

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Secure Choice Savings Program Act
5 is amended by changing Sections 10, 30, 55, 60, and 85 as
6 follows:

7 (820 ILCS 80/10)

8 Sec. 10. Establishment of Illinois Secure Choice Savings
9 Program.

10 (a) A retirement savings program in the form of an
11 automatic enrollment payroll deduction IRA, known as the
12 Illinois Secure Choice Savings Program, is hereby established
13 and shall be administered by the Board for the purpose of
14 promoting greater retirement savings for private-sector
15 employees in a convenient, low-cost, and portable manner.

16 (b) The accounts established under this Program shall be
17 IRAs, into which enrollees contribute funds that are invested
18 in investment options established by the Board. A separate
19 account shall be established for each enrollee and the
20 accounts shall be owned by the enrollee.

21 (c) The savings accounts established under the Program
22 shall be portable and allow for an enrollee to make
23 contributions from multiple employers into a single account,

1 either simultaneously or separately throughout the enrollee's
2 lifetime.

3 (d) An enrollee in the Program may have both a Roth IRA and
4 a Traditional IRA through the Program.

5 (Source: P.A. 98-1150, eff. 6-1-15.)

6 (820 ILCS 80/30)

7 Sec. 30. Duties of the Board. In addition to the other
8 duties and responsibilities stated in this Act, the Board
9 shall:

10 (a) Cause the Program to be designed, established and
11 operated in a manner that:

12 (1) accords with best practices for retirement
13 savings vehicles;

14 (2) maximizes participation, savings, and sound
15 investment practices;

16 (3) maximizes simplicity, including ease of
17 administration for participating employers and
18 enrollees;

19 (4) provides an efficient product to enrollees by
20 pooling investment funds;

21 (5) ensures the portability of benefits; and

22 (6) provides for the deaccumulation of enrollee
23 assets in a manner that maximizes financial security
24 in retirement.

25 (b) Appoint a trustee to the IRA Fund in compliance

1 with Section 408 of the Internal Revenue Code.

2 (c) Explore and establish investment options, subject
3 to Section 45 of this Act, that offer employees returns on
4 contributions and the conversion of individual retirement
5 savings account balances to secure retirement income
6 without incurring debt or liabilities to the State.

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

12 (e) Make and enter into contracts necessary for the
13 administration of the Program and Fund, including, but not
14 limited to, retaining and contracting with investment
15 managers, private financial institutions, other financial
16 and service providers, consultants, actuaries, counsel,
17 auditors, third-party administrators, and other
18 professionals as necessary.

19 (e-5) Conduct a review of the performance of any
20 investment vendors every 4 years, including, but not
21 limited to, a review of returns, fees, and customer
22 service. A copy of reviews conducted under this subsection
23 (e-5) shall be posted to the Board's Internet website.

24 (f) In collaboration with the State Treasurer,
25 determine the number and duties of staff members needed to
26 administer the Program and assemble such a staff.

1 (g) Cause moneys in the Fund to be held and invested as
2 pooled investments described in Section 45 of this Act,
3 with a view to achieving cost savings through efficiencies
4 and economies of scale.

5 (h) Evaluate and establish the process by which an
6 enrollee is able to contribute a portion of his or her
7 wages to the Program for automatic deposit of those
8 contributions and the process by which the participating
9 employer provides a payroll deposit retirement savings
10 arrangement to forward those contributions and related
11 information to the Program, including, but not limited to,
12 contracting with financial service companies and
13 third-party administrators with the capability to receive
14 and process employee information and contributions for
15 payroll deposit retirement savings arrangements or similar
16 arrangements.

17 (i) Design and establish the process for enrollment
18 under Section 60 of this Act, including the process by
19 which an employee can opt not to participate in the
20 Program, select a contribution level, select an investment
21 option, and terminate participation in the Program.

22 (j) Evaluate and establish the process by which an
23 individual may voluntarily enroll in and make
24 contributions to the Program.

25 (k) Accept any grants, appropriations, or other moneys
26 from the State, any unit of federal, State, or local

1 government, or any other person, firm, partnership, or
2 corporation solely for deposit into the Fund, whether for
3 investment or administrative purposes.

4 (l) Evaluate the need for, and procure as needed,
5 insurance against any and all loss in connection with the
6 property, assets, or activities of the Program, and
7 indemnify as needed each member of the Board from personal
8 loss or liability resulting from a member's action or
9 inaction as a member of the Board.

10 (m) Make provisions for the payment of administrative
11 costs and expenses for the creation, management, and
12 operation of the Program, including the costs associated
13 with subsection (b) of Section 20 of this Act, subsections
14 (e), (f), (h), and (l) of this Section, subsection (b) of
15 Section 45 of this Act, subsection (a) of Section 80 of
16 this Act, and subsection (n) of Section 85 of this Act.
17 Subject to appropriation, the State may pay administrative
18 costs associated with the creation and management of the
19 Program until sufficient assets are available in the Fund
20 for that purpose. Thereafter, all administrative costs of
21 the Fund shall be paid only out of moneys on deposit
22 therein. However, private funds or federal funding
23 received under subsection (k) of Section 30 of this Act in
24 order to implement the Program until the Fund is
25 self-sustaining shall not be repaid unless those funds
26 were offered contingent upon the promise of such

1 repayment. The Board shall keep investment fees as low as
2 possible, but in no event shall they exceed 0.25% of the
3 total trust balance. The Board may charge administrative
4 fees, established by rule, that shall be consistent with
5 industry standards.

6 (n) Allocate administrative fees to individual
7 retirement accounts in the Program on a pro rata basis.

8 (o) Set minimum and maximum contribution levels in
9 accordance with limits established for IRAs by the
10 Internal Revenue Code.

11 (o-5) Select a default contribution rate for Program
12 participants within the range of 3% to 6% of an enrollee's
13 wages.

14 (o-10) Establish annual, automatic increases to the
15 contribution rates based upon a schedule provided for in
16 rules up to a maximum of 10% of an enrollee's wages.

17 (p) Facilitate education and outreach to employers and
18 employees.

19 (q) Facilitate compliance by the Program with all
20 applicable requirements for the Program under the Internal
21 Revenue Code, including tax qualification requirements or
22 any other applicable law and accounting requirements.

23 (q-5) Verify employee eligibility for auto-enrollment
24 in accordance with the Internal Revenue Code and
25 applicable Federal and State laws. The verification shall
26 include the rejection of any enrollee under 18 years of

1 age.

2 (r) Carry out the duties and obligations of the
3 Program in an effective, efficient, and low-cost manner.

4 (s) Exercise any and all other powers reasonably
5 necessary for the effectuation of the purposes,
6 objectives, and provisions of this Act pertaining to the
7 Program.

8 (t) Deposit into the Illinois Secure Choice
9 Administrative Fund all grants, gifts, donations, fees,
10 and earnings from investments from the Illinois Secure
11 Choice Savings Program Fund that are used to recover
12 administrative costs. All expenses of the Board shall be
13 paid from the Illinois Secure Choice Administrative Fund.

14 (u) Assess the feasibility of agreements with other
15 governmental entities, including other states and their
16 agencies and instrumentalities, to achieve greater
17 economies of scale through shared resources and to enter
18 into those agreements if determined to be beneficial.

19 ~~The Board may enter into agreements with other~~
20 ~~governmental entities, including other states or their~~
21 ~~agencies and instrumentalities, to enable residents of other~~
22 ~~states to participate in the Program.~~

23 (Source: P.A. 102-179, eff. 1-1-22; 103-43, eff. 6-9-23.)

24 (820 ILCS 80/55)

25 Sec. 55. Employer and employee information packets and

1 disclosure forms.

2 (a) Prior to the opening of the Program for enrollment,
3 the Board shall design and disseminate to all employers an
4 employer information packet and an employee information
5 packet, which shall include background information on the
6 Program, appropriate disclosures for employees, and
7 information regarding the vendor Internet website described in
8 subsection (i) of Section 60 of this Act.

9 (b) The Board shall provide for the contents of both the
10 employee information packet and the employer information
11 packet.

12 (c) The employee information packet shall include a
13 disclosure form. The disclosure form shall explain, but not be
14 limited to, all of the following:

15 (1) the benefits and risks associated with making
16 contributions to the Program;

17 (2) the mechanics of how to make contributions to the
18 Program;

19 (3) how to opt out of the Program;

20 (4) how to participate in the Program with a level of
21 employee contributions other than the default contribution
22 rate;

23 (5) the process for withdrawal of retirement savings;

24 (6) how to obtain additional information about the
25 Program;

26 (7) that employees seeking financial advice should

1 contact financial advisors, that participating employers
2 are not in a position to provide financial advice, and
3 that participating employers are not liable for decisions
4 employees make pursuant to this Act;

5 (8) that the Program is not an employer-sponsored
6 retirement plan; and

7 (9) that the Program Fund is not guaranteed by the
8 State.

9 (d) The employee information packet shall also include a
10 form for an employee to note his or her decision to opt out of
11 participation in the Program and information on how ~~or elect~~
12 to participate with a custom ~~level of employee contributions~~
13 ~~other than the default~~ contribution rate.

14 (e) Participating employers shall supply the employee
15 information packet to employees upon launch of the Program.
16 Participating employers shall supply the employee information
17 packet to new employees at the time of hiring, and new
18 employees may opt out of participation in the Program or elect
19 to participate with a level of employee contributions other
20 than the default contribution rate at that time.

21 (Source: P.A. 100-6, eff. 6-30-17.)

22 (820 ILCS 80/60)

23 Sec. 60. Program implementation and enrollment. Except as
24 otherwise provided in Section 93 of this Act, the Program
25 shall be implemented, and enrollment of employees shall begin

1 in 2018. The Board shall establish an implementation timeline
2 under which employers shall initially enroll their employees
3 in the Program. The timeline shall include the date by which an
4 employer must begin enrollment of its employees in the Program
5 and the date by which enrollment must be complete. The Board
6 shall adopt the implementation timeline at a public meeting of
7 the Board and shall publicize the implementation timeline. The
8 Board shall provide advance notice to employers of their
9 enrollment date and the amount of time to complete enrollment.
10 The enrollment deadline for employers with fewer than 25
11 employees and more than 15 employees shall be no sooner than
12 September 1, 2022. The enrollment deadline for employers with
13 at least 5 employees but not more than 15 employees shall be no
14 sooner than September 1, 2023. The provisions of this Section
15 shall be in force after the Board opens the Program for
16 enrollment.

17 (a) Each employer shall establish a payroll deposit
18 retirement savings arrangement to allow each employee to
19 participate in the Program within the timeline set by the
20 Board after the Program opens for enrollment.

21 (b) At the time of initial enrollment, employers ~~Employers~~
22 shall automatically enroll in the Program each of their
23 employees who have been employed for 120 days or more by the
24 employer ~~has not opted out of participation in the Program in~~
25 ~~the manner described in subsection (c) of Section 55 of this~~
26 ~~Act~~ and shall provide payroll deduction retirement savings

1 arrangements for such employees and deposit, on behalf of such
2 employees, these funds into the Program. Following initial
3 enrollment, employers shall enroll new employees as soon as
4 practicable, but no later than 120 days after the employee is
5 first employed by the employer. Small employers may, but are
6 not required to, provide payroll deduction retirement savings
7 arrangements for each employee who elects to participate in
8 the Program. Utilization of automatic enrollment by small
9 employers may be allowed only if it does not create employer
10 liability under the federal Employee Retirement Income
11 Security Act. An employee may opt out of participation in the
12 Program in the manner described in Section 55.

13 (c) Enrollees shall have the ability to select a
14 contribution level into the Fund. This level may be expressed
15 as a percentage of wages or as a dollar amount up to the
16 deductible amount for the enrollee's taxable year under
17 Section 219(b)(1)(A) of the Internal Revenue Code. Enrollees
18 may change their contribution level at any time, subject to
19 rules promulgated by the Board. If an enrollee fails to select
20 a contribution level using the form described in subsection
21 (c) of Section 55 of this Act, then he or she shall contribute
22 the default contribution rate of his or her wages to the
23 Program, provided that such contributions shall not cause the
24 enrollee's total contributions to IRAs for the year to exceed
25 the deductible amount for the enrollee's taxable year under
26 Section 219(b)(1)(A) of the Internal Revenue Code.

1 (d) Enrollees may select an investment option from the
2 permitted investment options listed in Section 45 of this Act.
3 Enrollees may change their investment option at any time,
4 subject to rules promulgated by the Board. In the event that an
5 enrollee fails to select an investment option, that enrollee
6 shall be placed in the investment option selected by the Board
7 as the default under subsection (c) of Section 45 of this Act.
8 If the Board has not selected a default investment option
9 under subsection (c) of Section 45 of this Act, then an
10 enrollee who fails to select an investment option shall be
11 placed in the life-cycle fund investment option.

12 (e) Following initial implementation of the Program
13 pursuant to this Section, participating employers may
14 designate an open enrollment period during which employees who
15 previously opted out of the Program may enroll in the Program.

16 (f) (Blank).

17 (g) Employers shall retain the option at all times to set
18 up a qualified retirement plan, including, but not limited to,
19 a defined benefit plan or a 401(k), a Simplified Employee
20 Pension (SEP) plan, or a Savings Incentive Match Plan for
21 Employees (SIMPLE) plan, instead of facilitating their
22 employees' participation in the Program.

23 (h) An employee may terminate his or her participation in
24 the Program at any time in a manner prescribed by the Board.

25 (i) The Board shall establish and maintain an Internet
26 website designed to assist employers in identifying private

1 sector providers of retirement arrangements that can be set up
2 by the employer rather than allowing employee participation in
3 the Program under this Act; however, the Board shall only
4 establish and maintain an Internet website under this
5 subsection if there is sufficient interest in such an Internet
6 website by private sector providers and if the private sector
7 providers furnish the funding necessary to establish and
8 maintain the Internet website. The Board must provide public
9 notice of the availability of and the process for inclusion on
10 the Internet website before it becomes publicly available.
11 This Internet website must be available to the public before
12 the Board opens the Program for enrollment, and the Internet
13 website address must be included on any Internet website
14 posting or other materials regarding the Program offered to
15 the public by the Board.

16 (Source: P.A. 102-179, eff. 1-1-22; 103-681, eff. 1-1-25.)

17 (820 ILCS 80/85)

18 Sec. 85. Penalties.

19 (a) An employer who fails without reasonable cause to
20 enroll an employee in the Program within the time prescribed
21 under Section 60 of this Act and fails to remit their
22 contributions shall be subject to a penalty equal to:

23 (1) \$250 per employee for the first calendar year the
24 employer is noncompliant; or

25 (2) \$500 per employee for each subsequent calendar

1 year the employer is noncompliant; noncompliance does not
2 need to be consecutive to qualify for the \$500 penalty.

3 The Department shall determine total employee count using
4 the annual average from employer-reported quarterly data.

5 (b) After determining that an employer is subject to a
6 penalty under this Section for a calendar year, the Department
7 shall issue a notice of proposed assessment to such employer,
8 stating the number of employees for which the penalty is
9 proposed under item (1) of subsection (a) of this Section or
10 the number of employees for which the penalty is proposed
11 under item (2) of subsection (a) of this Section for such
12 calendar year, and the total amount of penalties proposed.

13 Upon the expiration of 120 days after the date on which a
14 notice of proposed assessment was issued, the penalties
15 specified therein shall be deemed assessed, unless the
16 employer had filed a protest with the Department under
17 subsection (c) of this Section or come into full compliance
18 with the Program as required under Section 60 of this Act.

19 If, within 120 days after the date on which it was issued,
20 a protest of a notice of proposed assessment is filed under
21 subsection (c) of this Section, the penalties specified
22 therein shall be deemed assessed upon the date when the
23 decision of the Department with respect to the protest becomes
24 final.

25 (c) A written protest against the proposed assessment
26 shall be filed with the Department in such form as the

1 Department may by rule prescribe, setting forth the grounds on
2 which such protest is based. If such a protest is filed within
3 120 days after the date the notice of proposed assessment is
4 issued, the Department shall reconsider the proposed
5 assessment and shall grant the employer a hearing. As soon as
6 practicable after such reconsideration and hearing, the
7 Department shall issue a notice of decision to the employer,
8 setting forth the Department's findings of fact and the basis
9 of decision. The decision of the Department shall become
10 final:

11 (1) if no action for review of the decision is
12 commenced under the Administrative Review Law, on the date
13 on which the time for commencement of such review has
14 expired; or

15 (2) if a timely action for review of the decision is
16 commenced under the Administrative Review Law, on the date
17 all proceedings in court for the review of such assessment
18 have terminated or the time for the taking thereof has
19 expired without such proceedings being instituted.

20 (d) As soon as practicable after the penalties specified
21 in a notice of proposed assessment are deemed assessed, the
22 Department shall give notice to the employer liable for any
23 unpaid portion of such assessment, stating the amount due and
24 demanding payment. If an employer neglects or refuses to pay
25 the entire liability shown on the notice and demand within 10
26 days after the notice and demand is issued, the unpaid amount

1 of the liability shall be a lien in favor of the State of
2 Illinois upon all property and rights to property, whether
3 real or personal, belonging to the employer, and the
4 provisions in the Illinois Income Tax Act regarding liens,
5 levies and collection actions with regard to assessed and
6 unpaid liabilities under that Act, including the periods for
7 taking any action, shall apply.

8 (e) An employer who has overpaid a penalty assessed under
9 this Section may file a claim for refund with the Department. A
10 claim shall be in writing in such form as the Department may by
11 rule prescribe and shall state the specific grounds upon which
12 it is founded. As soon as practicable after a claim for refund
13 is filed, the Department shall examine it and either issue a
14 refund or issue a notice of denial. If such a protest is filed,
15 the Department shall reconsider the denial and grant the
16 employer a hearing. As soon as practicable after such
17 reconsideration and hearing, the Department shall issue a
18 notice of decision to the employer. The notice shall set forth
19 briefly the Department's findings of fact and the basis of
20 decision in each case decided in whole or in part adversely to
21 the employer. A denial of a claim for refund becomes final 120
22 days after the date of issuance of the notice of the denial
23 except for such amounts denied as to which the employer has
24 filed a protest with the Department. If a protest has been
25 timely filed, the decision of the Department shall become
26 final:

1 (1) if no action for review of the decision is
2 commenced under the Administrative Review Law, on the date
3 on which the time for commencement of such review has
4 expired; or

5 (2) if a timely action for review of the decision is
6 commenced under the Administrative Review Law, on the date
7 all proceedings in court for the review of such assessment
8 have terminated or the time for the taking thereof has
9 expired without such proceedings being instituted.

10 (f) No notice of proposed assessment may be issued with
11 respect to a calendar year after June 30 of the fourth
12 subsequent calendar year. No claim for refund may be filed
13 more than 1 year after the date of payment of the amount to be
14 refunded.

15 (g) The provisions of the Administrative Review Law and
16 the rules adopted pursuant to it shall apply to and govern all
17 proceedings for the judicial review of final decisions of the
18 Department in response to a protest filed by the employer
19 under subsections (c) and (e) of this Section. Final decisions
20 of the Department shall constitute "administrative decisions"
21 as defined in Section 3-101 of the Code of Civil Procedure. The
22 Department may adopt any rules necessary to carry out its
23 duties pursuant to this Section.

24 (h) Whenever notice is required by this Section, it may be
25 given or issued by mailing it by first-class mail addressed to
26 the person concerned at his or her last known address or in an

1 electronic format as determined by the Department.

2 (i) All books and records and other papers and documents
3 relevant to the determination of any penalty due under this
4 Section shall, at all times during business hours of the day,
5 be subject to inspection by the Department or its duly
6 authorized agents and employees.

7 (j) The Department may require employers to report
8 information relevant to their compliance with this Act on
9 returns otherwise due from the employers under Section 704A of
10 the Illinois Income Tax Act and failure to provide the
11 requested information on a return shall cause such return to
12 be treated as unprocessable.

13 (k) For purposes of any provision of State law allowing
14 the Department or any other agency of this State to offset an
15 amount owed to a taxpayer against a tax liability of that
16 taxpayer or allowing the Department to offset an overpayment
17 of tax against any liability owed to the State, a penalty
18 assessed under this Section shall be deemed to be a tax
19 liability of the employer and any refund due to an employer
20 shall be deemed to be an overpayment of tax of the employer.

21 (l) Except as provided in this subsection, all information
22 received by the Department from returns filed by an employer
23 or from any investigation conducted under the provisions of
24 this Act shall be confidential, except for official purposes
25 within the Department or pursuant to official procedures for
26 collection of penalties assessed under this Act. Nothing

1 contained in this subsection shall prevent the Director from
2 publishing or making available to the public reasonable
3 statistics concerning the operation of this Act wherein the
4 contents of returns are grouped into aggregates in such a way
5 that the specific information of any employer shall not be
6 disclosed. Nothing contained in this subsection shall prevent
7 the Director from divulging information to an authorized
8 representative of the employer or to any person pursuant to a
9 request or authorization made by the employer or by an
10 authorized representative of the employer.

11 (m) Civil penalties collected under this Act and fees
12 collected pursuant to subsection (n) of this Section shall be
13 deposited into the Tax Compliance and Administration Fund. The
14 Department may, subject to appropriation, use moneys in the
15 fund to cover expenses it incurs in the performance of its
16 duties under this Act. Interest attributable to moneys in the
17 Tax Compliance and Administration Fund shall be credited to
18 the Tax Compliance and Administration Fund.

19 (n) The Department may charge the Board a reasonable fee
20 for its costs in performing its duties under this Section to
21 the extent that such costs have not been recovered from
22 penalties imposed under this Section.

23 (o) The Department shall post on its Internet website a
24 notice stating that this Section is operative and the date
25 that it is first operative. This notice shall include a
26 statement that rather than enrolling employees in the Program

1 under this Act, employers may set up a qualified retirement
2 plan, including, but not limited to, a defined benefit plan,
3 401(k) plan, a Simplified Employee Pension (SEP) plan, or a
4 Savings Incentive Match Plan for Employees (SIMPLE) plan. The
5 Board shall provide a link to the vendor Internet website
6 described in subsection (i) of Section 60 of this Act, if
7 applicable.

8 (Source: P.A. 102-179, eff. 1-1-22; 103-681, eff. 1-1-25.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.