STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1890 By: Montgomery

AS INTRODUCED

An Act relating to public finance; creating the Oklahoma Sooner Choice Trust Act; declaring purpose of act; defining terms; creating the Board of the Oklahoma Sooner Choice Trust Program; establishing members and terms; specifying duties of the Board; requiring Board to prepare certain investment policy statement; requiring public hearing for investment policy; authorizing the State Treasurer to invest certain monies; requiring Treasurer to file certain reports; authorizing the Board to establish certain investment options; requiring Board to set a default investment option, which may be modified; requiring certain monies to be allocated to individual program accounts; relieving state of certain liability; requiring Board to provide certain information; requiring Board to establish and maintain website; establishing timeline for registration for program; requiring disclosure of certain information; authorizing employees to opt out of program; requiring employers to provide certain notification; establishing terms of operation for program; establishing liability under this act; prohibiting employers from acting as fiduciary over program; prohibiting employer from certain acts; construing provision; requiring Board to submit certain reports; requiring Treasury to make certain reports public; establishing penalties for violation of act; requiring Treasury to provide certain notice of penalty by mail; establishing terms for protest against proposed penalty; establishing terms for refund of penalty in certain circumstances; establishing penalty as tax liability of certain persons; classifying certain information as confidential; authorizing Treasury to charge Board for certain costs; establishing date of operation for

penalties; authorizing Board to promulgate rules with Treasury; creating the Oklahoma Sooner Choice Trust Program Fund; establishing terms of fund; establishing the Oklahoma Sooner Choice Trust Administrative Fund; establishing terms of fund; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9020 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. It is hereby declared to be the purpose of this act to provide for an individual retirement account program for working Oklahomans.

B. This act shall be known and may be cited as "Oklahoma Sooner Choice Trust Act".

C. As used in this act:

1. "Board" means the Oklahoma Sooner Choice Trust Board established pursuant to this act;

2. "Employee" means any individual who is eighteen (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;

3. "Employer" means a person or entity engaged in a business, industry, profession, trade or other enterprise in Oklahoma, whether for profit or not for profit, employing more than twenty-five

employees at any one time during the previous calendar year, that has been in business at least two (2) years, that pays its employees through any kind of payroll service or any kind of automatic, electronic, software or online payroll system and that has not offered a qualified retirement plan including but not limited to a plan qualified under Sections 401(a), 401(k), 403(a), 403(b), 408(k), 408(p) or 457(b) of Title 26 the Internal Revenue Code. It shall not include 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;

4. "Enrollee" means any employee enrolled in the program;

5. "Fund" means the Oklahoma Sooner Choice Trust Program Fund established pursuant to this act;

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

7. "IRA" means a traditional Individual Retirement Account or a Roth Individual Retirement Account under Section 408A of Title 26 the Internal Revenue Code of the United States;

8. "Participating employer" means an employer that is required to facilitate a payroll deposit retirement savings arrangement as provided for in this act for its employees who are enrollees in the program.

9. “Payroll deposit retirement savings arrangement” means an arrangement by which a participating employer remits employee payroll deduction contributions to the program;

10. “Program” means the Oklahoma Sooner Choice Trust Program established pursuant to this act;

11. “Small employer” means a person or entity engaged in a business, industry, profession, trade or other enterprise in the state, whether for profit or not for profit, that employed fewer than twenty-five employees at any one time in the state throughout the previous calendar year or has been in business less than two (2) years, or both, but that notifies the Board that it is interested in facilitating the program for its employees;

12. “Total fees and expenses” means all fees, costs and expenses including, but not limited to, administrative expenses, investment expenses, investment advice expenses, accounting costs, actuarial costs and legal costs; and

13. “Wages” means any compensation within the meaning of Section 219(f)(1) of Title 26 the Internal Revenue Code that is received by an enrollee from a participating employer during the calendar year.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9021 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established a retirement savings program, known as the Oklahoma Sooner Choice Trust Program, in the form of an automatic enrollment payroll deduction individual retirement account. The program shall be administered by the Oklahoma Sooner Choice Trust Board, created pursuant to subsection B of this section, for the purpose of promoting greater retirement savings for private sector employees in a convenient, low cost and portable manner.

B. There shall be created the Board of the Oklahoma Sooner Choice Trust Program.

1. The Board shall consist of the following members:

a. the State Treasurer, or the State Treasurer's designee, who shall serve as chair,

b. the State Auditor and Inspector, or the State Auditor and Inspector's designee,

c. the Director of the Office of Management and Enterprise Services or the Director's designee,

d. two (2) representatives of the general public with expertise in financial advising or investment, or both, of which one representative shall be currently employed in at least one of the specified areas and appointed by the Governor upon the recommendation of the President Pro Tempore of the Senate and one shall be retired from at least one of the specified areas

and appointed by the Governor upon the recommendation of the Speaker of the House of Representatives, and

e. a representative of a business trade association, appointed by the Governor.

2. Members of the Board shall serve without compensation.

3. The initial terms of the appointees shall be as follows:

a. the employee representative recommended by the President Pro Tempore of the Senate, for four (4) years; the retired representative recommended by the Speaker of the House of Representatives, for two (2) years; the Representative of a business trade association, for three (3) years; thereafter, all of the appointees shall be for terms of four (4) years,

b. 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,

c. each appointment by the Governor not appointed upon the recommendation of the President Pro Tempore of the Senate or the Speaker of the House of Representatives shall be subject to the advice and consent of the Senate. In case of a vacancy during the interim, the Governor shall make a temporary appointment until the next session of the Senate, at which time the Governor shall appoint a person to fill the office.

4. 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.

5. The Board, the individual members of the Board, the trustee appointed under paragraph 2 of subsection C of this section, any other agents appointed or engaged by the Board and all persons serving as program staff shall discharge their duties with respect to the program solely in the interest of the enrollees and beneficiaries of the program as follows:

a. by investing with the care, skill, prudence and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a similar character and with similar aims, and

b. by using any contributions paid by employees directly and through participating employers pursuant to automatic payroll deductions and contributions into the fund exclusively for the purpose of paying benefits to the enrollees of the program, for the cost

of administration of the program and for investments made for the benefit of the program.

C. In addition to the other duties and responsibilities provided for in this act, the Board shall:

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

a. accords with the best practices for retirement savings vehicles,

b. maximizes participation, savings and sound investment practices,

c. maximizes simplicity, including ease of administration for participating employers and enrollees,

d. provides an efficient product to enrollees by pooling investment funds, where available,

e. ensures the portability of benefits, and

f. provides for the deaccumulation of enrollee assets in a manner that maximizes financial security in retirement;

2. Appoint a trustee to the fund in compliance with Section 408 of the Internal Revenue Code;

3. Explore and establish investment options, subject to the provisions of subsection C of Section 3 of this act, 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;

4. Establish the process by which interest, investment earnings and investment losses are allocated to individual program accounts;

5. Make and enter into contracts, agreements, memoranda of understanding, partnerships, or any other arrangements necessary for the administration of the program and the fund, including, but not limited to, retaining and contracting with similar automatic IRA programs managed by other states, investment managers, private financial institutions, other financial and service providers, consultants, actuaries, counsel, auditors, third-party administrations and other professionals as necessary;

6. Conduct a review of the performance of any investment vendors not less than once every two (2) 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;

7. Determine the number and duties of staff members needed to administer the program and employ a staff including appointing a program administrator and entering into contracts to make employees of the State Treasury available to administer the program;

8. Ensure that moneys in the fund be held and invested as pooled investments described in subsection C of Section 3 of this act, with a view to achieving cost savings through efficiencies and economies of scale;

9. Evaluate and establish the process by which an enrollee is able to contribute a portion of the wages of the employee to the program for automatic deposit of those contributions and the process by which the participating employer facilitates 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;

10. Design and establish the process for enrollment by an employee 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;

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

12. Accept any grants, appropriations or other moneys from the state, any unit of federal, state, or local government or any person, firm, partnership or corporation solely for deposit into the fund, whether for investment or administrative purposes;

13. Evaluate the need for, and procedure 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 the actions or inaction of a member of the Board;

14. Make provisions for the payment of administrative costs and expenses for the creation, management and operation of the program, including the costs associated with this subsection and Section 3 of this act, and keep annual administrative fees as low as possible, but in no event shall total fees exceed one and sixth-tenths percent (1.6%) of the total balance of the fund except during the first five (5) years after the establishment of the program. 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 paragraph 12 of this section in order to implement the program shall not be repaid unless those funds were offered contingent upon the promise of repayment;

15. Allocate administrative fees to individual retirement accounts in the program on a pro rata basis;

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

17. 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;

18. 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;

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

20. Exercise any and all other powers reasonably necessary for implementation of the purposes, objectives and provisions of this act pertaining to the program; and

21. Deposit into the Oklahoma Sooner Choice Trust Administrative Fund all grants, gifts, donations, fees and earnings from investments from the Oklahoma Sooner Choice Trust Program Fund that are used to recover administrative costs. All expenses of the Board shall be paid from the Oklahoma Sooner Choice Trust Administrative Fund.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9022 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Sooner Choice Trust Board shall annually prepare and adopt a written statement of investment policy that

includes a risk management and oversight program. This investment policy shall prohibit the Board, program and fund from borrowing for investment purposes. The risk management and oversight program shall be designed to ensure that an effective risk management system is in place to monitor the risk levels of the program and fund portfolio, to ensure that the risks taken are prudent and properly managed, to provide an integrated process for overall risk management and to assess investment returns as well as risk to determine if the risk taken are adequately compensated compared to applicable performance benchmarks and standards. The Board shall consider the statement of investment policy and any changes in the investment policy at a public hearing.

B. Monies in the fund shall be invested or reinvested by the State Treasurer. The State Treasurer shall comply with any and all applicable federal and state laws and rules, as well as any and all rules promulgated by the Board with respect to the program and the investment of the fund, including but not limited to the investment policy. He or she shall provide reports as the Board deems necessary for the Board to oversee the Treasurer's performance and the performance of the fund.

C. 1. The Board may establish any or all of the following investment options:

a. a capital preservation fund, which prioritizes the security of the deposit over the rate of return. If

the Board elects to establish a capital preservation fund, the Board may provide that the first One Thousand Dollars ($1,000.00) in contributions made by, or on behalf of an enrollee shall be deposited into the capital preservation fund and the Board may provide for an account revocation period during which, if the enrollee chooses to end participation in the program, the enrollee may withdraw the deposited amounts from the capital preservation fund without penalty,

b. a life-cycle fund, or

c. any other investment option deemed appropriate by the Board.

2. The Board shall designate by rule one of the investment options as the default investment option for enrollees who fail to elect an investment option and may amend, modify or repeal such investment options as it deems necessary or proper and may subsequently select, by rule, a different investment option as the default investment option.

3. Interest, investment earnings and investment losses shall be allocated to individual program accounts as established by the Board pursuant to subsection C of Section 2 of this act. A retirement savings benefit of an individual under the program shall be an amount equal to the balance in the program account of that

individual on the date the retirement savings benefit becomes payable. The state shall have no liability for the payment of any benefit to any participant in the program.

D. 1. 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 information regarding the vendor Internet website described in paragraph 10 of subsection E of this section. 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 and any reports, documents or information deemed appropriate by the Board.

2. For the first six (6) months following the implementation of the program, the Board shall provide a process through which employers may register for the program.

3. The employee information packet designed by the Board shall include a disclosure form. The disclosure form shall include, but not be limited to, the following explanations:

a. the benefits and risks associated with making contributions to the program,

b. the mechanics of how to make contributions to the program,

c. how to opt out of the program,

d how to participate in the program with a level of employee contributions other than the default rate

e. the process for withdrawal of retirement savings,

f. how to obtain additional information about the program,

g. that employees seeking financial advice should contact financial advisors, that participating employers are not able to provide financial advice and that participating employers are not liable for decisions employees make pursuant to this act,

h. that the program is not an employer-sponsored retirement plan, and

i. that the program fund is not guaranteed by the state.

4. 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 the default rate.

5. Participating employers 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 the default rate chosen by the Board at that time.

E. The program shall be implemented and enrollment of employees shall begin within twenty-four (24) months after the effective date of this act. The Board may extend the time period within which the program is implemented by no more than twelve (12) months. The Board may implement, at its discretion, 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:

1. Each employer shall facilitate a payroll deposit retirement savings arrangement to allow each eligible employee to participate in the program not more than nine (9) months after the Board opens the program for enrollment;

2. Employers shall automatically enroll in the program each of their employees who has opted into the program using the form described in paragraph 4 of subsection D of this section and shall facilitate payroll deposit retirement savings arrangements for their employees and, on behalf of the employees, deposit these funds into the program;

3. 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 taxable year of the enrollee under Section 219(b)(1)(A) of Title 26

of the Internal Revenue Code. Enrollees may change their contribution level no more than once every calendar quarter, subject to rules promulgated by the Board. If an enrollee fails to select a contribution level using the form described in paragraph 4 of subsection D of this section, then the enrollee shall contribute five percent (5%) of the wages of the enrollee to the program, unless the Board chooses a different default rate, so long as the contributions do not cause the total contributions to the IRA for the year to exceed the deductible amount for the taxable year of the enrollee under Section 219(b)(1)(A) of Title 26 the Internal Revenue Code;

4. Enrollees may select an investment option from the permitted investment options listed in subsection C of this section. Enrollees may change their investment option in the manner specified by rules promulgated by the Board, which shall include specifications regarding how frequently enrollees may change their investment options. If 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 this section. If the Board has not selected a default investment option under this act, then an enrollee who fails to select an investment option shall be placed in the life-cycle fund investment option provided for in subsection C of this section;

5. 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;

6. a. For any employee hired by an employer more than six (6) months after the Board opens the program for enrollment, the employer shall enroll the employee in the program no later than three (3) months following the date of hire of the employee, if the employee opts into the program prior to being enrolled.

b. Any newly hired employee who has previously been enrolled in the program shall have the option of making direct contributions into the existing account of the employee, provided that subparagraph a of this paragraph also applies to the employer of the newly hired employee who has been previously enrolled in the program;

7. An employee who opts out of the program who subsequently wants to participate through the payroll deposit retirement savings arrangement of the participating employer may only enroll during the designated open enrollment period of that participating employer or if permitted by the participating employer at an earlier time;

8. Employers shall retain the option to set up or provide coverage under any type of employer-sponsored retirement plan, such

as a defined benefit plan or a 401(k), or to offer an automatic payroll deduction IRA, instead of having a payroll deposit retirement savings arrangement to allow employee participation in the program;

9. An employee may terminate his or her participation in the program at any time in a manner prescribed by the Board;

10. The Board may establish and maintain or contract with another state offering a marketplace to provide access to, 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 this act. The Board shall provide public notice of the availability of and the process for inclusion on the Internet website before it becomes publicly available; and

11. Each employer is responsible for the tasks described in paragraphs 1 and 2 of this subsection, but the employer may contract with a third-party to perform those tasks on behalf of the employer.

F. Employee contributions deducted by the participating employer through payroll deduction, less any amount withheld for state income tax pursuant to rules adopted by the Board in consultation with the State Treasurer, shall be made by the participating employer to the fund before the deadline established by those rules, using one or more payroll deposit retirement savings arrangements established by the Board under this act.

G. 1. The state shall have no duty or liability to any party for the payment of any retirement savings benefits accrued by any individual under the program. Any financial liability for the payment of retirement savings benefits in excess of funds available under the program shall be borne solely by the entities with whom the Board contracts to provide insurance to protect the value of the program.

2. No state entity, board, commission or agency or any officer, employee or member thereof is liable for any loss or deficiency resulting from investments selected under this act, except for any liability that arises out of a breach of fiduciary duty.

H. 1. Participating employers shall not have any liability for the decision of an employee to participate in or opt out of the program or for the investment decisions of the Board or of any enrollee.

2. 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 for investment returns, program design and benefits paid to program participants. A participating employer shall not contribute to the IRA of a participating employee or 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 be construed to relieve employers from their responsibility for enrolling employees and transmitting or arranging for transmission of payroll deductions to the program, distributing materials to employees or complying with the open enrollment period of the program.

I. 1. The Board shall annually submit the following to the Governor, the State Treasurer, and the Legislature:

a. an audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the program for each calendar year, to be submitted no later than July 1 of the following year,

b. a report prepared by the Board including, but not limited to, a summary of the benefits provided by the program, the number of enrollees in the program, the percentage and amounts of investment options and rates of return, fees paid to any vendors or contractors for purposes of implementing or operating the program and other information that is relevant to make a full and effective disclosure of the operations of the program and the fund.

2. The annual audit shall be made by an independent certified public account and shall include, but is not limited to, direct and indirect costs attributable to the use of outside consultants,

independent contractors and any other persons who are not state employees for the administration of the program.

3. The State Treasurer shall make available to the public on its Internet website all reports provided to the Treasury pursuant to this subsection.

4. In addition to any other statements or reports required by law, the Board shall provide periodic reports at least annually to participating employers, reporting the names of each enrollee employed by the participating employer and the amounts of contributions made through the participating employer on the behalf of each employee pursuant to automatic payroll deductions and contributions during the reporting period, as well as to enrollees, reporting contributions and investment income allocated to, withdrawals from and balances in their program accounts for the reporting period. The reports may include any other information regarding the program as the Board determines is appropriate.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9023 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. 1. 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 subsection E of Section 3 of this act shall be subject to the following:

a. for the first calendar year during which at any point a violation occurs, a written warning by the Treasury,

b. for the second calendar year during which at any point a violation occurs, a fine of Two Hundred Fifty Dollars ($250.00) for each employee who was neither enrolled in nor opted out of participation in the program,

c. for the third and fourth calendar year during which at any point a violation occurs, a fine of Five Hundred Dollars ($500.00) for each employee who was neither enrolled in nor opted out of participation in the program, and

d. for the fifth and any subsequent calendar year during which at any point a violation occurs, a fine of Five Hundred Dollars ($500.00) for each employee who was neither enrolled in nor opted out of participation in the program.

2. 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 Two Thousand Five Hundred Dollars ($2,500.00) for the first offense and Five Thousand Dollars ($5,000.00) for the second and each subsequent offense.

B. After a determination that an employer is subject to penalty pursuant to this section, the State Treasurer shall issue a notice

of proposed penalty to the employer. For purposes of subsection A of this section, the notice issued by the Treasury to the employer shall state the number of employees for which the penalty is proposed under subparagraph (c) or (d) of paragraph 1 of subsection A of this section and the total amount of penalties proposed. For purposes of paragraph 2 of section A of this section, the State Treasurer shall issue a notice of proposed penalty to the employer stating the total amount of penalties proposed under the paragraph. Upon the expiration of ninety (90) days after the date on which the notice of proposed penalty was issued, the penalties specified therein shall be deemed assessed, unless the employer had filed a protest with the Office of the State Treasurer under subsection C of this section. If, within ninety (90) days after the date on which the notice of proposed penalty was issued, a protest is filed under subsection C of this section, the penalties specified in the notice shall be deemed assessed when the decision of the Office with respect to the protest is final.

C. A written protest about the proposed penalty shall be filed with the Office of the State Treasurer in a form prescribed by the State Treasurer, setting forth grounds on which the protest is based. If a protest is filed within ninety (90) days after the date the notice of proposed penalty is issued, the State Treasurer 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 State Treasurer shall issue a notice of decision to the employer, setting for his or her findings of fact and the basis of decision. The decision shall become final.

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

E. An employer who has overpaid a penalty assessed under this section may file a claim for refund with the Office of the State Treasurer. A claim shall be in writing in a form prescribed by the State Treasurer and shall state the specific grounds upon which it is founded. As soon as practicable after a claim for refund is filed, the Office shall examine it and either issue a refund or issue a notice of denial. If a protest is filed, the Office shall reconsider the denial and grant the employer a hearing. As soon as practicable after the reconsideration and hearing, the Office shall issue a notice of decision to the employer. The notice shall set forth briefly the State Treasurer'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 ninety (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 Office. If a protest has been timely filed, the decision shall become final.

F. 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 a refund may be filed more than one (1) year after the date of payment of the amount to be refunded.

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

H. All books and records and other papers and documents relevant to the determination of any penalty due under this section shall, during business hours of the day, be subject to inspection by the State Treasurer or authorized representatives of the State Treasurer.

I. For purposes of any provision of state law allowing the State Treasurer 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 State Treasurer 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.

J. Except as provided in this subsection, all information received by the State Treasurer from returns filed by an employer or from any investigation conducted under the provisions of this act shall be confidential, except for official purposes within the Office of the State Treasurer or pursuant to official procedures for collection of penalties assessed under this act. No provision of this subsection shall be construed as prohibiting the State Treasurer 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.

K. The Office of the State Treasurer 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.

L. This section shall become operative nine (9) months after the Board notifies the State Treasurer that the program has been implemented. Upon receipt of the notification from the Board, the Office of the State Treasurer 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, employers may sponsor or provide coverage under an alternative arrangement, including but not limited to a defined benefit plan, a

401(k) plan or an automatic payroll deduction IRA offered through a private provider. The Board shall provide a link to the vendor Internet website as prescribed in subsection E of Section 3 of this act.

M. The Board, in consultation with the Treasury, shall promulgate any rules necessary for the implementation of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9024 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the Office of the State Treasurer a fund to be designated as the Oklahoma Sooner Choice Trust Program Fund. The Oklahoma Sooner Choice Trust Board, as established in this act, shall act as its trustee.

B. The fund shall include the individual retirement accounts of enrollees, which shall be accounted for as individual accounts. Monies in the fund shall consist of monies received from enrollees directly and through participating employers pursuant to automatic payroll deductions and contributions to savings made pursuant to this act.

C. The fund shall be operated in a manner determined by the Board; provided, that the fund is operated so that the accounts of enrollees established under the program meet the requirements for IRAs under the Internal Revenue Code. The amounts deposited in the fund shall not constitute property of the state and the fund shall

not be construed to be a department, institution or agency of the state. Amounts on deposit in the fund shall not be commingled with state funds and the state shall have no claim to or against, or interest in, such funds.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9025 of Title 62, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the Office of the State Treasurer a fund to be designated as the "Oklahoma Sooner Choice Trust Administrative Fund". The Oklahoma Sooner Choice Trust Board shall use moneys in the administrative fund to pay for administrative expenses it incurs in the performance of its duties under this act. The Board shall use moneys in the administrative fund to cover startup administrative expenses it incurs in the performance of its duties under this act. The administrative fund may receive any grants or other moneys designated for administrative purposes from the state, or any unit of federal or local government, or any other person, firm, partnership or corporation. Any interest earnings that are attributable to moneys in the administrative fund shall be deposited into the administrative fund.

SECTION 7. This act shall become effective November 1, 2020.

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