

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025**

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SENATE BILL 110

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

Sponsors: Senators Hanig, Moffitt, and Adcock (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 18, 2025

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

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

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

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

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

21 Whereas, the North Carolina 529 College Savings Program has demonstrated the
22 feasibility of a public-private partnership that outsources investment and administration to assist
23 private citizens of the State to save on a voluntary and cost-efficient basis; Now, therefore,
24 The General Assembly of North Carolina enacts:

25 **SECTION 1.** Article 6 of Chapter 147 of the General Statutes is amended by
26 designating G.S. 147-65 through G.S. 147-86.6 as Part 1 with the heading "General Provisions,
27 Powers, and Duties; Investment; and Funds."

28 **SECTION 2.** Article 6 of Chapter 147 of the General Statutes is amended by adding
29 a new Part to read:

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

31 "§ 147-86.7A. Title.

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

34 "§ 147-86.7B. Definitions.

35 The following definitions apply in this Part:



- 1 (1) Administrative Fund. – The North Carolina Small Business Retirement
2 Savings Administrative Fund established in G.S. 147-86.7V.
3 (2) Board. – The North Carolina Small Business Retirement Savings Program
4 Board.
5 (3) Covered employee. – An individual who is employed by a covered employer,
6 who has wages or other compensation that is allocable to the State, and who
7 is at least 18 years of age. A covered employee does not include any of the
8 following:
9 a. Any employee covered under the federal Railway Labor Act (45
10 U.S.C. § 151).
11 b. Any employee on whose behalf an employer makes contributions to a
12 Taft-Hartley multiemployer pension trust fund.
13 c. Any individual who is an employee of the federal government, the
14 State or any other state, any county or municipal corporation, or any
15 of the State's, any other state's, or the federal government's units or
16 instrumentalities.
17 (4) Covered employer. – A person or entity engaged in a business, industry,
18 profession, trade, or other enterprise in the State, whether for-profit or not for
19 profit, excluding the federal government, the State, any county, any
20 municipality, or any political subdivision of the State, and provided that
21 covered employer does not include an employer that maintains a specified
22 tax-favored retirement plan for its employees or has done so effective in form
23 and operation at any time within the current or two preceding calendar years.
24 If an employer does not maintain a specified tax-favored retirement plan for a
25 portion of a calendar year ending on or after the effective date of this Part and
26 adopts such a plan effective for the remainder of that calendar year, the
27 employer is exempt from covered employer status for that remainder of the
28 year.
29 (4a) Department. – The Department of State Treasurer.
30 (5) ERISA. – The Employee Retirement Income Security Act of 1974, as
31 amended (29 U.S.C. § 1001 et seq.).
32 (6) Internal Revenue Code. – The Internal Revenue Code of 1986, as amended
33 (Title 26 of the United States Code).
34 (7) IRA. – A traditional or Roth individual retirement account or individual
35 retirement annuity.
36 (8) Participant. – An individual who is contributing to an IRA under the Program
37 or has an IRA account balance under the Program.
38 (9) Participating employer. – A covered employer that provides for covered
39 employees a payroll deduction IRA provided for by this Part.
40 (10) Payroll deduction IRA arrangement or payroll deduction IRA. – An
41 arrangement by which an employer allows employees to contribute to an IRA
42 by means of payroll deduction.
43 (11) Program or North Carolina Work and Save Program. – The Small Business
44 Retirement Savings Program established by this Part.
45 (12) Roth IRA. – A Roth individual retirement account or individual retirement
46 annuity under section 408A of the Internal Revenue Code.
47 (13) Specified tax-favored retirement plan. – A retirement plan that is tax-qualified
48 under or is described in and satisfies the requirements of subsection 401(a),
49 401(k), 403(a), 403(b), 408(k) (Simplified Employee Pension), or 408(p)
50 (SIMPLE-IRA) of the Internal Revenue Code.

- 1 (14) Total fees and expenses. – All fees, costs, and expenses, including, but not
2 limited to, administrative expenses, investment expenses, investment advice
3 expenses, accounting costs, actuarial costs, legal costs, marketing expenses,
4 education expenses, trading costs, insurance annuitization costs, and other
5 miscellaneous costs.
- 6 (15) Traditional IRA. – A traditional individual retirement account or traditional
7 individual retirement annuity under subsection 408(a) or (b) of the Internal
8 Revenue Code.
- 9 (16) Trust. – The trust in which the assets of the Program are held. Where
10 applicable, except as may be otherwise specified, references throughout this
11 Part to the Program generally are intended to refer also to the Trust, including
12 the assets, facilities, costs and expenses, receipts, expenditures, activities,
13 operations, administration, or management.

14 **"§ 147-86.7C. Establishment of Board.**

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

19 (b) The Board shall consist of 12 members.

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

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

24 b. Five members appointed by the Governor as follows:

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

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

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

33 4. One member who is an employee of the Department of State
34 Treasurer.

35 5. One member of the public.

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

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

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

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

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

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

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

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

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

21 (e) The Governor shall convene the first meeting of the Board no later than October 15,
22 2025. A majority of the voting members of the Board constitutes a quorum. The first order of
23 business before the Board shall be to elect a chair from among the Board's membership. A
24 vacancy in the membership of the Board shall not impair the right of a quorum to exercise the
25 powers and duties of the Board.

26 **"§ 147-86.7D. Powers and duties of the Board.**

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

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

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

34 (3) Meet as necessary to perform its duties.

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

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

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

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

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

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

1 consistent with the purposes set forth in this Part and to maximize outreach to
2 covered employers and covered employees:

3 a. Services of private and public financial institutions, depositories,
4 consultants, actuaries, counsel, auditors, investment advisors,
5 investment administrators, investment management firms, other
6 investment firms, third-party administrators, other professionals and
7 service providers, and State public retirement systems.

8 b. Research, technical, financial, administrative, and other services.

9 c. Services of other State agencies to assist the Board in the exercise of
10 its powers and duties.

11 (14) The Board may enter into an intergovernmental agreement or memorandum
12 of understanding with the State and any agency of the State to receive
13 outreach, technical assistance, enforcement and compliance services,
14 collection or dissemination of information pertinent to the Program subject to
15 such obligations of confidentiality as may be agreed to or required by law, or
16 other services or assistance. The State and any agencies of the State that enter
17 into such agreements or memoranda of understanding shall collaborate to
18 provide the outreach, assistance, information, and compliance or other
19 services or assistance to the Board. The memoranda of understanding may
20 cover the sharing of costs incurred in gathering and disseminating information
21 and the reimbursement of costs for any enforcement activities or assistance.

22 (15) Make and enter into contracts, agreements, memoranda of understanding,
23 arrangements, partnerships, or other arrangements to collaborate, cooperate,
24 coordinate, contract, or combine resources, investments, or administrative
25 functions with other governmental entities, including other states or their
26 agencies or instrumentalities that maintain or are establishing retirement
27 savings programs compatible with the Program, including collective,
28 common, or pooled investments with other funds of other states' programs
29 with which the assets of the Program and Trust are permitted by law to be
30 collectively invested, to the extent necessary or desirable for the effective and
31 efficient design, administration, and implementation of the Program
32 consistent with the purposes set forth in this Part, including the purpose of
33 achieving economies of scale and other efficiencies designed to minimize
34 costs for the Program.

35 (16) Develop and implement an education and outreach plan to gain input and
36 disseminate information regarding the North Carolina Work and Save
37 Program and retirement savings and financial literacy in general.

38 (17) Establish procedures for the timely and fair resolution of participant and other
39 disputes related to accounts or Program operation.

40 (18) Evaluate the need for, and procure if and as deemed necessary, pooled private
41 insurance against any and all loss in connection with the property, assets, or
42 activities of the Program.

43 (19) Borrow from the State, any unit of federal, State, or local government, or any
44 other person, firm, partnership, corporation, or other entity working capital
45 funds and other funds as may be necessary for this purpose, provided that such
46 funds are borrowed in the name of the Program and Board only and that any
47 such borrowings shall be payable solely from the revenues of the Program.

48 (20) Enter into long-term procurement contracts with one or more financial
49 providers that provide a fee structure that would assist the Program in avoiding
50 or minimizing the need to borrow or to rely upon general assets of the State.

1 **(b)** In addition to the applicable prohibitions contained in Article 4 of Chapter 138A of
2 the General Statutes, a Board member, executive director, and other staff of the Board shall not
3 do any of the following:

- 4 **(1)** Directly or indirectly have any interest in the making of any investment under
5 the Program or in gains or profits accruing from any such investment.
- 6 **(2)** Borrow any Program-related funds or deposits or use any such funds or
7 deposits in any manner, for himself or herself or as an agent or partner of
8 others.
- 9 **(3)** Become an endorser, surety, or obligor on investments made under the
10 Program.

11 **"§ 147-86.7G. Standard of conduct; fiduciary duty.**

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

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

20 **"§ 147-86.7J. Requirements for the North Carolina Small Business Retirement Savings**
21 **Program.**

22 The Program developed and established by the Board shall:

- 23 **(1)** Provide a process to facilitate voluntary enrollment into the Program for
24 covered employers, covered employees, and self-employed persons.
- 25 **(2)** Provide that the IRA to which contributions are made will be a Roth IRA,
26 except that the Board shall have the authority at any time to add an option for
27 all participants to affirmatively elect to contribute to a traditional IRA as an
28 alternative to the Roth IRA.
- 29 **(3)** Provide that the standard package shall be a Roth IRA with a target date fund
30 investment, and a contribution rate that begins at five percent (5%) of salary
31 or wages; provided, however, that the covered employee can choose to stop
32 participation altogether, to use a traditional IRA and a different investment
33 from among the options available, and to contribute at a higher or lower
34 contribution rate, subject to the IRA contribution dollar limits applicable
35 under the Internal Revenue Code.
- 36 **(4)** Provide on a uniform basis, if and when the Board so determines, in its
37 discretion, for annual increases of each participant's contribution rate, by not
38 more than one percent (1%) of salary or wages per year up to a maximum of
39 eight percent (8%). Any such increases shall apply to participants, as
40 determined by the Board, by default or only if initiated by affirmative
41 participant election included as part of the standard package, in either case
42 subject to the IRA contribution limits applicable under the Internal Revenue
43 Code.
- 44 **(5)** Allow a covered employer to withhold payroll deductions from a covered
45 employee's paycheck for the express purpose of making a covered employee
46 contribution to the Program funds.
- 47 **(6)** Include a process for direct deposit of contributions into covered employee
48 investments in the Program.
- 49 **(7)** Covered employers are not allowed to make employer contributions to the
50 covered employee's accounts.

- 1 (8) Allow for covered employees to make non-payroll contributions into an
2 account in addition to the covered employer payroll deducted amounts.
- 3 (9) Include an account reporting system that requires separate records and
4 accounting for each covered employer and covered employee enrolled.
- 5 (10) Include an account status notification process for covered employees to be
6 notified about and track their investments pursuant to this Part.
- 7 (11) Allow portability of benefits, including the ability to make tax-free rollovers
8 or transfers from accounts under the Program to other non-Program retirement
9 accounts or to tax-qualified plans that accept such rollovers or transfers
10 provided any rollover is initiated by the employee.
- 11 (12) Establish rules and procedures governing the distribution of funds from the
12 Program, including such distributions as may be permitted or required by the
13 Program and any applicable provisions of tax laws, with the objectives of
14 maximizing financial security in retirement, helping to protect spousal rights,
15 and assisting participants with the challenges of decumulation of savings. The
16 Board shall have the authority, in its discretion, to provide for one or more
17 reasonably priced distribution options to provide a source of fixed retirement
18 income, including income for life or for the participant's life expectancy (or
19 for joint lives and life expectancies, as applicable).
- 20 (13) Pool accounts as necessary under the Program for optimum investment
21 opportunity and return on investment outcomes.
- 22 (14) Be professionally managed.
- 23 (15) Provide a report on the status of each Program participant's account to each
24 Program participant at least annually.
- 25 (16) Provide that each Program participant owns the contributions to and earnings
26 on amounts contributed to the participant's account under this Part and that the
27 State, the Board, and covered employers have no proprietary interest, whether
28 legal or equitable, in those contributions or earnings.
- 29 (17) Keep total fees and expenses as low as practicable and in any event each year
30 not in excess of 100 basis points of the total assets of the Program, except that
31 this limit shall not apply during a start-up period of three years beginning with
32 the initial implementation of the Program.
- 33 (18) Be designed and implemented in a manner consistent with federal law,
34 including favorable federal tax treatment, to the extent that it applies and is
35 consistent with the Program not being preempted by ERISA.
- 36 (19) Ensure that the North Carolina Small Business Retirement Savings Program
37 is designed to be financially self-sustaining over time.
- 38 (20) Provide that, if a covered employer fails to transmit a payroll deduction
39 contribution to the Program on the earliest date the amount withheld from the
40 covered employee's compensation can reasonably be segregated from the
41 covered employer's assets, but not later than the fifteenth day of the month
42 following the month in which the covered employee's contribution amounts
43 are withheld from his or her paycheck, the failure to remit such contributions
44 on a timely basis shall be subject to the same sanctions as employer
45 misappropriation of employee wage withholdings and to penalties.

46 **§ 147-86.7M. Rules for the North Carolina Work and Save Program.**

47 The Board shall adopt rules to implement the Program that:

- 48 (1) Establish the processes for enrollment and contributions to Payroll Deduction
49 IRAs under the Program, including elections by covered employees,
50 withholding by covered employers of employee payroll deduction
51 contributions from wages and remittance for deposit to IRAs, and voluntary

1 enrollment and contributions by others, including self-employed individuals
2 and independent contractors, through payroll deduction or otherwise.

3 (2) Establish the processes for withdrawals, rollovers, and direct transfers from
4 IRAs under the Program in the interest of facilitating portability and
5 maximization of benefits.

6 (3) Establish processes for phasing in enrollment of eligible individuals.

7 (4) Conduct outreach to individuals, employers, other stakeholders, and the public
8 regarding the Program. Specify the contents, frequency, timing, and means of
9 required disclosures from the Program to covered employees, participants,
10 other individuals eligible to participate in the Program, covered employers,
11 and other interested parties. These disclosures shall include, but need not be
12 limited to:

13 a. The benefits associated with tax-favored retirement saving.

14 b. The potential advantages and disadvantages associated with
15 contributing to Roth IRAs and, if applicable, traditional IRAs under
16 the Program.

17 c. The eligibility rules for Roth IRAs and, if applicable, traditional IRAs.

18 d. That the individual and not the employer, the State, the Board, any
19 Board member or other State official, or the Program will be solely
20 responsible for determining whether and, if so, how much the
21 individual is eligible to contribute on a tax-favored basis to an IRA.

22 e. The penalty for excess contributions to IRAs and the method of
23 correcting excess contributions.

24 f. Instructions for enrolling, making elections to contribute or to decline
25 to contribute, and making elections regarding contribution rates, type
26 of IRA, and investments.

27 g. Instructions for implementing and for changing the elections.

28 h. The potential availability of a saver's tax credit, including the
29 eligibility conditions for the credit and instructions on how to claim it.

30 i. That employees seeking tax, investment, or other financial advice
31 should contact appropriate professional advisors, and that covered
32 employers are not in a position to provide such advice and are not
33 liable for decisions individuals make in relation to the Program.

34 j. That the payroll deduction IRAs are intended not to be
35 employer-sponsored retirement plans and that the Program is not an
36 employer-sponsored retirement plan.

37 k. The potential implications of account balances under the Program for
38 the application of asset limits under certain public assistance
39 programs.

40 l. That the account owner is solely responsible for investment
41 performance, including market gains and losses, and that IRA
42 accounts and rates of return are not guaranteed by any employer, the
43 State, the Board, any Board member or State official, or the Program.

44 m. Additional information about retirement and saving and other
45 information designed to promote financial literacy and capability
46 which may take the form of links to, or explanations of how to obtain,
47 such information.

48 n. How to obtain additional information about the Program.

49 **"§ 147-86.7P. Protection from liability for covered employers.**

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

- 1 (1) An employee's decision to participate in or not to participate in the Program
2 or a participant's specific elections under the Program.
- 3 (2) Participants' or the Board's investment decisions.
- 4 (3) The administration, investment, investment returns, or investment
5 performance of the Program, including, without limitation, any interest rate or
6 other rate of return on any contribution or account balance, provided they play
7 no role.
- 8 (4) The Program design or the benefits paid to participants.
- 9 (5) Individuals' awareness of or compliance with the conditions and other
10 provisions of the tax laws that determine which individuals are eligible to
11 make tax-favored contributions to IRAs, in what amount, and in what time
12 frame and manner.
- 13 (6) Any loss, failure to realize any gain, or any other adverse consequences,
14 including, without limitation, any adverse tax consequences or loss of
15 favorable tax treatment, public assistance, or other benefits, incurred by any
16 person as a result of participating in the Program.

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

19 **"§ 147-86.7R. Protection from liability for the State.**

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

- 23 (1) Shall have no responsibility for compliance by individuals with the conditions
24 and other provisions of the Internal Revenue Code that determine which
25 individuals are eligible to make tax-favored contributions to IRAs, in what
26 amount, and in what time frame and manner.
- 27 (2) Shall have no duty, responsibility, or liability to any party for the payment of
28 any benefits under the Program, regardless of whether sufficient funds are
29 available under the Program to pay such benefits.
- 30 (3) Do not and shall not guarantee any interest rate or other rate of return on or
31 investment performance of any contribution or account balance.
- 32 (4) Shall have no liability or responsibility for any loss, deficiency, failure to
33 realize any gain, or any other adverse consequences incurred by any person as
34 a result of participating in the Program.

35 **"§ 147-86.7T. Confidentiality of participant and account information.**

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

- 41 (1) To the extent necessary to administer the Program in a manner consistent with
42 this Part, the tax laws of this State, and the Internal Revenue Code; or
- 43 (2) To the extent that the individual who provides the information or is the subject
44 of the information expressly agrees in writing to the disclosure of the
45 information.

46 **"§ 147-86.7V. Funding of Program.**

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

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

- 1 (2) Moneys transferred to the Administrative Fund from the federal government,
2 other State agencies, or local governments.
- 3 (3) Moneys from the payment of application, account, administrative, or other
4 fees and the payment of other moneys due the Board.
- 5 (4) Any gifts, donations, or grants made to the State for deposit in the
6 Administrative Fund.
- 7 (5) Earnings on moneys in the Administrative Fund.

8 **"§ 147-86.7X. Annual report.**

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

16 (b) Each year, a full audit of the books and accounts of the Board pertaining to those
17 activities, operations, receipts and expenditures, personnel, services, or facilities shall be
18 conducted by a certified public accountant and shall include, but not be limited to, direct and
19 indirect costs attributable to the use of outside consultants, independent contractors, and any other
20 persons who are not State employees for the administration of the Program. For the purposes of
21 the audit, the auditors shall have access to the properties and records of the Program and Board
22 and may prescribe methods of accounting and the rendering of periodic reports in relation to
23 projects undertaken by the Program.

24 **"§ 147-86.7Z. Implementation.**

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

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

- 30 (1) That a portion or aspect of the Program is preempted by ERISA, in which
31 event the Board shall not implement that portion or aspect of the Program but
32 shall proceed to implement the remainder of the Program to the extent
33 practicable; or
- 34 (2) That some but not all of the payroll deduction IRA arrangements or other
35 arrangements under the Program are or would be employee benefit plans
36 under ERISA, in which event the Board shall proceed to implement the
37 Program with respect to the other arrangements under the Program to the
38 extent practicable."

39 **SECTION 3.** There is appropriated from the General Fund to the Department of
40 State Treasurer the sum of four hundred thousand dollars (\$400,000) in nonrecurring funds for
41 the 2025-2026 fiscal year and the sum of six hundred thousand dollars (\$600,000) in nonrecurring
42 funds for the 2026-2027 fiscal year. The Department shall allocate the funds to the North Carolina
43 Small Business Retirement Savings Program Board (Board) to be used for the following:

- 44 (1) To enable or facilitate the start-up and continuing operation, maintenance,
45 administration, and management of the North Carolina Small Business
46 Retirement Savings Program (Program) until the Program accumulates
47 sufficient balances and can generate sufficient funding through fees assessed
48 on Program accounts for the Program to become financially self-sustaining.
- 49 (2) To hire an individual to serve as the initial executive director pursuant to
50 G.S. 147-86.7D(a)(4). The position shall be filled on a time-limited basis, and
51 the individual filling the position shall not be considered a State employee.

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SECTION 4. This act becomes effective July 1, 2025.