



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB1787

Introduced 2/15/2019, by Sen. Omar Aquino

#### SYNOPSIS AS INTRODUCED:

820 ILCS 80/5  
820 ILCS 80/30  
820 ILCS 80/45  
820 ILCS 80/65  
820 ILCS 80/80

Amends the Illinois Secure Choice Savings Program Act. Provides that an investment option may be a conservative fund rather than a conservative principal protection fund. Provides that the Illinois Secure Choice Savings Board may establish deadlines for payment of payroll deductions to the Fund and enter agreements to permit residents of other states to participate in the program. Includes a traditional IRA within the definition of the term "IRA". Provides for audits on a fiscal year basis rather than a calendar year basis and report by the following January rather than July. Requires the Treasurer to prepare annual reports on benefits provided by the Program and post the report on the Program website. Effective immediately.

LRB101 08060 JLS 53122 b

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 5, 30, 45, 65, and 80 as  
6 follows:

7 (820 ILCS 80/5)

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

12 "Board" means the Illinois Secure Choice Savings Board  
13 established under this Act.

14 "Department" means the Department of Revenue.

15 "Director" means the Director of Revenue.

16 "Employee" means any individual who is 18 years of age or  
17 older, who is employed by an employer, and who has wages that  
18 are allocable to Illinois during a calendar year under the  
19 provisions of Section 304(a)(2)(B) of the Illinois Income Tax  
20 Act.

21 "Employer" means a person or entity engaged in a business,  
22 industry, profession, trade, or other enterprise in Illinois,  
23 whether for profit or not for profit, that (i) has at no time

1 during the previous calendar year employed fewer than 25  
2 employees in the State, (ii) has been in business at least 2  
3 years, and (iii) has not offered a qualified retirement plan,  
4 including, but not limited to, a plan qualified under Section  
5 401(a), Section 401(k), Section 403(a), Section 403(b),  
6 Section 408(k), Section 408(p), or Section 457(b) of the  
7 Internal Revenue Code of 1986 in the preceding 2 years.

8 "Enrollee" means any employee who is enrolled in the  
9 Program.

10 "Fund" means the Illinois Secure Choice Savings Program  
11 Fund.

12 "Internal Revenue Code" means Internal Revenue Code of  
13 1986, or any successor law, in effect for the calendar year.

14 "IRA" means a Roth or Traditional IRA (individual  
15 retirement account) under Section 408 or 408A of the Internal  
16 Revenue Code.

17 "Participating employer" means an employer or small  
18 employer that facilitates ~~provides~~ a payroll deposit  
19 retirement savings arrangement as provided for by this Act for  
20 its employees ~~who are enrollees in the Program~~.

21 "Payroll deposit retirement savings arrangement" means an  
22 arrangement by which a participating employer facilitates  
23 ~~allows enrollees to remit~~ payroll deduction contributions from  
24 enrollees to the Program.

25 "Program" means the Illinois Secure Choice Savings  
26 Program.

1 "Small employer" means a person or entity engaged in a  
2 business, industry, profession, trade, or other enterprise in  
3 Illinois, whether for profit or not for profit, that (i)  
4 employed less than 25 employees at any one time in the State  
5 throughout the previous calendar year, or (ii) has been in  
6 business less than 2 years, or both items (i) and (ii), but  
7 that notifies the Board that it is interested in being a  
8 participating employer.

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

13 (Source: P.A. 98-1150, eff. 6-1-15; 99-464, eff. 8-26-15.)

14 (820 ILCS 80/30)

15 Sec. 30. Duties of the Board. In addition to the other  
16 duties and responsibilities stated in this Act, the Board  
17 shall:

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

20 (1) accords with best practices for retirement savings  
21 vehicles;

22 (2) maximizes participation, savings, and sound  
23 investment practices;

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

1           (4) provides an efficient product to enrollees by  
2 pooling investment funds;

3           (5) ensures the portability of benefits; and

4           (6) provides for the deaccumulation of enrollee assets  
5 in a manner that maximizes financial security in  
6 retirement.

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

9           (c) Explore and establish investment options, subject to  
10 Section 45 of this Act, that offer employees returns on  
11 contributions and the conversion of individual retirement  
12 savings account balances to secure retirement income without  
13 incurring debt or liabilities to the State.

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

18           (e) Make and enter into contracts necessary for the  
19 administration of the Program and Fund, including, but not  
20 limited to, retaining and contracting with investment  
21 managers, private financial institutions, other financial and  
22 service providers, consultants, actuaries, counsel, auditors,  
23 third-party administrators, and other professionals as  
24 necessary.

25           (e-5) Conduct a review of the performance of any investment  
26 vendors every 4 years, including, but not limited to, a review

1 of returns, fees, and customer service. A copy of reviews  
2 conducted under this subsection (e-5) shall be posted to the  
3 Board's Internet website.

4 (f) Determine the number and duties of staff members needed  
5 to administer the Program and assemble such a staff, including,  
6 as needed, employing staff, appointing a Program  
7 administrator, and entering into contracts with the State  
8 Treasurer to make employees of the State Treasurer's Office  
9 available to administer the Program.

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

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

25 (i) Design and establish the process for enrollment under  
26 Section 60 of this Act, including the process by which an

1 employee can opt not to participate in the Program, select a  
2 contribution level, select an investment option, and terminate  
3 participation in the Program.

4 (j) Evaluate and establish the process by which an  
5 individual may voluntarily enroll in and make contributions to  
6 the Program.

7 (k) Accept any grants, appropriations, or other moneys from  
8 the State, any unit of federal, State, or local government, or  
9 any other person, firm, partnership, or corporation solely for  
10 deposit into the Fund, whether for investment or administrative  
11 purposes.

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

18 (m) Make provisions for the payment of administrative costs  
19 and expenses for the creation, management, and operation of the  
20 Program, including the costs associated with subsection (b) of  
21 Section 20 of this Act, subsections (e), (f), (h), and (l) of  
22 this Section, subsection (b) of Section 45 of this Act,  
23 subsection (a) of Section 80 of this Act, and subsection (n) of  
24 Section 85 of this Act. Subject to appropriation, the State may  
25 pay administrative costs associated with the creation and  
26 management of the Program until sufficient assets are available

1 in the Fund for that purpose. Thereafter, all administrative  
2 costs of the Fund, including repayment of any start-up funds  
3 provided by the State, shall be paid only out of moneys on  
4 deposit therein. However, private funds or federal funding  
5 received under subsection (k) of Section 30 of this Act in  
6 order to implement the Program until the Fund is  
7 self-sustaining shall not be repaid unless those funds were  
8 offered contingent upon the promise of such repayment. The  
9 Board shall keep total annual expenses as low as possible, but  
10 in no event shall they exceed 0.75% of the total trust balance.

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

13 (o) Set minimum and maximum contribution levels in  
14 accordance with limits established for IRAs by the Internal  
15 Revenue Code.

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

19 (p) Facilitate education and outreach to employers and  
20 employees.

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

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



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

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

10 The Board may enter into agreements with other governmental  
11 entities, including other states or their agencies and  
12 instrumentalities, to enable residents of other states to  
13 participate in the Program.

14 (Source: P.A. 99-571, eff. 7-15-16; 100-6, eff. 6-30-17.)

15 (820 ILCS 80/45)

16 Sec. 45. Investment options.

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

23 (b) The Board may also establish any or all of the  
24 following additional investment options:

25 (1) a conservative ~~principal protection~~ fund;

1 (2) a growth fund;

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

15 (4) an annuity fund.

16 The Board shall determine whether to establish any of the  
17 additional investment options based upon an analysis of its  
18 cost, risk profile, benefit level, feasibility, and ease of  
19 implementation.

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

1 revisit this question and, based upon an analysis of these  
2 criteria, establish either the secure return fund or the  
3 life-cycle fund as the default for enrollees who do not elect  
4 an investment option.

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

6 (820 ILCS 80/65)

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

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

16 (2) by a ~~before such later~~ deadline prescribed by the  
17 Board for making such payments, but not later than the due  
18 date for the deposit of tax required to be deducted and  
19 withheld relating to collection of income tax at source on  
20 wages or for the deposit of tax required to be paid under  
21 the unemployment insurance system for the payroll period to  
22 which such payments relate.

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

24 (820 ILCS 80/80)

1           Sec. 80. Audit and reports.

2           (a) The Board shall annually submit an audited financial  
3 report, prepared in accordance with generally accepted  
4 accounting principles, on the operations of the Program during  
5 each fiscal ~~calendar~~ year by January ~~July~~ 1 of the following  
6 year to the Governor, the Comptroller, the State Treasurer, and  
7 the General Assembly and shall be provided electronically to  
8 any member of the General Assembly upon request. The annual  
9 audit shall be made by an independent certified public  
10 accountant and shall include, but is not limited to, direct and  
11 indirect costs attributable to the use of outside consultants,  
12 independent contractors, and any other persons who are not  
13 State employees for the administration of the Program.

14           (b) In addition to any other statements or reports required  
15 by law, the Board shall provide periodic reports at least  
16 annually to participating employers, reporting the names of  
17 each enrollee employed by the participating employer and the  
18 amounts of contributions made by ~~the participating employer on~~  
19 ~~behalf of~~ each employee during the reporting period, as well as  
20 to enrollees, reporting contributions and investment income  
21 allocated to, withdrawals from, and balances in their Program  
22 accounts for the reporting period. Such reports may include any  
23 other information regarding the Program as the Board may  
24 determine.

25           (c) The State Treasurer shall annually prepare a report in  
26 consultation with the Board that includes a summary of the

1 benefits provided by the Program each fiscal year, including  
2 the number of enrollees in the Program, the percentage and  
3 amounts of investment options and rates of return, and such  
4 other information that is relevant to make a full, fair, and  
5 effective disclosure of the operations of the Program and the  
6 Fund. The report shall be made available on the Program website  
7 by January of the following year.

8 (Source: P.A. 98-1150, eff. 6-1-15; 99-464, eff. 8-26-15.)

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