

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois Secure Choice Savings Program Act.

6 Section 5. Definitions. Unless the context requires a
7 different meaning or as expressly provided in this Section, all
8 terms shall have the same meaning as when used in a comparable
9 context in the Internal Revenue Code. As used in this Act:

10 "Board" means the Illinois Secure Choice Savings Board
11 established under this Act.

12 "Department" means the Department of Revenue.

13 "Director" means the Director of Revenue.

14 "Employee" means any individual who is employed by an
15 employer and who has wages that are allocable to Illinois
16 during a calendar year under the provisions of Section
17 304(a)(2)(B) of the Illinois Income Tax Act.

18 "Employer" means a person or entity engaged in a business,
19 industry, profession, trade, or other enterprise in Illinois,
20 whether for profit or not for profit, that (i) has employed 25
21 or more employees in the State throughout the previous calendar
22 year, (ii) has been in business at least 2 years, and (iii) has
23 not offered a qualified retirement plan, including, but not

1 limited to, a plan qualified under Section 401(a), Section
2 401(k), Section 403(a), Section 403(b), Section 408(k),
3 Section 408(p), or Section 457(b) of the Internal Revenue Code
4 of 1986 in the preceding 2 years.

5 "Enrollee" means any employee who is enrolled in the
6 Program.

7 "Fund" means the Illinois Secure Choice Savings Program
8 Fund.

9 "Internal Revenue Code" means Internal Revenue Code of
10 1986, or any successor law, in effect for the calendar year.

11 "IRA" means an individual retirement account under Section
12 408(a) or Section 408(b) of the Internal Revenue Code.

13 "Participating employer" means an employer or small
14 employer that provides a payroll deposit retirement savings
15 arrangement as provided for by this Act for its employees who
16 are enrollees in the Program.

17 "Payroll deposit retirement savings arrangement" means an
18 arrangement by which a participating employer allows enrollees
19 to remit payroll deduction contributions to the Program.

20 "Program" means the Illinois Secure Choice Savings
21 Program.

22 "Small employer" means a person or entity engaged in a
23 business, industry, profession, trade, or other enterprise in
24 Illinois, whether for profit or not for profit, that (i)
25 employed less than 25 employees at any one time in the State
26 throughout the previous calendar year, or (ii) has been in

1 business less than 2 years, or both items (i) and (ii), but
2 that notifies the Department that it is interested in being a
3 participating employer.

4 "Wages" means any compensation within the meaning of
5 Section 219(f)(1) of the Internal Revenue Code that is received
6 by an enrollee from a participating employer during the
7 calendar year.

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

15 Section 15. Illinois Secure Choice Savings Program Fund.
16 The Illinois Secure Choice Savings Program Fund is hereby
17 established as a trust outside of the State treasury, with the
18 Board created in Section 20 as its trustee. The Fund shall
19 include the individual retirement accounts of enrollees, which
20 shall be accounted for as individual accounts. Moneys in the
21 Fund shall consist of moneys received from enrollees and
22 participating employers pursuant to automatic payroll
23 deductions and contributions to savings made under this Act,
24 grants from the United States government and its agencies and

1 instrumentalities, and any other available sources of funds,
2 public or private. The Fund shall be operated in a manner
3 determined by the Board, provided that the Fund is operated so
4 that the accounts of enrollees established under the Program
5 meet the requirements for IRAs under the Internal Revenue Code.

6 Section 20. Composition of the Board. There is created the
7 Illinois Secure Choice Savings Board.

8 (a) The Board shall consist of the following 7 members:

9 (1) the State Treasurer, or his or her designee, who
10 shall serve as chair;

11 (2) the State Comptroller, or his or her designee;

12 (3) the Director of the Governor's Office of Management
13 and Budget, or his or her designee;

14 (4) two public representatives with expertise in
15 retirement savings plan administration or investment, or
16 both, appointed by the Governor;

17 (5) a representative of participating employers,
18 appointed by the Governor; and

19 (6) a representative of enrollees, appointed by the
20 Governor.

21 (b) Members of the Board shall serve without compensation
22 but may be reimbursed for necessary travel expenses incurred in
23 connection with their Board duties from funds appropriated for
24 the purpose.

25 (c) The initial appointments for the Governor's appointees

1 shall be as follows: one public representative for 4 years; one
2 public representative for 2 years; the representative of
3 participating employers for 3 years; and the representative of
4 enrollees for 1 year. Thereafter, all of the Governor's
5 appointees shall be for terms of 4 years.

6 (d) A vacancy in the term of an appointed Board member
7 shall be filled for the balance of the unexpired term in the
8 same manner as the original appointment.

9 (e) Each appointment by the Governor shall be subject to
10 approval by the State Treasurer, who, upon approval, shall
11 certify his or her approval to the Secretary of State. Each
12 appointment by the Governor shall also be subject to the advice
13 and consent of the Senate. In case of a vacancy during a recess
14 of the Senate, the Governor shall make a temporary appointment
15 until the next meeting of the Senate, at which time the
16 Governor shall appoint some person to fill the office. If the
17 State Treasurer does not approve or disapprove the appointment
18 by the Governor within 60 session days after receipt thereof,
19 the person shall be deemed to have been approved by the State
20 Treasurer. Any appointment that has not been acted upon by the
21 Senate within 60 session days after the receipt thereof shall
22 be deemed to have received the advice and consent of the
23 Senate.

24 (f) Each Board member, prior to assuming office, shall take
25 an oath that he or she will diligently and honestly administer
26 the affairs of the Board and that he or she will not knowingly

1 violate or willingly permit to be violated any of the
2 provisions of law applicable to the Program. The oath shall be
3 certified by the officer before whom it is taken and
4 immediately filed in the office of the Secretary of State.

5 Section 25. Fiduciary Duty. The Board, the individual
6 members of the Board, the trustee appointed under subsection
7 (b) of Section 30, any other agents appointed or engaged by the
8 Board, and all persons serving as Program staff shall discharge
9 their duties with respect to the Program solely in the interest
10 of the Program's enrollees and beneficiaries as follows:

11 (1) for the exclusive purposes of providing benefits to
12 enrollees and beneficiaries and defraying reasonable
13 expenses of administering the Program;

14 (2) by investing with the care, skill, prudence, and
15 diligence under the prevailing circumstances that a
16 prudent person acting in a like capacity and familiar with
17 those matters would use in the conduct of an enterprise of
18 a like character and with like aims; and

19 (3) by using any contributions paid by employees and
20 employers into the trust exclusively for the purpose of
21 paying benefits to the enrollees of the Program, for the
22 cost of administration of the Program, and for investments
23 made for the benefit of the Program.

24 Section 30. Duties of the Board. In addition to the other

1 duties and responsibilities stated in this Act, the Board
2 shall:

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

5 (1) accords with best practices for retirement savings
6 vehicles;

7 (2) maximizes participation, savings, and sound
8 investment practices;

9 (3) maximizes simplicity, including ease of
10 administration for participating employers and enrollees;

11 (4) provides an efficient product to enrollees by
12 pooling investment funds;

13 (5) ensures the portability of benefits; and

14 (6) provides for the deaccumulation of enrollee assets
15 in a manner that maximizes financial security in
16 retirement.

17 (b) Appoint a trustee to the IRA Fund in compliance with
18 Section 408 of the Internal Revenue Code.

19 (c) Explore and establish investment options, subject to
20 Section 45 of this Act, that offer employees returns on
21 contributions and the conversion of individual retirement
22 savings account balances to secure retirement income without
23 incurring debt or liabilities to the State.

24 (d) Establish the process by which interest, investment
25 earnings, and investment losses are allocated to individual
26 program accounts on a pro rata basis and are computed at the

1 interest rate on the balance of an individual's account.

2 (e) Make and enter into contracts necessary for the
3 administration of the Program and Fund, including, but not
4 limited to, retaining and contracting with investment
5 managers, private financial institutions, other financial and
6 service providers, consultants, actuaries, counsel, auditors,
7 third-party administrators, and other professionals as
8 necessary.

9 (f) Determine the number and duties of staff members needed
10 to administer the Program and assemble such a staff, including,
11 as needed, employing staff, appointing a Program
12 administrator, and entering into contracts with the State
13 Treasurer to make employees of the State Treasurer's Office
14 available to administer the Program.

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

19 (h) Evaluate and establish the process by which an enrollee
20 is able to contribute a portion of his or her wages to the
21 Program for automatic deposit of those contributions and the
22 process by which the participating employer provides a payroll
23 deposit retirement savings arrangement to forward those
24 contributions and related information to the Program,
25 including, but not limited to, contracting with financial
26 service companies and third-party administrators with the

1 capability to receive and process employee information and
2 contributions for payroll deposit retirement savings
3 arrangements or similar arrangements.

4 (i) Design and establish the process for enrollment under
5 Section 60 of this Act, including the process by which an
6 employee can opt not to participate in the Program, select a
7 contribution level, select an investment option, and terminate
8 participation in the Program.

9 (j) Evaluate and establish the process by which an
10 individual may voluntarily enroll in and make contributions to
11 the Program.

12 (k) Accept any grants, appropriations, or other moneys from
13 the State, any unit of federal, State, or local government, or
14 any other person, firm, partnership, or corporation solely for
15 deposit into the Fund, whether for investment or administrative
16 purposes.

17 (l) Evaluate the need for, and procure as needed, insurance
18 against any and all loss in connection with the property,
19 assets, or activities of the Program, and indemnify as needed
20 each member of the Board from personal loss or liability
21 resulting from a member's action or inaction as a member of the
22 Board.

23 (m) Make provisions for the payment of administrative costs
24 and expenses for the creation, management, and operation of the
25 Program, including the costs associated with subsection (b) of
26 Section 20 of this Act, subsections (e), (f), (h), and (l) of

1 this Section, subsection (b) of Section 45 of this Act,
2 subsection (a) of Section 80 of this Act, and subsection (n) of
3 Section 85 of this Act. Subject to appropriation, the State may
4 pay administrative costs associated with the creation and
5 management of the Program until sufficient assets are available
6 in the Fund for that purpose. Thereafter, all administrative
7 costs of the Fund, including repayment of any start-up funds
8 provided by the State, shall be paid only out of moneys on
9 deposit therein. However, private funds or federal funding
10 received under subsection (k) of Section 30 of this Act in
11 order to implement the Program until the Fund is
12 self-sustaining shall not be repaid unless those funds were
13 offered contingent upon the promise of such repayment. The
14 Board shall keep annual administrative expenses as low as
15 possible, but in no event shall they exceed 0.75% of the total
16 trust balance.

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

19 (o) Set minimum and maximum contribution levels in
20 accordance with limits established for IRAs by the Internal
21 Revenue Code.

22 (p) Facilitate education and outreach to employers and
23 employees.

24 (q) Facilitate compliance by the Program with all
25 applicable requirements for the Program under the Internal
26 Revenue Code, including tax qualification requirements or any

1 other applicable law and accounting requirements.

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

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

7 Section 35. Risk Management. The Board shall annually
8 prepare and adopt a written statement of investment policy that
9 includes a risk management and oversight program. This
10 investment policy shall prohibit the Board, Program, and Fund
11 from borrowing for investment purposes. The risk management and
12 oversight program shall be designed to ensure that an effective
13 risk management system is in place to monitor the risk levels
14 of the Program and Fund portfolio, to ensure that the risks
15 taken are prudent and properly managed, to provide an
16 integrated process for overall risk management, and to assess
17 investment returns as well as risk to determine if the risks
18 taken are adequately compensated compared to applicable
19 performance benchmarks and standards. The Board shall consider
20 the statement of investment policy and any changes in the
21 investment policy at a public hearing.

22 Section 40. Investment firms.

23 (a) The Board shall engage, after an open bid process, an
24 investment manager or managers to invest the Fund and any other

1 assets of the Program. Moneys in the Fund may be invested or
2 reinvested by the State Treasurer's Office or may be invested
3 in whole or in part under contract with the State Board of
4 Investment, private investment managers, or both, as selected
5 by the Board. In selecting the investment manager or managers,
6 the Board shall take into consideration and give weight to the
7 investment manager's fees and charges in order to reduce the
8 Program's administrative expenses.

9 (b) The investment manager or managers shall comply with
10 any and all applicable federal and state laws, rules, and
11 regulations, as well as any and all rules, policies, and
12 guidelines promulgated by the Board with respect to the Program
13 and the investment of the Fund, including, but not limited to,
14 the investment policy.

15 (c) The investment manager or managers shall provide such
16 reports as the Board deems necessary for the Board to oversee
17 each investment manager's performance and the performance of
18 the Fund.

19 Section 45. Investment options.

20 (a) The Board shall establish as an investment option a
21 life-cycle fund with a target date based upon the age of the
22 enrollee. This shall be the default investment option for
23 enrollees who fail to elect an investment option unless and
24 until the Board designates by rule a new investment option as
25 the default as described in subsection (c) of this Section.

1 (b) The Board may also establish any or all of these three
2 additional investment options:

3 (1) a conservative principal protection fund;

4 (2) a growth fund;

5 (3) a secure return fund whose primary objective is the
6 preservation of the safety of principal and the provision
7 of a stable and low-risk rate of return. If the Board
8 elects to establish a secure return fund, the Board may
9 procure any insurance, annuity, or other product to insure
10 the value of individuals' accounts and guarantee a rate of
11 return. The cost of such funding mechanism shall be paid
12 out of the Fund. Under no circumstances shall the Board,
13 Program, Fund, the State, or any participating employer
14 assume any liability for investment or actuarial risk. The
15 Board shall determine whether to establish such investment
16 options based upon an analysis of their cost, risk profile,
17 benefit level, feasibility, and ease of implementation.

18 (c) If the Board elects to establish a secure return fund,
19 the Board shall then determine whether such option shall
20 replace the target date or life-cycle fund as the default
21 investment option for enrollees who do not elect an investment
22 option. In making such determination, the Board shall consider
23 the cost, risk profile, benefit level, and ease of enrollment
24 in the secure return fund. The Board may at any time thereafter
25 revisit this question and, based upon an analysis of these
26 criteria, establish either the secure return fund or the

1 life-cycle fund as the default for enrollees who do not elect
2 an investment option.

3 Section 50. Benefits. Interest, investment earnings, and
4 investment losses shall be allocated to individual Program
5 accounts as established by the Board under subsection (d) of
6 Section 30 of this Act. An individual's retirement savings
7 benefit under the Program shall be an amount equal to the
8 balance in the individual's Program account on the date the
9 retirement savings benefit becomes payable. The State shall
10 have no liability for the payment of any benefit to any
11 participant in the Program.

12 Section 55. Employer and employee information packets and
13 disclosure forms.

14 (a) Prior to the opening of the Program for enrollment, the
15 Board shall design and disseminate to all employers an employer
16 information packet and an employee information packet, which
17 shall include background information on the Program,
18 appropriate disclosures for employees, and information
19 regarding the vendor Internet website described in subsection
20 (i) of Section 60 of this Act.

21 (b) The Board shall provide for the contents of both the
22 employee information packet and the employer information
23 packet.

24 (c) The employee information packet shall include a

1 disclosure form. The disclosure form shall explain, but not be
2 limited to, all of the following:

3 (1) the benefits and risks associated with making
4 contributions to the Program;

5 (2) the mechanics of how to make contributions to the
6 Program;

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

8 (4) how to participate in the Program with a level of
9 employee contributions other than 3%;

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

11 (6) how to obtain additional information about the
12 Program;

13 (7) that employees seeking financial advice should
14 contact financial advisors, that participating employers
15 are not in a position to provide financial advice, and that
16 participating employers are not liable for decisions
17 employees make pursuant to this Act;

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

20 (9) that the Program Fund is not guaranteed by the
21 State.

22 (d) The employee information packet shall also include a
23 form for an employee to note his or her decision to opt out of
24 participation in the Program or elect to participate with a
25 level of employee contributions other than 3%.

26 (e) Participating employers shall supply the employee

1 information packet to employees upon launch of the Program.
2 Participating employers shall supply the employee information
3 packet to new employees at the time of hiring, and new
4 employees may opt out of participation in the Program or elect
5 to participate with a level of employee contributions other
6 than 3% at that time.

7 Section 60. Program implementation and enrollment. The
8 Program shall be implemented, and enrollment of employees shall
9 begin, within 12 months after the effective date of this Act.
10 The provisions of this Section shall be in force after the
11 Board opens the Program for enrollment.

12 (a) Each employer shall establish a payroll deposit
13 retirement savings arrangement to allow each employee to
14 participate in the Program at most nine months after the Board
15 opens the Program for enrollment.

16 (b) Employers shall automatically enroll in the Program
17 each of their employees who has not opted out of participation
18 in the Program using the form described in subsection (c) of
19 Section 55 of this Act and shall provide payroll deduction
20 retirement savings arrangements for such employees and
21 deposit, on behalf of such employees, these funds into the
22 Program. Small employers may, but are not required to, provide
23 payroll deduction retirement savings arrangements for each
24 employee who elects to participate in the Program.

25 (c) Enrollees shall have the ability to select a

1 contribution level into the Fund. This level may be expressed
2 as a percentage of wages or as a dollar amount up to the
3 deductible amount for the enrollee's taxable year under Section
4 219(b) (1) (A) of the Internal Revenue Code. Enrollees may change
5 their contribution level at any time, subject to rules
6 promulgated by the Board. If an enrollee fails to select a
7 contribution level using the form described in subsection (c)
8 of Section 55 of this Act, then he or she shall contribute 3%
9 of his or her wages to the Program, provided that such
10 contributions shall not cause the enrollee's total
11 contributions to IRAs for the year to exceed the deductible
12 amount for the enrollee's taxable year under Section
13 219(b) (1) (A) of the Internal Revenue Code.

14 (d) Enrollees may select an investment option from the
15 permitted investment options listed in Section 45 of this Act.
16 Enrollees may change their investment option at any time,
17 subject to rules promulgated by the Board. In the event that an
18 enrollee fails to select an investment option, that enrollee
19 shall be placed in the investment option selected by the Board
20 as the default under subsection (c) of Section 45 of this Act.
21 If the Board has not selected a default investment option under
22 subsection (c) of Section 45 of this Act, then an enrollee who
23 fails to select an investment option shall be placed in the
24 life-cycle fund investment option.

25 (e) Following initial implementation of the Program
26 pursuant to this Section, at least once every year,

1 participating employers shall designate an open enrollment
2 period during which employees who previously opted out of the
3 Program may enroll in the Program.

4 (f) An employee who opts out of the Program who
5 subsequently wants to participate through the participating
6 employer's payroll deposit retirement savings arrangement may
7 only enroll during the participating employer's designated
8 open enrollment period or if permitted by the participating
9 employer at an earlier time.

10 (g) Employers shall retain the option at all times to set
11 up any type of employer-sponsored retirement plan, such as a
12 defined benefit plan or a 401(k), Simplified Employee Pension
13 (SEP) plan, or Savings Incentive Match Plan for Employees
14 (SIMPLE) plan, or to offer an automatic enrollment payroll
15 deduction IRA, instead of having a payroll deposit retirement
16 savings arrangement to allow employee participation in the
17 Program.

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

20 (i) The Board shall establish and maintain an Internet
21 website designed to assist employers in identifying private
22 sector providers of retirement arrangements that can be set up
23 by the employer rather than allowing employee participation in
24 the Program under this Act; however, the Board shall only
25 establish and maintain an Internet website under this
26 subsection if there is sufficient interest in such an Internet

1 website by private sector providers and if the private sector
2 providers furnish the funding necessary to establish and
3 maintain the Internet website. The Board must provide public
4 notice of the availability of and the process for inclusion on
5 the Internet website before it becomes publicly available. This
6 Internet website must be available to the public before the
7 Board opens the Program for enrollment, and the Internet
8 website address must be included on any Internet website
9 posting or other materials regarding the Program offered to the
10 public by the Board.

11 Section 65. Payments. Employee contributions deducted by
12 the participating employer through payroll deduction shall be
13 paid by the participating employer to the Fund using one or
14 more payroll deposit retirement savings arrangements
15 established by the Board under subsection (h) of Section 30 of
16 this Act, either:

17 (1) on or before the last day of the month following
18 the month in which the compensation otherwise would have
19 been payable to the employee in cash; or

20 (2) before such later deadline prescribed by the Board
21 for making such payments, but not later than the due date
22 for the deposit of tax required to be deducted and withheld
23 relating to collection of income tax at source on wages or
24 for the deposit of tax required to be paid under the
25 unemployment insurance system for the payroll period to

1 which such payments relate.

2 Section 70. Duty and liability of the State.

3 (a) The State shall have no duty or liability to any party
4 for the payment of any retirement savings benefits accrued by
5 any individual under the Program. Any financial liability for
6 the payment of retirement savings benefits in excess of funds
7 available under the Program shall be borne solely by the
8 entities with whom the Board contracts to provide insurance to
9 protect the value of the Program.

10 (b) No State board, commission, or agency, or any officer,
11 employee, or member thereof is liable for any loss or
12 deficiency resulting from particular investments selected
13 under this Act.

14 Section 75. Duty and liability of participating employers.

15 (a) Participating employers shall not have any liability
16 for an employee's decision to participate in, or opt out of,
17 the Program or for the investment decisions of the Board or of
18 any enrollee.

19 (b) A participating employer shall not be a fiduciary, or
20 considered to be a fiduciary, over the Program. A participating
21 employer shall not bear responsibility for the administration,
22 investment, or investment performance of the Program. A
23 participating employer shall not be liable with regard to
24 investment returns, Program design, and benefits paid to

1 Program participants.

2 Section 80. Audit and reports.

3 (a) The Board shall annually submit:

4 (1) an audited financial report, prepared in
5 accordance with generally accepted accounting principles,
6 on the operations of the Program during each calendar year
7 by July 1 of the following year to the Governor, the
8 Comptroller, the State Treasurer, and the General
9 Assembly; and

10 (2) a report prepared by the Board, which shall
11 include, but is not limited to, a summary of the benefits
12 provided by the Program, including the number of enrollees
13 in the Program, the percentage and amounts of investment
14 options and rates of return, and such other information
15 that is relevant to make a full, fair, and effective
16 disclosure of the operations of the Program and the Fund.

17 The annual audit shall be made by an independent certified
18 public accountant and shall include, but is not limited to,
19 direct and indirect costs attributable to the use of outside
20 consultants, independent contractors, and any other persons
21 who are not State employees for the administration of the
22 Program.

23 (b) In addition to any other statements or reports required
24 by law, the Board shall provide periodic reports at least
25 annually to participating employers, reporting the names of

1 each enrollee employed by the participating employer and the
2 amounts of contributions made by the participating employer on
3 behalf of each employee during the reporting period, as well as
4 to enrollees, reporting contributions and investment income
5 allocated to, withdrawals from, and balances in their Program
6 accounts for the reporting period. Such reports may include any
7 other information regarding the Program as the Board may
8 determine.

9 Section 85. Penalties.

10 (a) An employer who fails without reasonable cause to
11 enroll an employee in the Program within the time prescribed
12 under Section 60 of this Act shall be subject to a penalty
13 equal to:

14 (1) \$250 for each employee for each calendar year or
15 portion of a calendar year during which the employee
16 neither was enrolled in the Program nor had elected out of
17 participation in the Program; or

18 (2) for each calendar year beginning after the date a
19 penalty has been assessed with respect to an employee, \$500
20 for any portion of that calendar year during which such
21 employee continues to be unenrolled without electing out of
22 participation in the Program.

23 (b) After determining that an employer is subject to
24 penalty under this Section for a calendar year, the Department
25 shall issue a notice of proposed assessment to such employer,

1 stating the number of employees for which the penalty is
2 proposed under item (1) of subsection (a) of this Section and
3 the number of employees for which the penalty is proposed under
4 item (2) of subsection (a) of this Section for such calendar
5 year, and the total amount of penalties proposed.

6 Upon the expiration of 90 days after the date on which a
7 notice of proposed assessment was issued, the penalties
8 specified therein shall be deemed assessed, unless the employer
9 had filed a protest with the Department under subsection (c) of
10 this Section.

11 If, within 90 days after the date on which it was issued, a
12 protest of a notice of proposed assessment is filed under
13 subsection (c) of this Section, the penalties specified therein
14 shall be deemed assessed upon the date when the decision of the
15 Department with respect to the protest becomes final.

16 (c) A written protest against the proposed assessment shall
17 be filed with the Department in such form as the Department may
18 by rule prescribe, setting forth the grounds on which such
19 protest is based. If such a protest is filed within 90 days
20 after the date the notice of proposed assessment is issued, the
21 Department shall reconsider the proposed assessment and shall
22 grant the employer a hearing. As soon as practicable after such
23 reconsideration and hearing, the Department shall issue a
24 notice of decision to the employer, setting forth the
25 Department's findings of fact and the basis of decision. The
26 decision of the Department shall become 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 (d) As soon as practicable after the penalties specified in
11 a notice of proposed assessment are deemed assessed, the
12 Department shall give notice to the employer liable for any
13 unpaid portion of such assessment, stating the amount due and
14 demanding payment. If an employer neglects or refuses to pay
15 the entire liability shown on the notice and demand within 10
16 days after the notice and demand is issued, the unpaid amount
17 of the liability shall be a lien in favor of the State of
18 Illinois upon all property and rights to property, whether real
19 or personal, belonging to the employer, and the provisions in
20 the Illinois Income Tax Act regarding liens, levies and
21 collection actions with regard to assessed and unpaid
22 liabilities under that Act, including the periods for taking
23 any action, shall apply.

24 (e) An employer who has overpaid a penalty assessed under
25 this Section may file a claim for refund with the Department. A
26 claim shall be in writing in such form as the Department may by

1 rule prescribe and shall state the specific grounds upon which
2 it is founded. As soon as practicable after a claim for refund
3 is filed, the Department shall examine it and either issue a
4 refund or issue a notice of denial. If such a protest is filed,
5 the Department shall reconsider the denial and grant the
6 employer a hearing. As soon as practicable after such
7 reconsideration and hearing, the Department shall issue a
8 notice of decision to the employer. The notice shall set forth
9 briefly the Department's findings of fact and the basis of
10 decision in each case decided in whole or in part adversely to
11 the employer. A denial of a claim for refund becomes final 90
12 days after the date of issuance of the notice of the denial
13 except for such amounts denied as to which the employer has
14 filed a protest with the Department. If a protest has been
15 timely filed, the decision of the Department shall become
16 final:

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

21 (2) if a timely action for review of the decision is
22 commenced under the Administrative Review Law, on the date
23 all proceedings in court for the review of such assessment
24 have terminated or the time for the taking thereof has
25 expired without such proceedings being instituted.

26 (f) No notice of proposed assessment may be issued with

1 respect to a calendar year after June 30 of the fourth
2 subsequent calendar year. No claim for refund may be filed more
3 than 1 year after the date of payment of the amount to be
4 refunded.

5 (g) The provisions of the Administrative Review Law and the
6 rules adopted pursuant to it shall apply to and govern all
7 proceedings for the judicial review of final decisions of the
8 Department in response to a protest filed by the employer under
9 subsections (c) and (e) of this Section. Final decisions of the
10 Department shall constitute "administrative decisions" as
11 defined in Section 3-101 of the Code of Civil Procedure.

12 (h) Whenever notice is required by this Section, it may be
13 given or issued by mailing it by first-class mail addressed to
14 the person concerned at his or her last known address.

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

20 (j) The Department may require employers to report
21 information relevant to their compliance with this Act on
22 returns otherwise due from the employers under Section 704A of
23 the Illinois Income Tax Act and failure to provide the
24 requested information on a return shall cause such return to be
25 treated as unprocessable.

26 (k) For purposes of any provision of State law allowing the

1 Department or any other agency of this State to offset an
2 amount owed to a taxpayer against a tax liability of that
3 taxpayer or allowing the Department to offset an overpayment of
4 tax against any liability owed to the State, a penalty assessed
5 under this Section shall be deemed to be a tax liability of the
6 employer and any refund due to an employer shall be deemed to
7 be an overpayment of tax of the employer.

8 (l) Except as provided in this subsection, all information
9 received by the Department from returns filed by an employer or
10 from any investigation conducted under the provisions of this
11 Act shall be confidential, except for official purposes within
12 the Department or pursuant to official procedures for
13 collection of penalties assessed under this Act. Nothing
14 contained in this subsection shall prevent the Director from
15 publishing or making available to the public reasonable
16 statistics concerning the operation of this Act wherein the
17 contents of returns are grouped into aggregates in such a way
18 that the specific information of any employer shall not be
19 disclosed. Nothing contained in this subsection shall prevent
20 the Director from divulging information to an authorized
21 representative of the employer or to any person pursuant to a
22 request or authorization made by the employer or by an
23 authorized representative of the employer.

24 (m) Civil penalties collected under this Act and fees
25 collected pursuant to subsection (n) of this Section shall be
26 deposited into the Tax Compliance and Administration Fund. The

1 Department may, subject to appropriation, use moneys in the
2 fund to cover expenses it incurs in the performance of its
3 duties under this Act. Interest attributable to moneys in the
4 Tax Compliance and Administration Fund shall be credited to the
5 Tax Compliance and Administration Fund.

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

10 (o) This Section shall become operative 9 months after the
11 Board notifies the Director that the Program has been
12 implemented. Upon receipt of such notification from the Board,
13 the Department shall immediately post on its Internet website a
14 notice stating that this Section is operative and the date that
15 it is first operative. This notice shall include a statement
16 that rather than enrolling employees in the Program under this
17 Act, employers may sponsor an alternative arrangement,
18 including, but not limited to, a defined benefit plan, 401(k)
19 plan, a Simplified Employee Pension (SEP) plan, a Savings
20 Incentive Match Plan for Employees (SIMPLE) plan, or an
21 automatic payroll deduction IRA offered through a private
22 provider. The Board shall provide a link to the vendor Internet
23 website described in subsection (i) of Section 60 of this Act.

24 Section 90. Rules. The Board and the Department shall
25 adopt, in accordance with the Illinois Administrative

1 Procedure Act, any rules that may be necessary to implement
2 this Act.

3 Section 95. Federal considerations. The Board may not
4 implement the Program if the IRA arrangements offered under the
5 Program fail to qualify for the favorable federal income tax
6 treatment ordinarily accorded to IRAs under the Internal
7 Revenue Code or if it is determined that the Program is an
8 employee benefit plan and State or employer liability is
9 established under the federal Employee Retirement Income
10 Security Act.

11 Section 500. The State Finance Act is amended by adding
12 Section 5.855 as follows:

13 (30 ILCS 105/5.855 new)

14 Sec. 5.855. The Illinois Secure Choice Savings Program
15 Fund.

16 Section 999. Effective date. This Act takes effect upon
17 becoming law.