[First Reprint]

ASSEMBLY, No. 5358

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED FEBRUARY 25, 2025

Sponsored by:
Assemblywoman SHAMA A. HAIDER
District 37 (Bergen)
Assemblywoman TENNILLE R. MCCOY
District 14 (Mercer and Middlesex)
Assemblywoman MELINDA KANE
District 6 (Burlington and Camden)

SYNOPSIS

Revises New Jersey Secure Choice Savings Program.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 15, 2025, with amendments.

AN ACT concerning individual retirement accounts for certain workers and amending P.L.2019, c.56 [1]and R.S.54:50-9[1].

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P.L.2019, c.56 (C.43:23-14) is amended to read as follows:

2. As used in this act:

"Board" means the New Jersey Secure Choice Savings Board established pursuant to this act.

"Department" means the Department of the Treasury.

"Employee" means any individual who is 18 years of age or older, who lives in this State or is employed by an employer in this State, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. For the purposes of this act, an employee who is co-employed by an employee leasing company or professional employer organization and a client company pursuant to an employee leasing agreement or professional employer agreement, as such terms are defined in section 1 of P.L.2001, c.260 (C.34:8-67), shall be treated as employed by the client company and not by the employee leasing company or professional employer organization.

"Employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in New Jersey, whether for profit or not for profit, that has **[**at no time during the previous calendar year employed fewer than 25 employees**]** at least one employee in the State, has been in business at least two 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, or a plan sponsored by an employee leasing company or professional employer organization with which the employer has an employee leasing agreement or professional employer agreement as such terms are defined in section 1 of P.L.2001, c.260 (C. 34:8-67), in the preceding two years. "Employer" shall not mean the State, its political subdivisions, any office, department, division, bureau, board, commission or agency of the State or one of its political subdivisions, or any public body in the State.

"Enrollee" means any employee who is enrolled in the program.

"Fund" means the New Jersey Secure Choice Savings Program Fund established pursuant to this act.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly AAP committee amendments adopted May 15, 2025.

"Internal Revenue Code" means the federal Internal Revenue Code of 1986, 26 U.S.C. s.1 et seq., or any successor law, in effect for the calendar year.

"IRA" means a standard Individual Retirement Account under section 408, or a Roth Individual Retirement Account under section 408A, of the Internal Revenue Code.

"Participating employer" means an employer ⟦or small employer⟧ that provides a payroll deposit retirement savings arrangement as provided under this act for its employees who are enrollees in the program.

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

"Program" means the New Jersey Secure Choice Savings Program established pursuant to this act.

⟦"Small employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in New Jersey, whether for profit or not for profit, that employed less than 25 employees at any one time in the State throughout the previous calendar year, or has been in business less than two years, or both, but that notifies the board that it is interested in being a participating employer.⟧

"Wages" means any compensation within the meaning of section 219(f)(1) of the Internal Revenue Code that is received by an enrollee from a participating employer or employee leasing company or professional employer organization with which the enrollee's employer has an employee leasing agreement or professional employer agreement as such terms are defined in section 1 of P.L.2001, c.260 (C. 34:8-67) during the calendar year.

(cf: P.L.2019, c.56, s.2)

[1]2. Section 6 of P.L.2019, c.56 (C.43:23-18) is amended to read as follows:

6. There is established in, but not of, the Department of the Treasury the New Jersey Secure Choice Savings Board.

a. The board shall consist of the following members:

(1) the State Treasurer, or the State Treasurer's designee, who shall serve as chair;

(2) the State Comptroller, or the State Comptroller's designee;

(3) the Director of the Office of Management and Budget, or the director's designee;

(4) two representatives of the general public with expertise in retirement savings plan administration or investment, or both, of which one representative shall be appointed by the Governor upon the recommendation of the Speaker of the General Assembly and one representative appointed by the Governor upon the recommendation of the Senate President, with both appointments being made in consultation with organizations representing

business, including organizations representing businesses or professionals in the securities and investment industries;

(5) a representative of a business trade association, appointed by the Governor; and

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

b. Members of the board shall serve without compensation.

c. The initial terms of the appointees shall be as follows: the public representative recommended by the Senate President, for four years; the public representative recommended by the Speaker of the General Assembly, for two years; the representative of a business trade organization, for three years; and the representative of enrollees for one year. Thereafter, all of the appointees shall be for terms of four years.

d. <u>Each public member shall serve until a successor is appointed, and may be reappointed upon the expiration of the member's term.</u> A vacancy in the term of an appointed board member shall be filled for the balance of the unexpired term in the same manner as the original appointment.

e. Each appointment by the Governor not appointed upon the recommendation of the Senate President or the Speaker of the General Assembly shall be subject to the advice and consent of the Senate. In case of 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.

f. Each board member, prior to assuming office, shall take an oath that the member will diligently and honestly administer the affairs of the board and that the member will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the program. The oath shall be certified by the officer before whom it is taken and immediately filed with the Secretary of State.[1]

(cf: P.L.2019, c.56, s.6)

[1]3. Section 8 of P.L.2019, c.56 (C.43:23-20) is amended to read as follows:

8. In addition to the other duties and responsibilities provided in ⟦this act⟧ <u>P.L.2019, c.56 (C.43:23-13 et seq.)</u>, the board shall:

a. Design, establish, and operate the program in a manner that:

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

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

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

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

(5) ensures the portability of benefits; and

(6) 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;

c. Explore and establish investment options, subject to section 11 of [this act] P.L.2019, c.56 (C.43:23-23), 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 the 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 the 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 not less than once every two years, including, but not limited to, a review of returns, fees, and customer service, and post a copy of reviews conducted under this subsection to an Internet website established and maintained by the board;

g. Determine the number and duties of staff members needed to administer the program and employ a staff, including, as needed, appointing a program administrator, and entering into contracts with the State Treasurer to make employees of the department available to administer the program;

h. Ensure that moneys in the fund be held and invested as pooled investments described in section 11 of [this act] P.L.2019, c.56 (C.43:23-23), 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 the enrollee's 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 by an employee pursuant to section 14 of [this act] P.L.2019, c.56 (C.43:23-26), 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 moneys from the 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 the payment of administrative costs and expenses for the creation, management, and operation of the program, including the costs associated with subsections e., g., i., and m. of this section, subsection b. of section 11, subsection a. of section 18, and subsection m. of section 19 of ⟦this act⟧ <u>P.L.2019, c.56 (C.43:23-23, C.43:23-30, and C.43:23-31)</u>, and keep annual administrative fees as low as possible, but in no event shall annual administrative fees exceed ⟦0.6 percent of the fund's total balance, except that, during the first three years after the establishment of the program annual administrative fees may be set at not more than 0.75 percent of the fund's total balance. "Administrative fees" shall include any investment fees incurred pursuant to this section⟧ <u>$26 per account plus 0.25 percent of each enrollee’s account total balance</u>. 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. Thereafter, all administrative costs of the fund, including repayment of any funds provided by the State, shall be paid only out of moneys on deposit therein, except that, private funds or federal funding received under subsection l. of this section in order to implement the program shall not be repaid unless those funds were offered contingent upon the promise of repayment;

o. ⟦Allocate administrative fees to individual retirement accounts in the program on a pro rata basis;⟧ (<u>Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill).</u>

p. Set minimum and maximum contribution levels in accordance with limits established for IRAs by the Internal Revenue Code;

q. Facilitate education and outreach to employers and employees, including the promotion of the benefits of retirement savings and other information that promote financial literacy necessary for sound financial decision-making;

r. Facilitate compliance by the program with all applicable requirements for the program 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 for the effectuation of the purposes, objectives, and provisions of ⟦this act⟧ P.L.2019, c.56 (C.43:23-13 et seq.) pertaining to the program; ⟦and⟧

u. Deposit into the New Jersey Secure Choice Administrative Fund all grants, gifts, donations, fees, and earnings from investments from the New Jersey Secure Choice Savings Program Fund that are used to recover administrative costs. All expenses of the board shall be paid from the New Jersey Secure Choice Administrative Fund;

v. Assess the feasibility of multi-state or regional agreements to administer the program through shared administrative resources and enter into those agreements if determined beneficial to the program;

w. Evaluate and establish the process in which an enrollee is able to select beneficiaries in the event of the enrollee's death. Establish the process in which beneficiaries are granted access to an enrollee's account after the enrollee's death in accordance with all federal and State laws regarding beneficiaries of an IRA. Beneficiaries under this subsection are people who have been named in a document under the above process, or are the intestate recipients of an enrollee's estate after the enrollee's death should no document have been created; and

x. Enter into memorandum of agreements, memorandum of understandings, and contracts with other State agencies, and outside organizations to share data or perform other tasks as necessary to effectuate the duties of the program, provided, however, the board shall not share or release information which it obtained from another State agency or information which is protected by State or federal law or otherwise deemed confidential by the State.[1]

(cf: P.L.2019, c.56, s.8)

[1]4. Section 13 of P.L.2019, c.56 (C.43:23-25) is amended to read as follows:

13. a. Prior to the opening of the program for enrollment, the board shall design and disseminate to all employers an employer information packet and an employee information packet, which shall include background information on the program, appropriate disclosures for employees, and, if necessary, information regarding the vendor Internet website described in subsection j. of section 14 of ⟦this act⟧ P.L.2019, c.56 (C.43:23-26). The board shall establish and maintain an internet website designed to make available to employers, employees, and members of the general public the employee information packet, the employer information packet, all reports provided pursuant to subsection a. of section 18 of

P.L.2019, c.56 (C.43:23-30), and any other reports, documents or information deemed appropriate by the board.

b. For the first six months following the opening of the program, the board shall provide a process by which employers may register for participation in the program.

c. The employee information packet designed by the board shall include a disclosure form. The disclosure form shall explain, but not be limited to, all of the following:

(1) the benefits and risks associated with making contributions to the program;

(2) the mechanics of how to make contributions to the program;

(3) how to opt out of the program;

(4) how to participate in the program with a level of employee contributions other than three percent;

(5) the process for withdrawal of retirement savings;

(6) how to obtain additional information about the program;

(7) 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 pursuant to **[**this act**]** P.L.2019, c.56 (C.43:23-13 et seq.);

(8) that the program is not an employer-sponsored retirement plan; and

(9) that the program fund is not guaranteed by the State.

d. The employee information packet shall 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 three percent.

e. **[**Participating employers**]** The program shall supply the employee information packet to employees upon implementation of the program. **[**Participating employers**]** The program 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 three percent at that time.[1]

(cf: P.L.2019, c.56, s.13)

[1]**[**2.**]** 5.[1] Section 14 of P.L.2019, c.56 (C.43:23-26) is amended to read as follows:

14. The program shall be implemented, and enrollment of employees shall begin, within 24 months after the effective date of [1]**[**this act**]** P.L.2019, c.56 (C.43:23-13 et seq.)[1]. The board may extend the time period within which the program is implemented and enrollment of employees begins, but not by more than 12 months. The board shall implement the program in two phases based on the size of the employers participating, as measured by the number of employees per employer, with the program implemented

sooner for larger employers. The following provisions of this section shall be in force after the board opens the program for enrollment:

a. Each employer shall establish a payroll deposit retirement savings arrangement to allow each employee to participate in the program not more than nine months after the board opens the program for enrollment.

b. Employers shall [1][automatically][1] enroll in the program each of their employees [1][who has not opted out of participation in the program][1] using the form described in subsection d. of section 13 of [1][this act] <u>P.L.2019, c.56 (C.43:23-25)</u>[1] and shall provide payroll deposit retirement savings arrangements for their employees and, on behalf of the employees, deposit these funds into the program. [Small employers may, but are not required to, provide payroll deposit retirement savings arrangements for each employee who elects to participate in the program.]

c. Enrollees shall have the ability to select a contribution level into the fund. This 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. [1][Enrollees may change their contribution level no more than once every calendar quarter, subject to rules and regulations promulgated by the board. If an enrollee fails to select a contribution level using the form described in subsection d. of section 13 of this act, then the enrollee shall contribute three percent of the enrollee's wages to the program, so long as the contributions do 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.] <u>Enrollees may request to change their contribution level at any time. A change in contribution level requested by enrollees shall be implemented by participating employers no less than once a calendar quarter, subject to the rules and regulations promulgated by the program. If an enrollee exercises the enrollee’s right to opt out, the employer shall implement this change as soon as administratively practicable.</u>[1]

d. Enrollees may select an investment option from the permitted investment options listed in section 11 of [1][this act] <u>P.L.2019, c.56 (C.43:23-23)</u>[1]. Enrollees may change their investment option in the manner specified by rules and regulations promulgated by the board, which shall include specifications regarding how frequently enrollees may change their investment options. In the event that an enrollee fails to select an investment option, that enrollee shall be placed in the investment option selected by the board as the default under subsection c. of section 11 of [1][this act] <u>P.L.2019, c.56 (C.43:23-23)</u>[1]. If the board has not selected a default investment option under subsection c. of section

11 of [1]**[**this act**]** P.L.2019, c.56 (C.43:23-23)[1], then an enrollee who fails to select an investment option shall be placed in the life-cycle fund investment option.

e. [1]**[**Following initial implementation of the program pursuant to 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**]** If an enrollee fails to select a contribution level using the form described in subsection d. of section 13 of P.L.2019, c.56 (C.43:23-25), then the enrollee shall contribute three percent of the enrollee's wages to the program, so long as the contributions do 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. This contribution level shall be increased by one percent each year; this increased contribution level shall not exceed ten percent of the enrollee's wages to the program[1].

f. (1) For any employee hired by an employer more than six months after the board opens the program for enrollment, the employer shall enroll the employee in the program no later than three months following the date of hire of the employee, unless the employee opts out of enrollment in the program prior to being enrolled.

(2) Any newly hired employee who has previously been enrolled in the program shall have the option of making direct contributions into that employee's existing account, provided that paragraph (1) of this subsection also applies to the employer of a newly hired employee who has been previously enrolled in the program.

g. [1]**[**An employee who opts out of the program who subsequently wants to participate through the participating employer's payroll deposit retirement savings arrangement may only enroll during the participating employer's designated open enrollment period or if permitted by the participating employer at an earlier time.**]** (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill).[1]

h. Employers shall retain the option at all times to set up or provide coverage under any type of employer-sponsored retirement plan or to elect to offer coverage through a plan sponsored by an employee leasing company or professional employer organization with which that employer has an employee leasing agreement or professional employer agreement as such terms are defined in section 1 of P.L.2001, c.260 (C. 34:8-67), such as a defined benefit plan or a 401(k), Simplified Employee Pension (SEP) plan, 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.

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

j. The board may 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 [1]⟦this act⟧ P.L.2019, c.56 (C.43:23-13 et seq.)[1]. The board shall provide public notice of the availability of and the process for inclusion on the Internet website before it becomes publicly available.

k. Each employer is responsible for the tasks described in subsections a. and b. of this section, but the employer is permitted to contract with a third party, such as a payroll service provider or a professional employer organization, to perform those tasks on behalf of the employer.

[1]l. The Department of Labor and Workforce Development in consultation with the program shall develop language to include in the employer report of wages paid to ensure compliance with the program, including but not limited to, the number of employees an employer has, the name of those employees, the number of weeks worked by those employees, and the amount of wages withheld for the New Jersey Secure Choice Savings Program under P.L.2019, c.56 (C.43:23-13 et seq.).

m. Notwithstanding the provisions of subsection a. of R.S.54:50-8 to the contrary, the Department of the Treasury, Division of Taxation shall share with the program the taxpayer information that is necessary for the purposes of P.L.2019, c.56 (C.43:23-13 et seq.).

n. The Department of Labor and Workforce Development shall share with the program employer information that is necessary for the purposes of P.L.2019, c.56 (C.43:23-13 et seq.).[1]

(cf: P.L.2019, c.56, s.14)

[1]6. Section 17 of P.L.2019, c.56 (C.43:23-29) is amended to read as follows:

17. a. Participating employers shall not have any liability 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.

b. The program is not an employer-sponsored plan and it is not operated or administered by the employer. A participating employer shall not be a fiduciary, or considered to be a fiduciary, over the program, and shall not be liable with regard to investment returns, program design, and benefits paid to program participants. A participating employer shall not bear responsibility for the administration, investment, or investment performance of the program, or for any required or permitted communications between participating employees and program administrators. Nothing herein shall relieve employers from their responsibility for enrolling employees and transmitting or arranging for transmission of payroll

deductions to the program in the manner required by sections 14 and 15 of [this act] P.L.2019, c.56 (C.43:23-26 and 43:23-27), [distributing materials to employees in the manner required by section 13 this act, establishing an open enrollment period in the manner required by section 14 of this act,] or reporting information relevant to their compliance with [this act] P.L.2019, c.56 (C.43:23-13 et seq.) in the manner required by section 19 of [this act] P.L.2019, c.56 (C.43:23-31).[1]
(cf: P.L.2019, c.56, s.17)

[1]7. Section 19 of P.L.2019, c.56 (C.43:23-31) is amended to read as follows:

19. a. An employer who fails without reasonable cause to enroll any employee [who has not opted out of participation in the program] within the time prescribed under section 14 of [this act] P.L.2019, c.56 (C.43:23-26) shall be subject to:

(1) for the first calendar year during which at any point a violation occurs, a written warning by the department;

(2) for the second calendar year during which at any point a violation occurs, a fine of $100;

(3) for the third and fourth calendar year during which at any point a violation occurs, a fine of $250 for each employee who was [neither] not enrolled in [nor opted out of participation in] the program; and

(4) for the fifth and any subsequent calendar year during which at any point a violation occurs, a fine of $500 for each employee who was [neither] not enrolled in [nor opted out of participation in] the program.

b. An employer who collects employee contributions but fails to remit any portion of the contributions to the fund shall be subject to a penalty of $2,500 for a first offense, and $5,000 for the second and each subsequent offense.

c. After a determination that an employer is subject to penalty pursuant to this section, the department shall issue a notice of proposed penalty to the employer. For purposes of subsection a. of this section, the notice issued by the department to the employer shall state the number of employees for which the penalty is proposed under paragraph (3) or (4) of subsection a. of this section and the total amount of penalties proposed. For purposes of subsection b. of this section, the department shall issue a notice of proposed penalty to the employer stating the total amount of penalties proposed under subsection b. of this section. Upon the expiration of 90 days after the date on which a notice of proposed penalty was issued, the penalties specified therein shall be deemed assessed, unless the employer had filed a protest with the department under subsection d. of this section. If, within 90 days after the date on which the notice of proposed penalty was issued, a protest is filed under subsection d. of this section, the penalties specified in the notice shall be deemed assessed when the decision of the department with respect to the protest is final.

d. A written protest against the proposed penalty shall be filed with the department in a form prescribed by the department, setting forth the grounds on which the protest is based. If a protest is filed within 90 days after the date the notice of proposed penalty is issued, the department shall reconsider the proposed penalty and shall grant the employer a hearing. As soon as practicable after a reconsideration and hearing of the protest filed by the employer, the department shall issue a notice of decision to the employer, setting forth the department's findings of fact and the basis of decision. The decision of the department shall become final.

e. As soon as practicable after the penalties specified in a notice of proposed penalty are deemed assessed, the department shall give notice to the employer liable for any unpaid portion of the penalty, stating the amount due and demanding payment. The department shall provide a payment plan to employers for purposes of complying with the demand of payment for the penalty.

f. An employer who has overpaid a penalty assessed under this section may file a claim for refund with the department. A claim shall be in writing in a form prescribed by the department and shall state the specific grounds upon which it is founded. As soon as practicable after a claim for refund is filed, the department shall examine it and either issue a refund or issue a notice of denial. If a protest is filed, the department shall reconsider the denial and 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. The notice shall set forth briefly the department's findings of fact and the basis of decision in each case decided in whole or in part adversely to the employer. A denial of a claim for refund shall be final 90 days after the date of issuance of the notice of the denial, except for those amounts denied as to which the employer has filed a protest with the department. If a protest has been timely filed, the decision of the department shall become final.

g. No notice of proposed assessment shall be issued with respect to a calendar year after June 30 of the fourth subsequent calendar year. No claim for refund may be filed more than one year after the date of payment of the amount to be refunded.

h. Whenever a notice is required by this section, it shall be issued by first class mail addressed to the person concerned at the person's last known address.

i. All books and records and other papers and documents relevant to the determination of any penalty due under this section shall, at all times during business hours of the day, be subject to inspection by the department or the department's authorized representatives.

j. The department shall require employers to report information relevant to their compliance with [this act] P.L.2019, c.56 (C.43:23-13 et seq.) on their State [income tax return. Failure to provide the compliance information requested shall not cause the income tax return to be treated as unprocessable for purposes of the applicable tax law] employer report of wages paid or successor document.

k. 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 the State, a penalty assessed under this section shall be deemed to be a tax liability of the employer and any refund due to an employer shall be deemed to be an overpayment of tax of the employer.

l. Except as provided in this subsection, all information received by the department from returns filed by an employer or from any investigation conducted under the provisions of [this act] P.L.2019, c.56 (C.43:23-13 et seq.) shall be confidential, except for official purposes within the department or pursuant to official procedures for collection of penalties assessed under [this act] P.L.2019, c.56 (C.43:23-13 et seq.). No provision of this subsection shall be construed as prohibiting the department from publishing or making available to the public reasonable statistics concerning the operation of [this act] P.L.2019, c.56 (C.43:23-13 et seq.) wherein the contents of returns are grouped into aggregates in such a way that the specific information of any individual employer shall not be disclosed. No provision of this subsection shall be construed as prohibiting the department 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.

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

n. This section shall become operative nine months after the board notifies the department that the program has been implemented. Upon receipt of the notification from the board, the department shall immediately post on its Internet website a notice stating that this section is operative and the date that it is first operative. This notice shall include a statement that, rather than enrolling employees in the program under [this act] P.L.2019, c.56 (C.43:23-13 et seq.), employers may sponsor or provide coverage under an alternative arrangement, including, but not limited to, a defined benefit plan, 401(k) plan, a Simplified Employee Pension (SEP) plan, a Savings Incentive Match Plan for Employees

(SIMPLE) plan, a plan sponsored by an employee leasing company or professional employer organization with which the employer has an employee leasing agreement or professional employer agreement as such terms are defined in section 1 of P.L.2001, c.260 (C.34:8-67), or an automatic payroll deduction IRA offered through a private provider. The board shall provide a link to the vendor Internet website described in subsection j. of section 14 of **[**this act**]** P.L.2019, c.56 (C.43:23-26).

o. An employer who registers an employee but who fails, without reasonable cause, to deduct and remit any payments from an employee to the program shall be considered to have failed to remit the contributions to the fund as found under subsection b. of this section.

p. Any penalties described in this section shall be considered the maximum penalties that the program can enforce against any employer. The program, in its discretion, can reduce or eliminate a penalty, provided it serves the stated purpose of the program to ensure that the citizens of New Jersey are able to save for retirement.[1]

(cf: P.L.2019, c.56, s.19)

[1]8. R.S.54:50-9 is amended to read as follows:

54:50-9. Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this

State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

i. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-5.25 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.);

n. The release to the United States Department of the Treasury, Bureau of Financial Management Service, or its successor of relevant taxpayer information for purposes of implementing a reciprocal collection and offset of indebtedness agreement entered into between the State of New Jersey and the federal government pursuant to section 1 of P.L.2006, c.32 (C.54:49-12.7);

o. The examination of said records and files by the Commissioner of Health and Senior Services, the Commissioner of Human Services, the Medicaid Inspector General, or their respective duly authorized agents, pursuant to section 5 of P.L.2007, c.217 (C.26:2H-18.60e), section 3 of P.L.1968, c.413 (C.30:4D-3), or section 5 of P.L.2005, c.156 (C.30:4J-12);

p. The furnishing at the discretion of the director of employer-provided wage and tax withholding information contained in tax reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and 54A:7-7, to the designated municipal officer of a municipality authorized to impose an employer payroll tax pursuant to the provisions of Article 5 (Employer Payroll Tax) of the "Local Tax Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the limited purpose of verifying the payroll information reported by employers subject to the employer payroll tax;

q. The furnishing by the director to the Commissioner of Labor and Workforce Development of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of labor market research or assisting in investigations pursuant to any State wage, benefit or tax law as enumerated in section 1 of P.L.2009, c.194 (C.34:1A-1.11); or pursuant to P.L.1940, c.153 (C.34:2-21.1 et seq.).

r. The furnishing by the director to the New Jersey Economic Development Authority any information contained in tax information statements, reports or returns, or any audit thereof or a report of any investigation made with respect thereto, as may be relevant to assist the authority in the implementation of programs through which grants, loans, tax credits, or other forms of financial assistance are provided. The director shall provide to the New Jersey Economic Development Authority, upon request, such information.

s. The furnishing by the director to the Commissioner of Banking and Insurance of any information, including, but not limited to, tax information statements, reports, audit files, returns, or reports of any investigation for the purpose of assisting in investigations pursuant to any insurance fraud investigation as enumerated in P.L.1983, c.320 (C.17:33A-1 et seq.).

t. The furnishing by the director to the Commissioner of Banking and Insurance or the Commissioner of Human Services of any information contained in tax reports or returns for the purpose of determining a taxpayer's eligibility for insurance affordability assistance, the State Medicaid program, or the NJ FamilyCare

Program and to otherwise support minimum essential coverage outreach and enrollment efforts.

u. The furnishing by the director to the New Jersey Secure Choice Savings Program of any information contained in tax reports or returns for the purpose of determining a taxpayer's compliance with the "New Jersey Secure Choice Savings Program Act" pursuant to P.L.2019, c.56 (C.43:23-13 et seq.) and to otherwise support outreach and enrollment efforts.[1]

(cf: P.L.2022, c.39, s.10)

[1]**[**3.**]** 9.[1] This act shall take effect on the first day of the third month after enactment.