A bill to create the secure retirement savings program to provide retirement saving options for certain employees; to create the secure retirement savings board and prescribe its powers and duties; to provide for the powers and duties of certain governmental officers and entities; to require participation in the program by certain employers; to create the secure retirement savings program fund as a trust fund outside the state treasury consisting of employee retirement accounts; to establish the Michigan secure retirement administrative fund to pay program administrative expenses; to provide for civil fines; and to require the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "retirement savings program act".
Sec. 2. As used in this act:

(a) "Board" means the secure retirement savings board established in section 6.

(b) "Department" means the department of treasury.

(c) "Director" means the state treasurer.

(d) "Employee" means an individual who is 18 years of age or older, is employed by an employer, and has wages allocable to this state during the calendar year for purposes of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713.

(e) "Employer" means a person or entity engaged in a for-profit or nonprofit business, industry, profession, trade, or other enterprise in this state, that has continuously during the previous calendar year employed not fewer than 25 employees in this state, has been in business at least 2 years, and has not offered a qualified retirement plan, including, but not limited to, a plan qualified under section 401(a), section 401(k), section 403(a), section 403(b), section 408(k), section 408(p), or section 457(b) of the internal revenue code of 1986, 26 USC 401, 403, 408, and 457, in the preceding 2 years.

(f) "Enrollee" means an employee who is enrolled in the program.

(g) "Fund" means the Michigan secure retirement savings program fund.

(h) "Internal revenue code" means the internal revenue code of 1986.

(i) "IRA" means a Roth individual retirement account under section 408A of the internal revenue code, 26 USC 408A.
(j) "Participating employer" means an employer or small employer that provides a payroll deposit retirement savings arrangement as provided for by this act for its employees who are enrollees in the program.

(k) "Payroll deposit retirement savings arrangement" means an arrangement by which a participating employer allows enrollees to remit payroll deduction contributions to the program.

(l) "Program" means the Michigan secure retirement savings program.

(m) "Small employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in this state, whether for profit or not for profit, that employed fewer than 25 employees in this state at any time in the previous calendar year or has been in business less than 2 years, and that notifies the department that it is interested in being a participating employer.

(n) "Wages" means any compensation within the meaning of section 219(f)(1) of the internal revenue code, 26 USC 219, that is received by an enrollee from a participating employer during the calendar year.

Sec. 3. A retirement savings program in the form of an automatic enrollment payroll deduction IRA, known as the Michigan secure retirement savings program, is established in the department. The board shall administer the program for the purpose of promoting greater retirement savings for private-sector employees in a convenient, low-cost, and portable manner.

Sec. 4. (1) The secure retirement savings program fund is
established as a trust outside of the state treasury, with the board as its trustee. The fund includes the individual retirement accounts of enrollees, which must be maintained as individual accounts. The fund consists of money received from enrollees and participating employers through automatic payroll deductions and contributions made under this act. The fund must be operated in a manner determined by the board so that the accounts of enrollees established under the program meet the requirements for IRAs under the internal revenue code.

(2) The money deposited in the fund is not property of this state, and the fund must not be construed to be a department, institution, or agency of this state. Money in the fund must not be commingled with state money, and this state has no claim to or against, or interest in, the money in the fund.

Sec. 5. The secure retirement administrative fund is created as a separate trust fund in the state treasury and is continuously appropriated for the authorized purposes of the fund. The board shall use money in the secure retirement administrative fund to pay for administrative expenses it incurs in the performance of its duties under this act. The board shall use money in the secure retirement administrative fund to cover start-up administrative expenses it incurs in the performance of its duties under this act. The secure retirement administrative fund may receive grants or other money designated for administrative purposes from this state; a unit of federal or local government; or any other person, firm, partnership, or corporation. Any interest or earnings attributable to money in the secure retirement administrative fund must be
deposited into the secure retirement administrative fund.

Sec. 6. (1) There is created in the department the secure retirement savings board. The board consists of the following 7 members:

(a) The state treasurer, or his or her designee, who shall serve as chair.
(b) A designee of the state treasurer.
(c) The director of the department of technology, management, and budget or his or her designee.
(d) Two public representatives with expertise in retirement savings plan administration or investment, or both, appointed by the governor.
(e) A representative of participating employers, appointed by the governor.
(f) A representative of enrollees, appointed by the governor.

(2) Members of the board serve without compensation but may be reimbursed for necessary travel expenses incurred in connection with their board duties from money appropriated for the purpose.

(3) The initial appointments for the governor's appointees are as follows: 1 public representative for 4 years; 1 public representative for 2 years; the representative of participating employers for 3 years; and the representative of enrollees for 1 year. Subsequent appointments are for terms of 4 years.

(4) A vacancy in the term of an appointed board member is filled for the balance of the unexpired term in the same manner as the original appointment.

(5) Each appointment by the governor is subject to the advice
and consent of the senate. For a vacancy during a recess of the
senate, the governor shall make a temporary appointment until the
next meeting of the senate, at which time the governor shall
appoint a person to fill the office. Any appointment that has not
been acted on by the senate within 60 session days after receipt of
notice of the appointment is considered to have received the advice
and consent of the senate.

Sec. 7. The board, the individual members of the board, the
trustee appointed under section 8(b), any other agents appointed or
engaged by the board, and all persons serving as program staff
shall discharge their duties with respect to the program solely in
the interest of the program's enrollees and beneficiaries as
follows:

(a) For the exclusive purposes of providing benefits to
enrollees and beneficiaries and defraying reasonable expenses of
administering the program.

(b) By investing with the care, skill, prudence, and diligence
under the prevailing circumstances that a prudent person acting in
a like capacity and familiar with those matters would use in the
conduct of an enterprise of a like character and with like aims.

(c) By using any contributions paid by employees and employers
into the trust exclusively for the purpose of paying benefits to
the enrollees of the program, for the cost of administration of the
program, and for investments made for the benefit of the program.

Sec. 8. In addition to the other duties and responsibilities
stated in this act, the board shall do all of the following:

(a) Cause the program to be designed, established, and
operated in a manner that does all of the following:

(i) Accords with best practices for retirement savings vehicles.

(ii) Maximizes participation, savings, and sound investment practices.

(iii) Maximizes simplicity, including ease of administration for participating employers and enrollees.

(iv) Provides an efficient product to enrollees by pooling investment funds.

(v) Ensures the portability of benefits.

(vi) Provides for the deaccumulation of enrollee assets in a manner that maximizes financial security in retirement.

(b) Appoint a trustee to the fund in compliance with section 408 of the internal revenue code, 26 USC 408.

(c) Explore and establish investment options, subject to section 11, that offer employees returns on contributions and the conversion of individual retirement savings account balances to secure retirement income without incurring debt or liabilities to this state.

(d) Establish the process by which interest, investment earnings, and investment losses are allocated to individual program accounts on a pro rata basis and are computed at the interest rate on the balance of an individual's account.

(e) Make and enter into contracts necessary for the administration of the program and fund, including, but not limited to, retaining and contracting with investment managers, private financial institutions, other financial and service providers,
consultants, actuaries, counsel, auditors, third-party administrators, and other professionals as necessary.

(f) Conduct a review of the performance of any investment vendors every 4 years, including, but not limited to, a review of returns, fees, and customer service. A copy of reviews conducted under this subdivision must be posted to the board's Internet website.

(g) Determine the number and duties of staff members needed to administer the program and assemble the staff, including, as needed, employing staff, appointing a program administrator, and entering into contracts with the state treasurer to make employees of the state treasurer's office available to administer the program.

(h) Cause money in the fund to be held and invested as pooled investments described in section 11, with a view to achieving cost savings through efficiencies and economies of scale.

(i) Evaluate and establish the process by which an enrollee is able to contribute a portion of his or her wages to the program for automatic deposit of those contributions and the process by which the participating employer provides a payroll deposit retirement savings arrangement to forward those contributions and related information to the program, including, but not limited to, contracting with financial service companies and third-party administrators with the capability to receive and process employee information and contributions for payroll deposit retirement savings arrangements or similar arrangements.

(j) Design and establish the process for enrollment under
section 14, including the process by which an employee can opt not
to participate in the program, select a contribution level, select
an investment option, and terminate participation in the program.

(k) Evaluate and establish the process by which an individual
may voluntarily enroll in and make contributions to the program.

(l) Accept any grants, appropriations, or other money from
this state, any unit of federal, state, or local government, or any
other person, firm, partnership, or corporation solely for deposit
into the fund, whether for investment or administrative purposes.

(m) Evaluate the need for, and procure as needed, insurance
against any and all loss in connection with the property, assets,
or activities of the program, and indemnify as needed each member
of the board from personal loss or liability resulting from a
member's action or inaction as a member of the board.

(n) Make provisions for paying administrative costs and
expenses for the creation, management, and operation of the
program, including the costs associated with subdivisions (e), (g),
(i), and (m) and sections 6(2), 11(2), 18(1), and 19(13). Subject
to appropriation, the state may pay administrative costs associated
with the creation and management of the program until sufficient
assets are available in the fund for that purpose. Then, all
administrative costs of the fund, including repayment of any start-
up funds provided by the state, must be paid only out of money on
deposit in the fund. However, private money or federal funding
received under subdivision (l) to implement the program until the
fund is self-sustaining shall not be repaid unless that money was
offered contingent upon the promise of repayment. The board shall
keep annual administrative expenses as low as possible and shall not exceed 0.75% of the total trust balance.

(o) Allocate administrative fees pro rata to individual retirement accounts in the program.

(p) Set minimum and maximum contribution levels in accordance with limits established for IRAs in the internal revenue code.

(q) Facilitate education and outreach to employers and employees.

(r) Facilitate program compliance with all applicable requirements under the internal revenue code, including tax qualification requirements or any other applicable law and accounting requirements.

(s) Carry out the duties and obligations of the program in an effective, efficient, and low-cost manner.

(t) Exercise any and all other powers reasonably necessary to effectuate the program purposes and objectives.

(u) Deposit into the Michigan secure retirement administrative fund all grants, gifts, donations, fees, and earnings from investments from the Michigan secure retirement savings program fund that are used to recover administrative costs. All expenses of the board must be paid from the Michigan secure retirement administrative fund.

Sec 9. The board shall annually prepare and adopt a written statement of investment policy that includes a risk management and oversight program. The investment policy must prohibit the board, program, and fund from borrowing for investment purposes. The risk management and oversight program must be designed to ensure that an
An effective risk management system is in place to monitor the risk levels of the program and fund portfolio, to ensure that the risks taken are prudent and properly managed, to provide an integrated process for overall risk management, and to assess investment returns and risk to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards. The board shall consider the statement of investment policy and any changes in the investment policy at a public hearing.

Sec. 10. (1) The board may engage, after an open bid process, an investment manager or managers to invest the fund and any other assets of the program. Money in the fund may be invested or reinvested by the state treasurer's office or may be invested in whole or in part under contract with private investment managers selected by the board. In selecting the investment manager or managers, the board shall take into consideration the investment manager's fees and charges to reduce the program's administrative expenses.

(2) The investment manager or managers shall comply with all applicable federal and state laws, rules, and regulations, and all rules, policies, and guidelines promulgated by the board with respect to the program and the investment of the fund, including, but not limited to, the investment policy.

(3) The investment manager or managers shall provide the reports the board considers necessary for the board to oversee each investment manager's performance and the performance of the fund.

Sec. 11. (1) The board shall establish as an investment option
a life-cycle fund with a target date based on the age of the enrollee. This option is the default investment for enrollees who fail to elect an investment option unless and until the board designates by rule a new investment option as the default as described in subsection (3).

(2) The board may establish any of the following additional investment options:

(a) A conservative principal protection fund.

(b) A growth fund.

(c) A secure return fund whose primary objective is the preservation of the safety of principal and the provision of a stable and low-risk rate of return. If the board elects to establish a secure return fund, the board may procure any insurance, annuity, or other product to insure the value of individuals' accounts and guarantee a rate of return. The cost of the funding mechanism must be paid out of the fund. The board, the program, the fund, this state, or any participating employer shall not assume any liability for investment or actuarial risk. The board shall determine whether to establish investment options based on an analysis of their cost, risk profile, benefit level, feasibility, and ease of implementation.

(d) An annuity fund.

(3) If the board elects to establish a secure return fund, the board shall then determine whether that option will be designated to replace the target date or life-cycle fund as the default investment option for enrollees who do not elect an investment option. In making the determination, the board shall consider the
cost, risk profile, benefit level, and ease of enrollment in the
secure return fund. The board may at any time revisit the question
and, based on an analysis of the criteria, establish either the
secure return fund or the life-cycle fund as the default for
enrollees who do not elect an investment option.

Sec. 12. Interest, investment earnings, and investment losses
must be allocated to individual program accounts as established by
the board under section 8(d). An individual's retirement savings
benefit under the program must be an amount equal to the balance in
the individual's program account on the date the retirement savings
benefit becomes payable. The state is not liable for any payment of
benefits to any participant in the program.

Sec. 13. (1) Before opening the program for enrollment, the
board shall design and disseminate to all employers an employer
information packet and an employee information packet. The employer
information packet and employee information packet must include
background information on the program, appropriate disclosures for
employees, and information regarding the vendor Internet website
described in section 14(10).

(2) The board shall provide for the contents of both the
employee information packet and the employer information packet.

(3) The employee information packet must include a disclosure
form. The disclosure form must explain, but not be limited to, all
of the following:

(a) The benefits and risks associated with making
contributions to the program.

(b) The mechanics of how to make contributions to the program.
(c) How to opt out of the program.

(d) How to participate in the program with a level of employee contributions other than 3%.

(e) The process for withdrawing retirement savings.

(f) How to obtain additional information about the program.

(g) That employees seeking financial advice should contact financial advisors, that participating employers are not in a position to provide financial advice, and that participating employers are not liable for decisions employees make under this act.

(h) That the program is not an employer-sponsored retirement plan.

(i) That the program fund is not guaranteed by this state.

(4) The employee information packet must also include a form for an employee to note his or her decision to opt out of participation in the program or elect to participate with a level of employee contributions other than 3%.

(5) Participating employers shall supply the employee information packet to employees on launch of the program. Participating employers shall supply the employee information packet to new employees at the time of hiring, and new employees may opt out of participation in the program or elect to participate with a level of employee contributions other than 3% at that time.

Sec. 14. (1) Except as otherwise provided in section 21, the program must be implemented and enrollment of employees must begin within 24 months after the effective date of this act. Subsections (2) to (9) apply after the board opens the program for enrollment.
(2) An employer shall establish a payroll deposit retirement savings arrangement to allow each employee to participate in the program within 9 months after the board opens the program for enrollment.

(3) Employers shall automatically enroll in the program each of their employees who has not opted out of participation in the program using the process described in section 13(3) and shall provide payroll deduction retirement savings arrangements for those employees and deposit the money into the program on their behalf. Small employers may provide payroll deduction retirement savings arrangements for each employee who elects to participate in the program.

(4) Enrollees may select a contribution level into the fund. The level may be expressed as a percentage of wages or as a dollar amount up to the deductible amount for the enrollee's taxable year under section 219(b)(1)(A) of the internal revenue code, 26 USC 219. An enrollee may change his or her contribution level at any time, subject to rules promulgated by the board. If an enrollee fails to select a contribution level using the process described in section 13(3), he or she shall contribute 3% of his or her wages to the program, but the contributions must not cause the enrollee's total contributions to IRAs for the year to exceed the deductible amount for the enrollee's taxable year under section 219(b)(1)(A) of the internal revenue code, 26 USC 219.

(5) Enrollees may select an investment option from the permitted investment options listed in section 11. Enrollees may change their investment option at any time, subject to rules
promulgated by the board. If an enrollee fails to select an investment option, the enrollee must be placed in the investment option selected by the board as the default under section 11(3). If the board has not selected a default investment option under section 11(3), an enrollee who fails to select an investment option must be placed in the life-cycle fund investment option.

(6) Following initial implementation of the program under this section, at least once every year, participating employers shall designate an open enrollment period during which employees who previously opted out of the program may enroll in the program.

(7) An employee who has opted out of the program and subsequently wants to participate through the participating employer's payroll deposit retirement savings arrangement may enroll only during the participating employer's designated open enrollment period or, if permitted by the participating employer, at an earlier time.

(8) Employers retain the option to set up any type of employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee Pension Plan (SEP), or Savings Incentive Match Plan for Employees (SIMPLE) plan, or to offer an automatic enrollment payroll deduction IRA, instead of having a payroll deposit retirement savings arrangement to allow employee participation in the program.

(9) An employee may terminate his or her participation in the program at any time in a manner prescribed by the board.

(10) The board shall establish and maintain an Internet website designed to assist employers in identifying private sector
providers of retirement arrangements that can be set up by the employer rather than allowing employee participation in the program under this act. However, the board shall only establish and maintain an Internet website under this subsection if private sector providers show sufficient interest in the website and furnish the funding necessary to establish and maintain it. The board shall provide public notice of the availability of and the process for inclusion on the Internet website before it becomes publicly available. If established, the Internet website must be available to the public before the board opens the program for enrollment, and the Internet website address must be included on any Internet website posting or other materials regarding the program offered to the public by the board.

Sec. 15. Employee contributions deducted by the participating employer through payroll deduction must be paid by the participating employer to the fund using 1 or more payroll deposit retirement savings arrangements established by the board under section 8(i), by 1 of the following times:

(a) On or before the last day of the month following the month in which the compensation otherwise would have been payable to the employee in cash.

(b) Before a later deadline prescribed by the board for making the payments, but not later than the due date for the deposit of tax required to be deducted and withheld relating to collection of income tax at source on wages or for the deposit of tax required to be paid under the employment security insurance system for the payroll period to which the payments relate.
Sec. 16. (1) This state has no duty and is not liable to a party for the payment of any retirement savings benefits accrued by a individual under the program. Any financial liability for the payment of retirement savings benefits in excess of money available under the program must be borne solely by the entities with whom the board contracts to provide insurance to protect the value of the program.

(2) A state board, commission, or agency, or any officer, employee, or member thereof, is not liable for any loss or deficiency resulting from particular investments selected under this act, except for any liability that arises out of a breach of fiduciary duty under section 7.

Sec. 17. (1) Participating employers are not liable for an employee's decision to participate in, or opt out of, the program or for the investment decisions of the board or of any enrollee.

(2) A participating employer is not a fiduciary, and is not considered to be a fiduciary, with regard to the program. A participating employer has no responsibility for the administration, investment, or investment performance of the program. A participating employer is not liable as to investment returns, program design, or benefits paid to program participants.

Sec. 18. (1) By July 1 of each year after the program begins operating, the board shall submit to the governor, the state treasurer, and the standing committees of the senate and house of representatives concerned with retirement issues all of the following:

(a) An audited financial report, prepared in accordance with
generally accepted accounting principles, on the operations of the program during the prior calendar year. The annual audit must be made by an independent certified public accountant and must include, but is not limited to, direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees for the administration of the program.

(b) A report prepared by the board, including at a minimum, a summary of the benefits provided by the program, including the number of enrollees in the program; the percentage and amounts of investment options and rates of return; and any other information that is relevant to make a full, fair, and effective disclosure of the operations of the program and the fund.

(2) In addition to any other statements or reports required by law, the board shall provide the following periodic reports at least annually, that may also include any other information regarding the program as the board may determine:

(a) A report of the names of each enrollee employed by the participating employer and the amounts of contributions made by the participating employer on behalf of each employee during the reporting period.

(b) A report to each enrollee of the contributions and investment income allocated to, withdrawals from, and balances in his or her program account for the reporting period.

Sec. 19. (1) An employer that fails without reasonable cause to enroll an employee in the program within the time prescribed under section 14 is subject to a penalty equal to 1 the following:
(a) Two hundred fifty dollars for each employee for each calendar year or portion of a calendar year during which the employee neither was enrolled in the program nor had elected out of participation in the program.

(b) For each calendar year beginning after the date a penalty has been assessed with respect to an employee, $500.00 for any portion of that calendar year during which an employee who has not opted out of participation in the program under the process described in section 13(3) is not enrolled in the program.

(2) After determining that an employer is subject to penalty under this section for a calendar year, the department shall issue a notice of proposed assessment to the employer, stating the number of employees for which the penalty is proposed under subsection (1)(a) and the number of employees for which the penalty is proposed under subsection (1)(b) for the calendar year, and the total amount of fines proposed. If the employer files a protest with the department under subsection (3) within 90 days after the date on which the notice of proposed assessment is issued, the fines specified in the notice are considered assessed on the date when a decision of the department upholding the assessment becomes final. If a protest is not filed within that time, the assessment date of the fines is the ninety-first day after the assessment notice is issued.

(3) A written protest against the proposed assessment must be filed with the department in the form the department requires by rule, setting forth the grounds on which the protest is based. If the protest is filed within 90 days after the date the notice of
proposed assessment is issued, the department shall reconsider the proposed assessment and shall grant the employer a hearing. As soon as practicable after the reconsideration and hearing, the department shall issue a notice of decision to the employer, setting forth the department's findings of fact and the basis of the decision. The decision of the department becomes final as follows:

(a) If no further action for review of the decision is taken under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, on the date on which the time for requesting the review has expired.

(b) If a timely action for review of the decision is taken under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, on the date all proceedings in court for the review of the assessment have terminated or the time for further appeal has expired.

(4) As soon as practicable after the fines specified in a notice of proposed assessment are considered assessed, the department shall notify the employer liable for any unpaid portion of the assessment, stating the amount due and demanding payment. If an employer neglects or refuses to pay the entire liability shown on the notice and demand within 10 days after the notice and demand are issued, the unpaid amount is a lien in favor of this state on all property and rights to property, whether real or personal, belonging to the employer, and the provisions in the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, regarding liens, levies, and collection actions for unpaid liabilities under that
act, including the periods for taking any action, apply to the unpaid amount.

(5) An employer that has overpaid a penalty assessed under this section may file a claim for refund with the department. A claim must be in writing in the form the department requires by rule and must state the specific grounds for the claim. As soon as practicable after receiving the claim, the department shall examine it and either issue a refund or issue a notice of denial. If the employer files a protest, the department shall reconsider the denial and grant the employer a hearing. As soon as practicable after reconsideration and hearing, the department shall issue a notice of decision to the employer. In each case decided in whole or in part adversely to the employer, the notice must set forth briefly the department's findings of fact and the basis of decision. A denial of a claim for refund becomes final 90 days after the date it is issued, except for amounts as to which the employer has filed a protest with the department. If a protest has been timely filed, the decision of the department becomes final as follows:

(a) If no further action for review of the decision is taken under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, on the date on which the time for requesting the review has expired.

(b) If a timely action for review of the decision is taken under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, on the date all proceedings in court for the review of the assessment have terminated or the time for further
appeal has expired.

(6) A notice of proposed assessment must not be issued with respect to a calendar year after June 30 of the fourth subsequent calendar year. A claim for refund may not be filed more than 1 year after the date of payment.

(7) The administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and the rules adopted under that act apply to and govern all proceedings for the judicial review of final decisions of the department in response to a protest filed by the employer under subsections (3) and (5).

(8) Notice required under this section may be given or issued by mailing it by first-class mail addressed to the person concerned at his or her last known address.

(9) All books and records and other papers and documents relevant to determining any penalty due under this section are subject to inspection during business hours by the department or its authorized agents and employees.

(10) For purposes of any provision of state law allowing the department or any other agency of this state to offset an amount owed to a taxpayer against a tax liability of that taxpayer or allowing the department to offset an overpayment of tax against any liability owed to this state, a penalty assessed under this section is considered to be a tax liability of the employer and any refund due to an employer is considered to be an overpayment of tax of the employer.

(11) Except as provided in this subsection, all information received by the department from returns filed by an employer or
from any investigation conducted under this act are confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The information may be used for official purposes within the department or pursuant to official procedures for collecting fines assessed under this act. This subsection does not prohibit the director from publishing or making available to the public reasonable statistics concerning the operation of this act wherein the contents of returns are grouped into aggregates in a way that the specific information of any employer is not disclosed. This subsection does not prohibit the director from divulging information to an authorized representative of the employer or to any person pursuant to a request or authorization made by the employer or by an authorized representative of the employer.

(12) Civil fines collected under this act and fees collected under subsection (13) must be deposited into the general fund of this state. The department may, subject to appropriation, use money in the fund to cover expenses it incurs in performing its duties under this act.

(13) The department may charge the board a reasonable fee for its costs in performing its duties under this section to the extent that the costs have not been recovered from fines imposed under this section.

(14) This section applies 9 months after the board notifies the director that the program has been implemented. On receipt of notification from the board, the department shall immediately post on its Internet website a notice stating the date that this section
becomes operative. The notice must include a statement that as an alternative to enrolling employees in the program, employers may sponsor an arrangement, including, but not limited to, a defined benefit plan, 401(k) plan, Simplified Employee Pension Plan (SEP), Savings Incentive Match Plan for Employees (SIMPLE) plan, or automatic payroll deduction IRA offered through a private provider. The board shall provide a link to the vendor Internet website described in section 14(10).

Sec. 20. The department in consultation with the board shall promulgate, in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, any rules that may be necessary to implement this act.

Sec. 21. If the board does not obtain adequate money to implement the program within the time frame set forth under section 14, the board may delay the implementation of the program and the dates that sections dependent on an operating program begin to apply must be correspondingly extended.

Sec. 22. The board shall request in writing an opinion or ruling from the appropriate entity with jurisdiction over the federal employee retirement income security act of 1974, Public Law 93-406, regarding the applicability of that act to the program. The board shall not implement the program if the IRA arrangements offered under the program fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the internal revenue code or if it is determined that the program is an employee benefit plan and state or employer liability is established under the federal employee retirement income security act of 1974, Public
Law 93-406.

Enacting section 1. This act takes effect 90 days after the date it is enacted into law.