

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025**

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HOUSE BILL 79

Short Title: North Carolina Work and Save. (Public)

Sponsors: Representatives Lowery, McNeely, and Warren (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

February 11, 2025

A BILL TO BE ENTITLED
AN ACT TO CREATE THE SMALL BUSINESS RETIREMENT SAVINGS PROGRAM AND
TO APPROPRIATE FUNDS.

Whereas, the General Assembly finds that too many North Carolina citizens have no or inadequate savings for retirement, and an estimated 1.7 million North Carolina working families, including employees, independent contractors, and the self-employed, have no access to an employer-sponsored retirement plan or program or any other easy way to save at work; and

Whereas, it is the policy of the State to assist the North Carolina private-sector workforce, including in particular moderate- and lower-income working households, to voluntarily save for retirement, including by facilitating saving in individual retirement accounts (IRAs) as well as by encouraging employers to adopt retirement savings and other retirement plans for employees in the State; and

Whereas, more adequate, portable, low-cost, and consumer-protective retirement saving by North Carolina households will enhance their retirement security and ultimately reduce the pressure on State public assistance programs for retirees and other elderly citizens and the potential burden on North Carolina taxpayers to finance such programs; and

Whereas, the General Assembly intends to establish a North Carolina Work and Save Program that will use the services of competent and qualified private-sector entities selected by the North Carolina Small Business Retirement Savings Program Board to administer the Program and manage the funds on behalf of the Program participants; and

Whereas, the North Carolina Department of State Treasurer manages the State's finances, including pensions, healthcare, investments, and unclaimed property; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2K. North Carolina Small Business Retirement Savings Program.

"§ 143B-437.120. Title.

This Part shall be known as the "North Carolina Small Business Retirement Savings Program" or "North Carolina Work and Save."

"§ 143B-437.121. Definitions.

The following definitions apply in this Part:

(1) Administrative Fund. – The North Carolina Small Business Retirement Savings Administrative Fund established in G.S. 143B-437.130.

(2) Board. – The North Carolina Small Business Retirement Savings Program Board.



- (3) Covered employee. – An individual who is employed by a covered employer, who has wages or other compensation that is allocable to the State, and who is at least 18 years of age. A covered employee does not include any of the following:
- a. Any employee covered under the federal Railway Labor Act (45 U.S.C. § 151).
- b. Any employee on whose behalf an employer makes contributions to a Taft-Hartley multiemployer pension trust fund.
- c. Any individual who is an employee of the federal government, the State or any other state, any county or municipal corporation, or any of the State's, any other state's, or the federal government's units or instrumentalities.
- (4) Covered employer. – A person or entity engaged in a business, industry, profession, trade, or other enterprise in the State, whether for profit or not for profit, excluding the federal government, the State, any county, any municipality, or any political subdivision of the State, and provided that covered employer does not include an employer that maintains a specified tax-favored retirement plan for its employees or has done so effective in form and operation at any time within the current or two preceding calendar years. If an employer does not maintain a specified tax-favored retirement plan for a portion of a calendar year ending on or after the effective date of this Article and adopts such a plan effective for the remainder of that calendar year, the employer is exempt from covered employer status for that remainder of the year.
- (4a) Department. – The North Carolina Department of Commerce.
- (5) ERISA. – The Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. § 1001 et seq.).
- (6) Internal Revenue Code. – The Internal Revenue Code of 1986, as amended (Title 26 of the United States Code).
- (7) IRA. – A traditional or Roth individual retirement account or individual retirement annuity.
- (8) Participant. – An individual who is contributing to an IRA under the Program or has an IRA account balance under the Program.
- (9) Participating employer. – A covered employer that provides for covered employees a payroll deduction IRA provided for by this Article.
- (10) Payroll deduction IRA arrangement or payroll deduction IRA. – An arrangement by which an employer allows employees to contribute to an IRA by means of payroll deduction.
- (11) Program or North Carolina Work and Save Program. – The Small Business Retirement Savings Program established by this Article.
- (12) Roth IRA. – A Roth individual retirement account or individual retirement annuity under section 408A of the Internal Revenue Code.
- (13) Specified tax-favored retirement plan. – A retirement plan that is tax-qualified under or is described in and satisfies the requirements of subsection 401(a), 401(k), 403(a), 403(b), 408(k) (Simplified Employee Pension), or 408(p) (SIMPLE-IRA) of the Internal Revenue Code.
- (14) Total fees and expenses. – All fees, costs, and expenses, including, but not limited to, administrative expenses, investment expenses, investment advice expenses, accounting costs, actuarial costs, legal costs, marketing expenses, education expenses, trading costs, insurance annuitization costs, and other miscellaneous costs.

(15) Traditional IRA. – A traditional individual retirement account or traditional individual retirement annuity under subsection 408(a) or (b) of the Internal Revenue Code.

(16) Trust. – The trust in which the assets of the Program are held. Where applicable, except as may be otherwise specified, references throughout this Article to the Program generally are intended to refer also to the Trust, including the assets, facilities, costs and expenses, receipts, expenditures, activities, operations, administration, or management.

"§ 143B-437.122. Establishment of Board.

(a) The North Carolina Small Business Retirement Savings Board is established for administrative purposes in the Department of Commerce, but the Board shall exercise its powers and duties independently of the Department. The Department shall provide administrative support for the Board in carrying out its duties pursuant to this Article.

(b) The Board shall consist of 12 members.

(1) Ten voting members shall be appointed as follows:

a. The State Treasurer shall appoint a member who has a favorable reputation for skill, knowledge, and experience in retirement investment products or retirement plan designs.

b. Five members appointed by the Governor as follows:

1. One member who has a favorable reputation for skill, knowledge, and experience in retirement investment products or retirement plan designs.

2. One member who has a favorable reputation for skill, knowledge, and experience relating to small business or covered employers.

3. One member from the Office of State Budget and Management or other designee knowledgeable about fiscal impacts.

4. One member who is an employee of the Department of Commerce.

5. One member of the public.

c. Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives as follows:

1. One member who is a retired individual or an individual who represents persons retired to be a representative of the interests of retirees.

2. One member who has a favorable reputation for skill, knowledge, and experience in the interests of employers in retirement saving.

d. Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate as follows:

1. One member who is a representative of an association representing employees or who has a favorable reputation for skill, knowledge, and experience in the interests of employees in retirement saving.

2. One member who has a favorable reputation for skill, knowledge, and experience in retirement investment products or retirement plan designs.

(2) In addition to the 10 voting members, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one nonvoting advisory member.

(c) All initial appointments shall be made no later than October 1, 2025. Of the initial five appointments made by the Governor, two shall be appointed for four-year terms, two shall be appointed for two-year terms, and one shall be appointed for a one-year term, with all terms to begin on October 1, 2025. Of the initial two appointments made by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one shall be appointed for a four-year term and one shall be appointed for a two-year term, with both terms to begin on October 1, 2025. Of the initial two appointments made by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one shall be appointed for a four-year term and one shall be appointed for a two-year term, with both terms to begin on October 1, 2025. The initial appointment by the State Treasurer shall be for a term of three years to begin on October 1, 2025. All successors shall be appointed for four-year terms. All members of the Board shall serve at the pleasure of the appointing authority.

(d) Members of the Board shall serve without compensation and shall receive per diem, subsistence, and travel allowances as provided in G.S. 138-5 and G.S. 138-6 as applicable.

(e) The Governor shall convene the first meeting of the Board no later than October 15, 2025. A majority of the voting members of the Board constitutes a quorum. The first order of business before the Board shall be to elect a chair from among the Board's membership. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise the powers and duties of the Board.

"§ 143B-437.123. Powers and duties of the Board.

(a) The Board shall have the following powers and duties, subject to its authority and fiduciary duty:

(1) Design, develop, implement, maintain, govern, and promulgate rules with respect to a payroll deduction retirement savings program for covered employers and, to that end, may conduct market, legal, and feasibility analyses.

(2) Elect a chair and other officers it deems necessary.

(3) Meet as necessary to perform its duties.

(4) Appoint an executive director, who shall be the chief administrative officer of the Board.

(5) Retain trustees, record keepers, investment managers, investment advisors, and other administrative, professional, expert advisors and service providers, none of whom shall be members of the Board and all of whom shall serve at the pleasure of the Board, and determine their duties and compensation. The Board may authorize the executive director and other officials to oversee requests for proposals or other public competitions and enter into contracts on behalf of the Board and conduct any business necessary for the efficient operation of the Board.

(6) Cause the Program, Trust, and arrangements and accounts established under the Program to be designed, established, and operated:

a. In accordance with best practices for retirement saving vehicles.

b. To encourage participation, saving, sound investment practices, and appropriate selection of investment options, including any default investments.

c. To maximize simplicity and ease of administration for covered employers.

d. To arrange for collective, common, and pooled investment of assets of the Program and Trust, including investments in conjunction with

- 1 other funds with which these assets are permitted by law to be
2 collectively invested, with a view to achieving economies of scale and
3 other efficiencies designed to minimize costs for the Program and its
4 participants, to promote portability of benefits.
5 e. To avoid preemption of the Program by federal law (Employee
6 Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.).
7 (7) Develop and implement an investment policy that defines the Program's
8 investment objectives, consistent with the objectives of the Program, and that
9 provides for policies and procedures consistent with those investment
10 objectives. The Board shall designate appropriate default investments that
11 include a mix of asset classes, such as target date and balanced funds. The
12 Board shall seek to minimize participant fees and expenses of investment and
13 administration. The Board shall strive to design and implement investment
14 options available to holders of accounts established as part of the Program and
15 other Program features that are intended to achieve maximum possible income
16 replacement balanced with an appropriate level of risk in an IRA-based
17 environment consistent with the investment objectives under the policy. The
18 investment options may encompass a range of risk and return opportunities
19 and allow for a rate of return commensurate with an appropriate level of risk
20 in view of the investment objectives under the policy. The menu of investment
21 options shall be determined taking into account the nature and objectives of
22 the Program, the desirability based on behavioral research findings of limiting
23 investment choices under the Program to a reasonable number, and the
24 extensive investment choices available to participants in the event that they
25 roll over to an IRA outside the Program.
26 (8) Set and collect necessary fees from covered employees for application,
27 account, or administrative processing and accept any grants, gifts, legislative
28 appropriations, loans, and other moneys from the State, any unit of federal,
29 State, or local government, or any other person, firm, or entity to defray the
30 costs of administering and operating the Program.
31 (9) If necessary, determine the eligibility of an employer, employee, or other
32 individual to participate in the Program.
33 (10) Adopt rules it deems necessary or advisable for the implementation of this
34 Article and the administration and operation of the Program.
35 (11) Cause expenses incurred to initiate, implement, maintain, and administer the
36 Program to be paid from contributions to, or investment returns or assets of,
37 the Program or other money collected by or for the Program or pursuant to
38 arrangements established under the Program to the extent permitted under
39 federal and State law.
40 (12) Invest and reinvest its funds in the Administrative Fund in accordance with
41 applicable State and federal laws.
42 (13) Make and enter into competitively procured contracts, agreements,
43 memoranda of understanding, partnerships, or other arrangements, to
44 collaborate and cooperate with, and to retain, employ, and contract with or for
45 any of the following to the extent necessary or desirable, for the effective and
46 efficient design, implementation, and administration of the Program
47 consistent with the purposes set forth in this Article and to maximize outreach
48 to covered employers and covered employees:
49 a. Services of private and public financial institutions, depositories,
50 consultants, actuaries, counsel, auditors, investment advisers,
51 investment administrators, investment management firms, other

- investment firms, third-party administrators, other professionals and service providers, and State public retirement systems.
- b. Research, technical, financial, administrative, and other services.
- c. Services of other State agencies to assist the Board in the exercise of its powers and duties.
- (14) The Board may enter into an intergovernmental agreement or memorandum of understanding with the State and any agency of the State to receive outreach, technical assistance, enforcement and compliance services, collection or dissemination of information pertinent to the Program subject to such obligations of confidentiality as may be agreed to or required by law, or other services or assistance. The State and any agencies of the State that enter into such agreements or memoranda of understanding shall collaborate to provide the outreach, assistance, information, and compliance or other services or assistance to the Board. The memoranda of understanding may cover the sharing of costs incurred in gathering and disseminating information and the reimbursement of costs for any enforcement activities or assistance.
- (15) Make and enter into contracts, agreements, memoranda of understanding, arrangements, partnerships, or other arrangements to collaborate, cooperate, coordinate, contract, or combine resources, investments, or administrative functions with other governmental entities, including other states or their agencies or instrumentalities that maintain or are establishing retirement savings programs compatible with the Program, including collective, common, or pooled investments with other funds of other states' programs with which the assets of the Program and Trust are permitted by law to be collectively invested, to the extent necessary or desirable for the effective and efficient design, administration, and implementation of the Program consistent with the purposes set forth in this Article, including the purpose of achieving economies of scale and other efficiencies designed to minimize costs for the Program.
- (16) Develop and implement an education and outreach plan to gain input and disseminate information regarding the North Carolina Work and Save Program and retirement savings and financial literacy in general.
- (17) Establish procedures for the timely and fair resolution of participant and other disputes related to accounts or Program operation.
- (18) Evaluate the need for, and procure if and as deemed necessary, pooled private insurance against any and all loss in connection with the property, assets, or activities of the Program.
- (19) Borrow from the State, any unit of federal, State, or local government, or any other person, firm, partnership, corporation, or other entity working capital funds and other funds as may be necessary for this purpose, provided that such funds are borrowed in the name of the Program and Board only and that any such borrowings shall be payable solely from the revenues of the Program.
- (20) Enter into long-term procurement contracts with one or more financial providers that provide a fee structure that would assist the Program in avoiding or minimizing the need to borrow or to rely upon general assets of the State.
- (b) In addition to the applicable prohibitions contained in Article 4 of Chapter 138A of the General Statutes, a Board member, executive director, and other staff of the Board shall not do any of the following:
- (1) Directly or indirectly have any interest in the making of any investment under the Program or in gains or profits accruing from any such investment.

- (2) Borrow any Program-related funds or deposits or use any such funds or deposits in any manner, for himself or herself or as an agent or partner of others.
- (3) Become an endorser, surety, or obligor on investments made under the Program.

"§ 143B-437.124. Standard of conduct; fiduciary duty.

The Board, individual members of the Board, all persons serving as staff to the Program, and any other agents appointed or engaged shall discharge their duties for the exclusive purpose of providing benefits to the Program participants and administering the Program with discharge of its duties and shall:

- (1) Defray reasonable expenses in the administration of the Program.
- (2) Govern Program investors with the care, skill, prudence, and diligence as a prudent person acting in a like capacity would.
- (3) Comply with all State ethics laws and regulations.

"§ 143B-437.125. Requirements for the North Carolina Small Business Retirement Savings Program.

The Program developed and established by the Board shall:

- (1) Provide a process to facilitate voluntary enrollment into the Program for covered employers, covered employees, and self-employed persons.
- (2) Provide that the IRA to which contributions are made will be a Roth IRA, except that the Board shall have the authority at any time to add an option for all participants to affirmatively elect to contribute to a traditional IRA as an alternative to the Roth IRA.
- (3) Provide that the standard package shall be a Roth IRA with a target date fund investment, and a contribution rate that begins at five percent (5%) of salary or wages; provided, however, that the covered employee can choose to stop participation altogether, to use a traditional IRA and a different investment from among the options available, and to contribute at a higher or lower contribution rate, subject to the IRA contribution dollar limits applicable under the Internal Revenue Code.
- (4) Provide on a uniform basis, if and when the Board so determines, in its discretion, for annual increases of each participant's contribution rate, by not more than one percent (1%) of salary or wages per year up to a maximum of eight percent (8%). Any such increases shall apply to participants, as determined by the Board, by default or only if initiated by affirmative participant election included as part of the standard package, in either case subject to the IRA contribution limits applicable under the Internal Revenue Code.
- (5) Allow a covered employer to withhold payroll deductions from a covered employee's paycheck for the express purpose of making a covered employee contribution to the Program funds.
- (6) Include a process for direct deposit of contributions into covered employee investments in the Program.
- (7) Covered employers are not allowed to make employer contributions to the covered employee's accounts.
- (8) Allow for covered employees to make non-payroll contributions into an account in addition to the covered employer payroll deducted amounts.
- (9) Include an account reporting system that requires separate records and accounting for each covered employer and covered employee enrolled.
- (10) Include an account status notification process for covered employees to be notified about and track their investments pursuant to this Article.

- (11) Allow portability of benefits, including the ability to make tax-free rollovers or transfers from accounts under the Program to other non-Program retirement accounts or to tax-qualified plans that accept such rollovers or transfers provided any rollover is initiated by the employee.
- (12) Establish rules and procedures governing the distribution of funds from the Program, including such distributions as may be permitted or required by the Program and any applicable provisions of tax laws, with the objectives of maximizing financial security in retirement, helping to protect spousal rights, and assisting participants with the challenges of decumulation of savings. The Board shall have the authority, in its discretion, to provide for one or more reasonably priced distribution options to provide a source of fixed retirement income, including income for life or for the participant's life expectancy (or for joint lives and life expectancies, as applicable).
- (13) Pool accounts as necessary under the Program for optimum investment opportunity and return on investment outcomes.
- (14) Be professionally managed.
- (15) Provide a report on the status of each Program participant's account to each Program participant at least annually.
- (16) Provide that each Program participant owns the contributions to and earnings on amounts contributed to the participant's account under this Article and that the State, the Board, and covered employers have no proprietary interest, whether legal or equitable, in those contributions or earnings.
- (17) Keep total fees and expenses as low as practicable.
- (18) Be designed and implemented in a manner consistent with federal law, including favorable federal tax treatment, to the extent that it applies and is consistent with the Program not being preempted by ERISA.
- (19) Ensure that the North Carolina Small Business Retirement Savings Program is designed to be financially self-sustaining over time.
- (20) Provide that, if a covered employer fails to transmit a payroll deduction contribution to the Program on the earliest date the amount withheld from the covered employee's compensation can reasonably be segregated from the covered employer's assets, but not later than the fifteenth day of the month following the month in which the covered employee's contribution amounts are withheld from his or her paycheck, the failure to remit such contributions on a timely basis shall be subject to the same sanctions as employer misappropriation of employee wage withholdings and to penalties.

"§ 143B-437.126. Rules for the North Carolina Work and Save Program.

The Board shall adopt rules to implement the Program that:

- (1) Establish the processes for enrollment and contributions to Payroll Deduction IRAs under the Program, including elections by covered employees, withholding by covered employers of employee payroll deduction contributions from wages and remittance for deposit to IRAs, and voluntary enrollment and contributions by others, including self-employed individuals and independent contractors, through payroll deduction or otherwise.
- (2) Establish the processes for withdrawals, rollovers, and direct transfers from IRAs under the Program in the interest of facilitating portability and maximization of benefits.
- (3) Establish processes for phasing in enrollment of eligible individuals.
- (4) Conduct outreach to individuals, employers, other stakeholders, and the public regarding the Program. Specify the contents, frequency, timing, and means of required disclosures from the Program to covered employees, participants,

other individuals eligible to participate in the Program, covered employers, and other interested parties. These disclosures shall include, but need not be limited to:

- a. The benefits associated with tax-favored retirement saving.
- b. The potential advantages and disadvantages associated with contributing to Roth IRAs and, if applicable, traditional IRAs under the Program.
- c. The eligibility rules for Roth IRAs and, if applicable, traditional IRAs.
- d. That the individual and not the employer, the State, the Board, any Board member or other State official, or the Program will be solely responsible for determining whether and, if so, how much the individual is eligible to contribute on a tax-favored basis to an IRA.
- e. The penalty for excess contributions to IRAs and the method of correcting excess contributions.
- f. Instructions for enrolling, making elections to contribute or to decline to contribute, and making elections regarding contribution rates, type of IRA, and investments.
- g. Instructions for implementing and for changing the elections.
- h. The potential availability of a saver's tax credit, including the eligibility conditions for the credit and instructions on how to claim it.
- i. That employees seeking tax, investment, or other financial advice should contact appropriate professional advisors, and that covered employers are not in a position to provide such advice and are not liable for decisions individuals make in relation to the Program.
- j. That the payroll deduction IRAs are intended not to be employer-sponsored retirement plans and that the Program is not an employer-sponsored retirement plan.
- k. The potential implications of account balances under the Program for the application of asset limits under certain public assistance programs.
- l. That the account owner is solely responsible for investment performance, including market gains and losses, and that IRA accounts and rates of return are not guaranteed by any employer, the State, the Board, any Board member or State official, or the Program.
- m. Additional information about retirement and saving and other information designed to promote financial literacy and capability which may take the form of links to, or explanations of how to obtain, such information.
- n. How to obtain additional information about the Program.

"§ 143B-437.127. Protection from liability for covered employers.

(a) A covered employer or other employer is not and shall not be liable for or bear responsibility for any of the following:

- (1) An employee's decision to participate in or not to participate in the Program or a participant's specific elections under the Program.
- (2) Participants' or the Board's investment decisions.
- (3) The administration, investment, investment returns, or investment performance of the Program, including, without limitation, any interest rate or other rate of return on any contribution or account balance, provided they play no role.
- (4) The Program design or the benefits paid to participants.

(5) Individuals' awareness of or compliance with the conditions and other provisions of the tax laws that determine which individuals are eligible to make tax-favored contributions to IRAs, in what amount, and in what time frame and manner.

(6) Any loss, failure to realize any gain, or any other adverse consequences, including, without limitation, any adverse tax consequences or loss of favorable tax treatment, public assistance, or other benefits, incurred by any person as a result of participating in the Program.

(b) No covered employer or other employer shall be, or shall be considered to be, a fiduciary in relation to the Program or Trust or any other arrangement under the Program.

"§ 143B-437.128. Protection from liability for the State.

The State has no duty or liability to any party for the payment of any retirement savings benefits accrued by any individual under the Program. The State, the Board, each member of the Board, and the Program:

(1) Shall have no responsibility for compliance by individuals with the conditions and other provisions of the Internal Revenue Code that determine which individuals are eligible to make tax-favored contributions to IRAs, in what amount, and in what time frame and manner.

(2) Shall have no duty, responsibility, or liability to any party for the payment of any benefits under the Program, regardless of whether sufficient funds are available under the Program to pay such benefits.

(3) Do not and shall not guarantee any interest rate or other rate of return on or investment performance of any contribution or account balance.

(4) Shall have no liability or responsibility for any loss, deficiency, failure to realize any gain, or any other adverse consequences incurred by any person as a result of participating in the Program.

"§ 143B-437.129. Confidentiality of participant and account information.

Individual account information relating to accounts under the Program and relating to individual participants, including, but not limited to, names, addresses, telephone numbers, email addresses, personal identification information, investments, contributions, and earnings, is confidential, is not a public record as defined in G.S. 132-1, and may not be disclosed except as follows:

(1) To the extent necessary to administer the Program in a manner consistent with this Article, the tax laws of this State, and the Internal Revenue Code; or

(2) To the extent that the individual who provides the information or is the subject of the information expressly agrees in writing to the disclosure of the information.

"§ 143B-437.130. Funding of Program.

The North Carolina Small Business Retirement Savings Administrative Fund is established, to be held in trust separate and distinct from the General Fund. Interest earned by the Administrative Fund shall be credited to the Administrative Fund. Moneys in the Administrative Fund are continuously appropriated to the Board. The Administrative Fund consists of:

(1) Moneys appropriated to the Administrative Fund by the General Assembly.

(2) Moneys transferred to the Administrative Fund from the federal government, other State agencies, or local governments.

(3) Moneys from the payment of application, account, administrative, or other fees and the payment of other moneys due the Board.

(4) Any gifts, donations, or grants made to the State for deposit in the Administrative Fund.

(5) Earnings on moneys in the Administrative Fund.

"§ 143B-437.131. Annual report.

(a) The Board shall cause an accurate account of all of the Program's, Trust's, and Board's activities, operations, receipts, and expenditures to be maintained. By October 1 of each year, the Board shall submit to the Governor and the Joint Legislative Commission on Governmental Operations a report detailing the activities, operations, receipts, and expenditures of the Program and Board during the preceding calendar year. The report shall also include projected activities of the Program for the current calendar year and any necessary statutory recommendations and appropriations.

(b) Each year, a full audit of the books and accounts of the Board pertaining to those activities, operations, receipts and expenditures, personnel, services, or facilities shall be conducted by a certified public accountant and shall include, but not be 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. For the purposes of the audit, the auditors shall have access to the properties and records of the Program and Board and may prescribe methods of accounting and the rendering of periodic reports in relation to projects undertaken by the Program.

"§ 143B-437.132. Implementation.

(a) The Board shall establish the Program so that individuals can begin contributing under the Program not later than July 1, 2027.

(b) The Board shall not implement the Program if and to the extent the Board determines that the Program is preempted by ERISA. Accordingly, the Board shall implement the Program in a severable fashion to the extent practicable if and to the extent that the Board determines:

(1) That a portion or aspect of the Program is preempted by ERISA, in which event the Board shall not implement that portion or aspect of the Program but shall proceed to implement the remainder of the Program to the extent practicable; or

(2) That some but not all of the payroll deduction IRA arrangements or other arrangements under the Program are or would be employee benefit plans under ERISA, in which event the Board shall proceed to implement the Program with respect to the other arrangements under the Program to the extent practicable."

SECTION 2. There is appropriated from the General Fund to the Department of Commerce the sum of four hundred thousand dollars (\$400,000) in nonrecurring funds for the 2025-2026 fiscal year and the sum of six hundred thousand dollars (\$600,000) in nonrecurring funds for the 2026-2027 fiscal year. The Department shall allocate the funds to the North Carolina Small Business Retirement Savings Program Board (Board) to be used for the following:

- (1) To enable or facilitate the start-up and continuing operation, maintenance, administration, and management of the North Carolina Small Business Retirement Savings Program (Program) until the Program accumulates sufficient balances and can generate sufficient funding through fees assessed on Program accounts for the Program to become financially self-sustaining.
- (2) To hire an individual to serve as the initial executive director pursuant to G.S. 143B-437.123(a)(4). The position shall be filled on a time-limited basis, and the individual filling the position shall not be considered a State employee.

SECTION 3. This act becomes effective July 1, 2025.