

P.L. 2025, CHAPTER 379, *approved January 20, 2026*
Assembly, No. 5358 (*Second Reprint*)

1 AN ACT concerning individual retirement accounts for certain
2 workers and amending P.L.2019, c.56 ¹and R.S.54:50-9¹.
3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:
6

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

9 2. As used in this act:

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

12 "Department" means the Department of the Treasury.

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

24 "Employer" means a person or entity engaged in a business,
25 industry, profession, trade, or other enterprise in New Jersey, whether
26 for profit or not for profit, that has **at no time during the previous**
27 **calendar year employed fewer than 25 employees** ²**at least one**
28 **employee** at no time during the previous calendar year employed
29 fewer than 10 employees² in the State, has been in business at least
30 two years, and has not offered a qualified retirement plan, including,
31 but not limited to, a plan qualified under section 401(a), section
32 401(k), section 403(a), section 403(b), section 408(k), section 408(p),
33 or section 457(b) of the Internal Revenue Code, or a plan sponsored by
34 an employee leasing company or professional employer organization
35 with which the employer has an employee leasing agreement or
36 professional employer agreement as such terms are defined in section
37 1 of P.L.2001, c.260 (C. 34:8-67), in the preceding two years.
38 "Employer" shall not mean the State, its political subdivisions, any

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:

¹Assembly AAP committee amendments adopted May 15, 2025.

²Senate SBA committee amendments adopted January 8, 2026.

1 office, department, division, bureau, board, commission or agency of
2 the State or one of its political subdivisions, or any public body in the
3 State.

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

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

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

10 "IRA" means a standard Individual Retirement Account under
11 section 408, or a Roth Individual Retirement Account under section
12 408A, of the Internal Revenue Code.

13 "Participating employer" means an employer **【or small employer】**
14 ²or small employer² that provides a payroll deposit retirement savings
15 arrangement as provided under this act for its employees who are
16 enrollees in the program.

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

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

22 **【"Small employer" means a person or entity engaged in a business,**
23 **industry, profession, trade, or other enterprise in New Jersey, whether**
24 **for profit or not for profit, that employed less than 25 employees at any**
25 **one time in the State throughout the previous calendar year, or has**
26 **been in business less than two years, or both, but that notifies the**
27 **board that it is interested in being a participating employer.】** ²"Small
28 employer" means a person or entity engaged in a business, industry,
29 profession, trade, or other enterprise in New Jersey, whether for profit
30 or not for profit, that employed less than 10 employees at any one time
31 in the State throughout the previous calendar year, or has been in
32 business less than two years, or both, but that notifies the board that it
33 is interested in being a participating employer.²

34 "Wages" means any compensation within the meaning of section
35 219(f)(1) of the Internal Revenue Code that is received by an enrollee
36 from a participating employer or employee leasing company or
37 professional employer organization with which the enrollee's employer
38 has an employee leasing agreement or professional employer
39 agreement as such terms are defined in section 1 of P.L.2001, c.260
40 (C. 34:8-67) during the calendar year.

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

42
43 ¹2. Section 6 of P.L.2019, c.56 (C.43:23-18) is amended to read
44 as follows:

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

47 a. The board shall consist of the following members:

- 1 (1) the State Treasurer, or the State Treasurer's designee, who
2 shall serve as chair;
- 3 (2) the State Comptroller, or the State Comptroller's designee;
- 4 (3) the Director of the Office of Management and Budget, or the
5 director's designee;
- 6 (4) two representatives of the general public with expertise in
7 retirement savings plan administration or investment, or both, of
8 which one representative shall be appointed by the Governor upon
9 the recommendation of the Speaker of the General Assembly and
10 one representative appointed by the Governor upon the
11 recommendation of the Senate President, with both appointments
12 being made in consultation with organizations representing
13 business, including organizations representing businesses or
14 professionals in the securities and investment industries;
- 15 (5) a representative of a business trade association, appointed by
16 the Governor; and
- 17 (6) a representative of enrollees, appointed by the Governor.
- 18 b. Members of the board shall serve without compensation.
- 19 c. The initial terms of the appointees shall be as follows: the
20 public representative recommended by the Senate President, for
21 four years; the public representative recommended by the Speaker
22 of the General Assembly, for two years; the representative of a
23 business trade organization, for three years; and the representative
24 of enrollees for one year. Thereafter, all of the appointees shall be
25 for terms of four years.
- 26 d. Each public member shall serve until a successor is
27 appointed, and may be reappointed upon the expiration of the
28 member's term. A vacancy in the term of an appointed board
29 member shall be filled for the balance of the unexpired term in the
30 same manner as the original appointment.
- 31 e. Each appointment by the Governor not appointed upon the
32 recommendation of the Senate President or the Speaker of the
33 General Assembly shall be subject to the advice and consent of the
34 Senate. In case of a vacancy during a recess of the Senate, the
35 Governor shall make a temporary appointment until the next
36 meeting of the Senate, at which time the Governor shall appoint a
37 person to fill the office.
- 38 f. Each board member, prior to assuming office, shall take an
39 oath that the member will diligently and honestly administer the
40 affairs of the board and that the member will not knowingly violate
41 or willingly permit to be violated any of the provisions of law
42 applicable to the program. The oath shall be certified by the officer
43 before whom it is taken and immediately filed with the Secretary of
44 State.¹
- 45 (cf: P.L.2019, c.56, s.6)
- 46

47 ¹3. Section 8 of P.L.2019, c.56 (C.43:23-20) is amended to read as
48 follows:

- 1 8. In addition to the other duties and responsibilities provided in
2 **【this act】** P.L.2019, c.56 (C.43:23-13 et seq.), the board shall:
- 3 a. Design, establish, and operate the program in a manner that:
- 4 (1) accords with best practices for retirement savings vehicles;
- 5 (2) maximizes participation, savings, and sound investment
6 practices;
- 7 (3) maximizes simplicity, including ease of administration for
8 participating employers and enrollees;
- 9 (4) provides an efficient product to enrollees by pooling
10 investment funds;
- 11 (5) ensures the portability of benefits; and
- 12 (6) provides for the deaccumulation of enrollee assets in a manner
13 that maximizes financial security in retirement;
- 14 b. Appoint a trustee to the fund in compliance with section 408 of
15 the Internal Revenue Code;
- 16 c. Explore and establish investment options, subject to section 11
17 of **【this act】** P.L.2019, c.56 (C.43:23-23), that offer employees returns
18 on contributions and the conversion of individual retirement savings
19 account balances to secure retirement income without incurring debt or
20 liabilities to the State;
- 21 d. Establish the process by which interest, investment earnings,
22 and investment losses are allocated to individual program accounts on
23 a pro rata basis and are computed at the interest rate on the balance of
24 an individual's account;
- 25 e. Make and enter into contracts necessary for the administration
26 of the program and the fund, including, but not limited to, retaining
27 and contracting with investment managers, private financial
28 institutions, other financial and service providers, consultants,
29 actuaries, counsel, auditors, third-party administrators, and other
30 professionals as necessary;
- 31 f. Conduct a review of the performance of any investment
32 vendors not less than once every two years, including, but not limited
33 to, a review of returns, fees, and customer service, and post a copy of
34 reviews conducted under this subsection to an Internet website
35 established and maintained by the board;
- 36 g. Determine the number and duties of staff members needed to
37 administer the program and employ a staff, including, as needed,
38 appointing a program administrator, and entering into contracts with
39 the State Treasurer to make employees of the department available to
40 administer the program;
- 41 h. Ensure that moneys in the fund be held and invested as pooled
42 investments described in section 11 of **【this act】** P.L.2019, c.56
43 (C.43:23-23), with a view to achieving cost savings through
44 efficiencies and economies of scale;
- 45 i. Evaluate and establish the process by which an enrollee is able
46 to contribute a portion of the enrollee's wages to the program for
47 automatic deposit of those contributions and the process by which the
48 participating employer provides a payroll deposit retirement savings

1 arrangement to forward those contributions and related information to
2 the program, including, but not limited to, contracting with financial
3 service companies and third-party administrators with the capability to
4 receive and process employee information and contributions for
5 payroll deposit retirement savings arrangements or similar
6 arrangements;

7 j. Design and establish the process for enrollment by an
8 employee pursuant to section 14 of **【this act】** P.L.2019, c.56 (C.43:23-
9 26), including the process by which an employee can opt not to
10 participate in the program, select a contribution level, select an
11 investment option, and terminate participation in the program;

12 k. Evaluate and establish the process by which an individual may
13 voluntarily enroll in and make contributions to the program;

14 l. Accept any grants, appropriations, or other moneys from the
15 State, any unit of federal, State, or local government, or any other
16 person, firm, partnership, or corporation solely for deposit into the
17 fund, whether for investment or administrative purposes;

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

23 n. Make provisions for the payment of administrative costs and
24 expenses for the creation, management, and operation of the program,
25 including the costs associated with subsections e., g., i., and m. of this
26 section, subsection b. of section 11, subsection a. of section 18, and
27 subsection m. of section 19 of **【this act】** P.L.2019, c.56 (C.43:23-23,
28 C.43:23-30, and C.43:23-31), and keep annual administrative fees as
29 low as possible, but in no event shall annual administrative fees exceed
30 **【0.6 percent of the fund's total balance, except that, during the first**
31 **three years after the establishment of the program annual**
32 **administrative fees may be set at not more than 0.75 percent of the**
33 **fund's total balance. "Administrative fees" shall include any**
34 **investment fees incurred pursuant to this section】** \$26 per account plus
35 0.25 percent of each enrollee's account total balance. Subject to
36 appropriation, the State may pay administrative costs associated with
37 the creation and management of the program until sufficient assets are
38 available in the fund for that purpose. Thereafter, all administrative
39 costs of the fund, including repayment of any funds provided by the
40 State, shall be paid only out of moneys on deposit therein, except that,
41 private funds or federal funding received under subsection l. of this
42 section in order to implement the program shall not be repaid unless
43 those funds were offered contingent upon the promise of repayment;

44 o. **【Allocate administrative fees to individual retirement accounts**
45 **in the program on a pro rata basis;】** (Deleted by amendment,
46 P.L. , c.) (pending before the Legislature as this bill).

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

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

7 r. Facilitate compliance by the program with all applicable
8 requirements for the program under the Internal Revenue Code,
9 including tax qualification requirements or any other applicable law
10 and accounting requirements;

11 s. Carry out the duties and obligations of the program in an
12 effective, efficient, and low-cost manner;

13 t. Exercise any and all other powers reasonably necessary for the
14 effectuation of the purposes, objectives, and provisions of **[this act]**
15 P.L.2019, c.56 (C.43:23-13 et seq.) pertaining to the program; **[and]**

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

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

24 w. Evaluate and establish the process in which an enrollee is able
25 to select beneficiaries in the event of the enrollee's death².
26 Establish² and establish² the process in which beneficiaries are
27 granted access to an enrollee's account after the enrollee's death in
28 accordance with all federal and State laws regarding beneficiaries of
29 an IRA. Beneficiaries under this subsection are people who have been
30 named in a document under the above process, or are the intestate
31 recipients of an enrollee's estate after the enrollee's death should no
32 document have been created; and

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

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

41
42 ¹4. Section 13 of P.L.2019, c.56 (C.43:23-25) is amended to
43 read as follows:

44 13. a. Prior to the opening of the program for enrollment, the
45 board shall design and disseminate to all employers an employer
46 information packet and an employee information packet, which
47 shall include background information on the program, appropriate

1 disclosures for employees, and, if necessary, information regarding
2 the vendor Internet website described in subsection j. of section 14
3 of **【this act】** P.L.2019, c.56 (C.43:23-26). The board shall establish
4 and maintain an internet website designed to make available to
5 employers, employees, and members of the general public the
6 employee information packet, the employer information packet, all
7 reports provided pursuant to subsection a. of section 18 of
8 P.L.2019, c.56 (C.43:23-30), and any other reports, documents or
9 information deemed appropriate by the board.

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

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

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

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

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

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

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

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

24 (7) that employees seeking financial advice should contact
25 financial advisors, that participating employers are not in a position
26 to provide financial advice, and that participating employers are not
27 liable for decisions employees make pursuant to **【this act】**
28 P.L.2019, c.56 (C.43:23-13 et seq.);

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

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

32 d. The employee information packet shall also include a form
33 for an employee to note his or her decision to opt out of
34 participation in the program or elect to participate with a level of
35 employee contributions other than three percent.

36 e. **【Participating employers】** The program shall supply the
37 employee information packet to employees upon implementation of
38 the program. **【Participating employers】** The program shall supply
39 the employee information packet to new employees at the time of
40 hiring, and new employees may opt out of participation in the
41 program or elect to participate with a level of employee
42 contributions other than three percent at that time.¹

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

44
45 ¹**【2.】** 5.¹ Section 14 of P.L.2019, c.56 (C.43:23-26) is amended
46 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"]~~ enroll in the program each of their employees ¹~~["who has not opted out of participation in the program"]~~ using the form described in subsection d. of section 13 of ¹~~["this act"]~~ P.L.2019, c.56 (C.43:23-25)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."] ²Small employers may, but are not required to, provide payroll deposit retirement savings arrangements for each employee who elects to participate in the program.~~²

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."] 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.~~¹

d. Enrollees may select an investment option from the permitted investment options listed in section 11 of ¹~~["this act"]~~ P.L.2019, c.56 (C.43:23-23)¹. Enrollees may change their investment option in the

1 manner specified by rules and regulations promulgated by the board,
2 which shall include specifications regarding how frequently enrollees
3 may change their investment options. In the event that an enrollee
4 fails to select an investment option, that enrollee shall be placed in the
5 investment option selected by the board as the default under subsection
6 c. of section 11 of ¹~~["this act"]~~ P.L.2019, c.56 (C.43:23-23)¹. If the
7 board has not selected a default investment option under subsection c.
8 of section 11 of ¹~~["this act"]~~ P.L.2019, c.56 (C.43:23-23)¹, then an
9 enrollee who fails to select an investment option shall be placed in the
10 life-cycle fund investment option.

11 e. ¹~~["Following initial implementation of the program pursuant to~~
12 ~~this section, at least once every year, participating employers shall~~
13 ~~designate an open enrollment period during which employees who~~
14 ~~previously opted out of the program may enroll in the program"]~~ If an
15 enrollee fails to select a contribution level using the form described in
16 subsection d. of section 13 of P.L.2019, c.56 (C.43:23-25), then the
17 enrollee shall contribute three percent of the enrollee's wages to the
18 program, so long as the contributions do not cause the enrollee's total
19 contributions to IRAs for the year to exceed the deductible amount
20 for the enrollee's taxable year under section 219(b)(1)(A) of the
21 Internal Revenue Code. This contribution level shall be increased by
22 one percent each year; this increased contribution level shall not
23 exceed ten percent of the enrollee's wages to the program¹.

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

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

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

41 h. Employers shall retain the option at all times to set up or
42 provide coverage under any type of employer-sponsored retirement
43 plan or to elect to offer coverage through a plan sponsored by an
44 employee leasing company or professional employer organization with
45 which that employer has an employee leasing agreement or
46 professional employer agreement as such terms are defined in section
47 1 of P.L.2001, c.260 (C. 34:8-67), such as a defined benefit plan or a

1 401(k), Simplified Employee Pension (SEP) plan, or Savings Incentive
2 Match Plan for Employees (SIMPLE) plan, or to offer an automatic
3 enrollment payroll deduction IRA, instead of having a payroll deposit
4 retirement savings arrangement to allow employee participation in the
5 program.

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

8 j. The board may establish and maintain an Internet website
9 designed to assist employers in identifying private sector providers of
10 retirement arrangements that can be set up by the employer rather than
11 allowing employee participation in the program under ¹[this act]
12 P.L.2019, c.56 (C.43:23-13 et seq.)¹. The board shall provide public
13 notice of the availability of and the process for inclusion on the
14 Internet website before it becomes publicly available.

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

20 ¹l. The Department of Labor and Workforce Development in
21 consultation with the program shall develop language to include in the
22 employer report of wages paid to ensure compliance with the program,
23 including but not limited to, the number of employees an employer
24 has, the name of those employees, the number of weeks worked by
25 those employees, and the amount of wages withheld for the New
26 Jersey Secure Choice Savings Program under P.L.2019, c.56 (C.43:23-
27 13 et seq.).

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

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

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

36
37 ¹6. Section 17 of P.L.2019, c.56 (C.43:23-29) is amended to
38 read as follows:

39 17. a. Participating employers shall not have any liability for an
40 employee's decision to participate in, or opt out of, the program or
41 for the investment decisions of the board or of any enrollee.

42 b. The program is not an employer-sponsored plan and it is not
43 operated or administered by the employer. A participating
44 employer shall not be a fiduciary, or considered to be a fiduciary,
45 over the program, and shall not be liable with regard to investment
46 returns, program design, and benefits paid to program participants.
47 A participating employer shall not bear responsibility for the

1 administration, investment, or investment performance of the
2 program, or for any required or permitted communications between
3 participating employees and program administrators. Nothing
4 herein shall relieve employers from their responsibility for enrolling
5 employees and transmitting or arranging for transmission of payroll
6 deductions to the program in the manner required by sections 14
7 and 15 of **[this act]** P.L.2019, c.56 (C.43:23-26 and 43:23-27),
8 **[distributing materials to employees in the manner required by**
9 **section 13 this act, establishing an open enrollment period in the**
10 **manner required by section 14 of this act,]** or reporting information
11 relevant to their compliance with **[this act]** P.L.2019, c.56
12 (C.43:23-13 et seq.) in the manner required by section 19 of **[this**
13 **act]** P.L.2019, c.56 (C.43:23-31).¹
14 (cf: P.L.2019, c.56, s.17)
15

16 ¹⁷7. Section 19 of P.L.2019, c.56 (C.43:23-31) is amended to
17 read as follows:

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

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

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

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

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

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

38 c. After a determination that an employer is subject to penalty
39 pursuant to this section, the department shall issue a notice of
40 proposed penalty to the employer. For purposes of subsection a. of
41 this section, the notice issued by the department to the employer
42 shall state the number of employees for which the penalty is
43 proposed under paragraph (3) or (4) of subsection a. of this section
44 and the total amount of penalties proposed. For purposes of
45 subsection b. of this section, the department shall issue a notice of
46 proposed penalty to the employer stating the total amount of
47 penalties proposed under subsection b. of this section. Upon the

1 expiration of 90 days after the date on which a notice of proposed
2 penalty was issued, the penalties specified therein shall be deemed
3 assessed, unless the employer had filed a protest with the
4 department under subsection d. of this section. If, within 90 days
5 after the date on which the notice of proposed penalty was issued, a
6 protest is filed under subsection d. of this section, the penalties
7 specified in the notice shall be deemed assessed when the decision
8 of the department with respect to the protest is final.

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

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

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

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

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

- 1 i. All books and records and other papers and documents
2 relevant to the determination of any penalty due under this section
3 shall, at all times during business hours of the day, be subject to
4 inspection by the department or the department's authorized
5 representatives.
- 6 j. The department shall require employers to report
7 information relevant to their compliance with **[this act]** P.L.2019,
8 c.56 (C.43:23-13 et seq.) on their State **[income tax return]**. Failure
9 to provide the compliance information requested shall not cause the
10 income tax return to be treated as unprocessable for purposes of the
11 applicable tax law **[employer report of wages paid or successor**
12 **document]**.
- 13 k. For purposes of any provision of State law allowing the
14 department or any other agency of this State to offset an amount
15 owed to a taxpayer against a tax liability of that taxpayer or
16 allowing the department to offset an overpayment of tax against any
17 liability owed to the State, a penalty assessed under this section
18 shall be deemed to be a tax liability of the employer and any refund
19 due to an employer shall be deemed to be an overpayment of tax of
20 the employer.
- 21 l. Except as provided in this subsection, all information
22 received by the department from returns filed by an employer or
23 from any investigation conducted under the provisions of **[this act]**
24 P.L.2019, c.56 (C.43:23-13 et seq.) shall be confidential, except for
25 official purposes within the department or pursuant to official
26 procedures for collection of penalties assessed under **[this act]**
27 P.L.2019, c.56 (C.43:23-13 et seq.). No provision of this
28 subsection shall be construed as prohibiting the department from
29 publishing or making available to the public reasonable statistics
30 concerning the operation of **[this act]** P.L.2019, c.56 (C.43:23-13 et
31 seq.) wherein the contents of returns are grouped into aggregates in
32 such a way that the specific information of any individual employer
33 shall not be disclosed. No provision of this subsection shall be
34 construed as prohibiting the department from divulging information
35 to an authorized representative of the employer or to any person
36 pursuant to a request or authorization made by the employer or by
37 an authorized representative of the employer.
- 38 m. The department may charge the board a reasonable fee for its
39 costs in performing its duties under this section to the extent that
40 those costs have not been recovered from penalties imposed under
41 this section.
- 42 n. This section shall become operative nine months after the
43 board notifies the department that the program has been
44 implemented. Upon receipt of the notification from the board, the
45 department shall immediately post on its Internet website a notice
46 stating that this section is operative and the date that it is first
47 operative. This notice shall include a statement that, rather than

1 enrolling employees in the program under **[this act]** P.L.2019, c.56
2 (C.43:23-13 et seq.), employers may sponsor or provide coverage
3 under an alternative arrangement, including, but not limited to, a
4 defined benefit plan, 401(k) plan, a Simplified Employee Pension
5 (SEP) plan, a Savings Incentive Match Plan for Employees
6 (SIMPLE) plan, a plan sponsored by an employee leasing company
7 or professional employer organization with which the employer has
8 an employee leasing agreement or professional employer agreement
9 as such terms are defined in section 1 of P.L.2001, c.260 (C.34:8-
10 67), or an automatic payroll deduction IRA offered through a
11 private provider. The board shall provide a link to the vendor
12 Internet website described in subsection j. of section 14 of **[this**
13 **act]** P.L.2019, c.56 (C.43:23-26).

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

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

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

26
27 ¹8. R.S.54:50-9 is amended to read as follows:

28 54:50-9. Nothing herein contained shall be construed to prevent:

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

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

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

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

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

- 1 f. The furnishing, at the discretion of the director, of any
2 information contained in tax reports or returns or any audit thereof
3 or the report of any investigation made with respect thereto, filed
4 pursuant to the tax laws, to the taxing officials of any other state,
5 the District of Columbia, the United States and the territories
6 thereof, providing said jurisdictions grant like privileges to this
7 State and providing such information is to be used for tax purposes
8 only;
- 9 g. The furnishing, at the discretion of the director, of any
10 material information disclosed by the records or files to any law
11 enforcing authority of this State who shall be charged with the
12 investigation or prosecution of any violation of the criminal
13 provisions of this subtitle or of any State tax law;
- 14 h. The furnishing by the director to the State agency
15 responsible for administering the Child Support Enforcement
16 program pursuant to Title IV-D of the federal Social Security Act,
17 Pub.L.93-647 (42 U.S.C. s.651 et seq.), with the names, home
18 addresses, social security numbers and sources of income and assets
19 of all absent parents who are certified by that agency as being
20 required to pay child support, upon request by the State agency and
21 pursuant to procedures and in a form prescribed by the director;
- 22 i. The furnishing by the director to the Board of Public
23 Utilities any information contained in tax information statements,
24 reports or returns or any audit thereof or a report of any
25 investigation made with respect thereto, as may be necessary for the
26 administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and
27 P.L.1997, c.162 (C.54:10A-5.25 et al.);
- 28 j. The furnishing by the director to the Director of the Division
29 of Alcoholic Beverage Control in the Department of Law and
30 Public Safety any information contained in tax information
31 statements, reports or returns or any audit thereof or a report of any
32 investigation made with respect thereto, as may be relevant, in the
33 discretion of the director, in any proceeding conducted for the
34 issuance, suspension or revocation of any license authorized
35 pursuant to Title 33 of the Revised Statutes;
- 36 k. The inspection by the Attorney General or other legal
37 representative of this State of the reports or files of any tobacco
38 product manufacturer, as defined in section 2 of P.L.1999, c.148
39 (C.52:4D-2), for any period in which that tobacco product
40 manufacturer was not or is not in compliance with subsection a. of
41 section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed
42 distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-
43 2), for the purpose of facilitating the administration of the
44 provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);
- 45 l. The furnishing, at the discretion of the director, of
46 information as to whether a contractor or subcontractor holds a
47 valid business registration as defined in section 1 of P.L.2001, c.134
48 (C.52:32-44);

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

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

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

17 p. The furnishing at the discretion of the director of employer-
18 provided wage and tax withholding information contained in tax
19 reports or returns filed pursuant to N.J.S.54A:7-2, 54A:7-4 and
20 54A:7-7, to the designated municipal officer of a municipality
21 authorized to impose an employer payroll tax pursuant to the
22 provisions of Article 5 (Employer Payroll Tax) of the "Local Tax
23 Authorization Act," P.L.1970, c.326 (C.40:48C-14 et seq.), for the
24 limited purpose of verifying the payroll information reported by
25 employers subject to the employer payroll tax;

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

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

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

1 t. The furnishing by the director to the Commissioner of
2 Banking and Insurance or the Commissioner of Human Services of
3 any information contained in tax reports or returns for the purpose
4 of determining a taxpayer's eligibility for insurance affordability
5 assistance, the State Medicaid program, or the NJ FamilyCare
6 Program and to otherwise support minimum essential coverage
7 outreach and enrollment efforts.

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

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

15
16 ¹**[3.] 9.**¹ This act shall take effect on the first day of the third
17 month after enactment.

18
19
20 _____
21
22 Revises New Jersey Secure Choice Savings Program.