23 (ii) procedures for enrolling in the program and opting out of the program, electing a  
9.24 different or zero percent employee contribution rate, making investment elections, applying  
9.25 for a distribution of employee accounts, and making a claim for benefits;
- 9.26 (iii) the federal and state income tax consequences of participating in the program, which  
9.27 may consist of or include the disclosure statement required to be distributed by retirement  
9.28 plan trustees or custodians under the Internal Revenue Code and the Treasury Regulations  
9.29 thereunder;
- 9.30 (iv) how to obtain additional information on the program; and

10.1 (v) disclaimers of covered employer and state responsibility, including the following  
10.2 statements:

10.3 (A) covered employees seeking financial, investment, or tax advice should contact their  
10.4 own advisors;

10.5 (B) neither a covered employer nor the state of Minnesota are liable for decisions covered  
10.6 employees make regarding their account in the program;

10.7 (C) neither a covered employer nor the state of Minnesota guarantees the accounts in  
10.8 the program or any particular investment rate of return; and

10.9 (D) neither a covered employer nor the state of Minnesota monitors or has an obligation  
10.10 to monitor any covered employee's eligibility under the Internal Revenue Code to make  
10.11 contributions to an account in the program, or whether the covered employee's contributions  
10.12 to an account in the program exceed the maximum permissible contribution under the  
10.13 Internal Revenue Code;

10.14 (9) to publish an annual financial report, prepared according to generally accepted  
10.15 accounting principles, on the operations of the program, which must include but not be  
10.16 limited to costs attributable to the use of outside consultants, independent contractors, and  
10.17 other persons who are not state employees and deliver the report to the chairs and ranking  
10.18 minority members of the legislative committees with jurisdiction over jobs and economic  
10.19 development and state government finance, the executive directors of the State Board of  
10.20 Investment and the Legislative Commission on Pensions and Retirement, and the Legislative  
10.21 Reference Library;

10.22 (10) to publish an annual report regarding plan outcomes, progress toward savings goals  
10.23 established by the board, statistics on the number of participants, participating employers,  
10.24 and covered employees who have opted out of participation, plan expenses, estimated impact  
10.25 of the program on social safety net programs, and penalties and violations, and disciplinary  
10.26 actions for enforcement, and deliver the report to the chairs and ranking minority members  
10.27 of the legislative committees with jurisdiction over jobs and economic development and  
10.28 state government finance, the executive directors of the State Board of Investment and the  
10.29 Legislative Commission on Pensions and Retirement, and the Legislative Reference Library;

10.30 (11) to file all reports required under the Internal Revenue Code or chapter 290;

10.31 (12) to, at the board's discretion, seek and accept gifts, grants, and donations to be used  
10.32 for the program, unless such gifts, grants, or donations would result in a conflict of interest

11.1 relating to the solicitation of service provider for program administration, and deposit such  
11.2 gifts, grants, or donations in the Secure Choice administrative fund;

11.3 (13) to, at the board's discretion, seek and accept appropriations from the state or loans  
11.4 from the state or any agency of the state;

11.5 (14) to assess the feasibility of partnering with another state or a governmental subdivision  
11.6 of another state to administer the program through shared administrative resources and, if  
11.7 determined beneficial, enter into contracts, agreements, memoranda of understanding, or  
11.8 other arrangements with any other state or an agency or subdivision of any other state to  
11.9 administer, operate, or manage any part of the program, which may include combining  
11.10 resources, investments, or administrative functions;

11.11 (15) to hire, retain, and terminate third-party service providers as the board deems  
11.12 necessary or desirable for the program, including but not limited to the trustees, consultants,  
11.13 investment managers or advisors, custodians, insurance companies, recordkeepers,  
11.14 administrators, consultants, actuaries, legal counsel, auditors, and other professionals,  
11.15 provided that each service provider is authorized to do business in the state;

11.16 (16) to interpret the program's governing documents and this chapter and make all other  
11.17 decisions necessary to administer the program;

11.18 (17) to conduct comprehensive employer and worker education and outreach regarding  
11.19 the program that reflect the cultures and languages of the state's diverse workforce population,  
11.20 which may, in the board's discretion, include collaboration with state and local government  
11.21 agencies, community-based and nonprofit organizations, foundations, vendors, and other  
11.22 entities deemed appropriate to develop and secure ongoing resources; and

11.23 (18) to prepare notices for delivery to covered employees regarding the escalation  
11.24 schedule and to each covered employee before the covered employee is subject to an  
11.25 automatic contribution increase.

11.26 Subd. 9. **Rules.** The board of directors is authorized to adopt rules as necessary to  
11.27 implement this chapter.

11.28 Subd. 10. **Conflict of interest; economic interest statement.** No member of the board  
11.29 may participate in deliberations or vote on any matter before the board that will or is likely  
11.30 to result in direct, measurable economic gain to the member or the member's family. Members  
11.31 of the board shall file with the Campaign Finance and Public Disclosure Board an economic  
11.32 interest statement in a manner as prescribed by section 10A.09, subdivisions 5 and 6.

12.1 **Sec. 7. [187.09] FIDUCIARY DUTY; STANDARD OF CARE.**

12.2 (a) The members of the board, the executive director of the program, the executive  
12.3 director and members of the State Board of Investment, and any person who controls the  
12.4 disposition or investment of the assets of the Secure Choice trust:

12.5 (1) owe a fiduciary duty to the covered employees who participate in the program and  
12.6 their beneficiaries;

12.7 (2) must administer the program solely for the exclusive benefit of such covered  
12.8 employees and their beneficiaries, and for the exclusive purpose of providing benefits and  
12.9 paying reasonable plan expenses;

12.10 (3) are subject to the standard of care established in section 356A.04, subdivision 2; and

12.11 (4) are indemnified and held harmless by the state of Minnesota for the reasonable costs,  
12.12 expenses, or liability incurred as a result of any actual or threatened litigation or  
12.13 administrative proceeding arising out of the performance of the person's duties.

12.14 (b) Except as otherwise established in this chapter, the fiduciaries under paragraph (a)  
12.15 owe no other duty to covered employees, express or implied, in common law or otherwise.

12.16 **Sec. 8. [187.10] NO STATE LIABILITY.**

12.17 The state has no liability for the payment of, the amount of, or losses to any benefit to  
12.18 any participant in the program.

12.19 **Sec. 9. [187.11] OTHER STATE AGENCIES TO PROVIDE ASSISTANCE.**

12.20 (a) The board may enter into intergovernmental agreements with the commissioner of  
12.21 revenue, the commissioner of labor and industry, and any other state agency that the board  
12.22 deems necessary or appropriate to provide outreach, technical assistance, or compliance  
12.23 services. An agency that enters into an intergovernmental agreement with the board pursuant  
12.24 to this section must collaborate and cooperate with the board to provide the outreach,  
12.25 technical assistance, or compliance services under any such agreement.

12.26 (b) The commissioner of administration must provide office space in the Capitol complex  
12.27 for the executive director and staff of the program.

13.1 Sec. 10. **MINNESOTA SECURE CHOICE RETIREMENT PROGRAM; START**  
13.2 **OF OPERATIONS.**

13.3 **Subdivision 1. Program start; phasing.** (a) The board of directors of the Minnesota  
13.4 Secure Choice retirement program must begin operation of the secure choice retirement  
13.5 program under Minnesota Statutes, section 187.05, no earlier than January 1, 2025.

13.6 (b) The board of directors must open the program in phases, and the last phase must be  
13.7 opened no later than two years after the opening of the first phase.

13.8 **Subd. 2. Board appointments; first meeting.** Appointing authorities must make  
13.9 appointments to the board of directors under Minnesota Statutes, section 187.08, by January  
13.10 15, 2024. The Legislative Commission on Pensions and Retirement must designate one  
13.11 member of the board to convene the first meeting of the board of directors, which must  
13.12 occur by March 1, 2024. At the first meeting, the board shall elect a chair.

13.13 Sec. 11. **BOARD SUPPORT UNTIL APPOINTMENT OF EXECUTIVE DIRECTOR.**

13.14 With the assistance of the Legislative Coordinating Commission, the executive director  
13.15 of the Legislative Commission on Pensions and Retirement must:

13.16 (1) provide notice to members of the board regarding the first meeting of the board and  
13.17 work with the member designated under section 10, subdivision 2, to determine the agenda  
13.18 and provide meeting support; and

13.19 (2) serve as the interim executive director to assist the board until the board completes  
13.20 the search, recruitment, and interview process and appoints the executive director under  
13.21 Minnesota Statutes, section 187.08, subdivision 8.

13.22 Sec. 12. **BOARD TO RECOMMEND PENALTIES TO THE LEGISLATIVE**  
13.23 **COMMISSION ON PENSIONS AND RETIREMENT.**

13.24 No later than December 31, 2024, the board of directors of the Minnesota Secure Choice  
13.25 retirement program must recommend to the Legislative Commission on Pensions and  
13.26 Retirement penalties for failure by covered employers to comply with Minnesota Statutes,  
13.27 section 187.07, subdivisions 1, 2, and 3. The penalties for a failure to comply with Minnesota  
13.28 Statutes, section 187.07, subdivision 2, must be commensurate with penalties for failure to  
13.29 remit state payroll taxes and, for any other compliance failure, commensurate with penalties  
13.30 under similar programs in other states. The Legislative Commission on Pensions and  
13.31 Retirement must accept or modify the recommendation and recommend legislation for  
13.32 passage during the 2025 legislative session.

14.1 Sec. 13. **TRANSFER.**

14.2 \$5,000,000 in fiscal year 2024 is transferred from the general fund to the Secure Choice  
14.3 administrative fund established under Minnesota Statutes, section 187.06, to establish and  
14.4 administer the Secure Choice retirement program.

14.5 Sec. 14. **EFFECTIVE DATE.**

14.6 Sections 1 to 4 and 6 to 13 are effective the day following final enactment. Section 5 is  
14.7 effective the day after the Secure Choice retirement program board of directors opens the  
14.8 Secure Choice retirement savings program for enrollment of covered employees.