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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 205
AS AMENDED BY
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLES 19 AND 29 OF THE DELAWARE CODE RELATING TO ESTABLISHMENT AND MANAGEMENT OF THE EXPANDING ACCESS FOR RETIREMENT AND NECESSARY SAVING PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

WHEREAS, workplace retirement saving plans provide millions of U.S. workers with an effective and convenient way to save for retirement, yet one third of U.S. workers lack access to such plans; and

WHEREAS, according to research from the National Institute on Retirement Security, 75% of U.S. residents agree that the country is facing a retirement crisis; and

WHEREAS, an increasing number of states are offering or planning to offer workers whose employers do not sponsor a retirement plan an option to be automatically enrolled in private-sector payroll deduction IRAs, and many other states are considering such programs; and

WHEREAS, according to the National Compensation and Benefits Survey, which surveyed Delaware workplaces and their employees, 54% of employers within the State do not offer retirement plans; and

WHEREAS, according to research from the Georgetown University Center for Retirement Initiatives, approximately 38% of the State's workforce – more than 145,000 workers, many of whom are lower- to moderate-income women and minority workers – do not have access to employer-sponsored retirement plans; and

WHEREAS, despite the economic downturn caused by the COVID-19 pandemic, state-sponsored retirement plans that support small business employees have remained resilient with employee contributions holding steady, withdrawals under control, and employer registrations increasing; and

WHEREAS, in the three states with the longest-running state-sponsored retirement programs, employee contributions held steady or increased during the COVID-19 pandemic; and

WHEREAS, according to a March 2020 survey by MoneyRates, 36% of employees who are within 20 years of retirement expect the COVID-19 pandemic to delay their retirement; and

WHEREAS, according to an April 2021 Congressional Research Service report, the number of citizens over the age of 65 living in poverty in the State is projected to increase substantially over the next 20 years, with a commensurate increase in demand for public assistance benefits; and

WHEREAS, through the Delaware EARNs Program, the State will facilitate increased retirement saving among the State's working population and reduce the need for additional taxes or fees to fund public assistance programs; and

WHEREAS, the Delaware EARNs Program will provide a convenient, low-cost, portable, and tax-favored means of saving for workers whose employers do not offer a private-sector 401(k) or other employer-sponsored retirement plan.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 19 of the Delaware Code by inserting a new "Part V" as Chapter 37 by making insertions as shown by underline as follows:

Chapter 37. Delaware Expanding Access for Retirement and Necessary Saving Program.

§ 3701. Establishment; purposes.

There is hereby established the Expanding Access for Retirement and Necessary Saving ("EARNs") Program to serve as a vehicle through which covered employees may, on a voluntary basis, provide for additional retirement security through a State-facilitated retirement saving program in a convenient, cost effective, and portable manner. The Program is designed as a public-private partnership that will encourage, not replace or compete with, employer-sponsored retirement plans.

§ 3702. Definitions.

For purposes of this chapter:

(1) "Board" means the Delaware EARNs Program Board established under § 3703 of this title.

(2) "Covered employee" means an individual who is employed by a covered employer, and who has wages or other compensation allocable to the State. The Board may limit through regulation eligibility for specific categories of employees in order to avoid creating accounts that could increase administrative or management fees associated with available investment options. Covered employee does not include:

a. 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 or any other state's agencies or instrumentalities.

b. Any employee covered under the federal Railway Labor Act.

c. Any employee on whose behalf an employer makes contributions to a Taft-Hartley multiemployer pension plan.

d. Any employee who is ineligible for covered employee status under regulations promulgated by the Board.

e. Any employee under the age of 18.

(3) "Covered employer" means any person, partnership, limited liability company, corporation, or other entity engaged in a business, industry, profession, trade, or other enterprise in the State, including a nonprofit entity, that employs, and during the previous calendar year employed, at least 5 covered employees, and that has been in business in this State for at least 6 months in the immediately preceding calendar year. Covered employer does not include:

a. The federal government, the State, any other state, any county, any municipal corporation, or any of the State's or another state's agencies or instrumentalities.

b. Any employer that maintains a specified tax-favored retirement plan.

(4) "ERISA" means the federal Employee Retirement Income Security Act of 1974, as amended.

(5) "Internal Revenue Code" means the federal Internal Revenue Code of 1986, as amended, or any successor law, in effect for the calendar year.

(6) "IRA" means a traditional or Roth individual retirement account or individual retirement annuity described in §408(a), 408(b), or 408A of the Internal Revenue Code.

(7) "Participant" means any individual who is contributing to, or has a balance credited to, an IRA under the Program.

(8) "Participating employer" means a covered employer that makes the Program available to its employees through payroll deduction IRA arrangements under this chapter.

(9) "Payroll deduction IRA arrangement" means an arrangement by which a participating employer makes payroll deductions authorized by this chapter and remits the amounts deducted as contributions to IRAs on behalf of participants.

(10) "Plans Management Board" means the Board established by § 2722 of Title 29 to manage specified plans and programs created under the laws of this State.

(11) "Program" means the EARNs Program established by this chapter. Except as otherwise specified, references to the Program throughout this chapter also means the trust, including trust assets, facilities, costs and expenses, receipts, expenditures, activities, operations, administration, and management.

(12) "Program expenses" means all fees, costs, and expenses of the State related to the Program, including administrative expenses, investment expenses, consulting fees, accounting costs, auditing costs, legal fees and costs, marketing expenses, education expenses, and other miscellaneous costs incurred in the implementation and continuation of the Program.

(13) "Roth IRA" means an IRA described in §408A of the Internal Revenue Code.

(14) "Specified tax-favored retirement plan" means a retirement plan that is an automatic enrollment payroll deduction IRA applicable to all covered employees and meeting all other qualifications that may be established by the

Board, or a retirement plan qualified under, or described in, and in compliance with §§ 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code.

(15) “Traditional IRA” means an IRA described in §408(a) or (b) of the Internal Revenue Code.

(16) “Trust” means the trust in which assets of the Program are to be held, including contributions and investment earnings.

(17) “Wages” means any commission, compensation, salary or other remuneration, as defined by §219(f)(1) of the Internal Revenue Code received by a participant from a participating employer.

§ 3703. The Delaware EARNNS Program Board; establishment; purpose.

(a) The Delaware EARNNS Program Board is hereby established. The Board shall oversee the design, implementation and initial administration of the Program in accordance with this chapter.

(b) The Board shall consist of 7 members comprised of the following:

(1) 4 members shall serve by virtue of their office, each of whom may designate a person to serve in their stead and at their pleasure:

- a. The State Treasurer.
- b. The Secretary of Finance.
- c. The Insurance Commissioner.
- d. The Secretary of Labor.

(2) 1 member who is the chairperson of the Plans Management Board, who may designate a member of the Plans Management Board or one of its committees to serve in the chairperson’s stead and at the pleasure of the chairperson.

(3) 2 public members appointed by the Governor who, by reason of education or experience, are qualified to serve. One public member must be an owner of a small business in the State. The other public member must have experience in providing financial advice or assistance to lower- to moderate-income workers or retirees. Public members’ initial term shall be for 2 years, subject to earlier termination upon dissolution of the Board as provided in this chapter.

(c) Board voting, governance and meetings.

(1) Each Board member shall have 1 vote. The powers of the Board shall be exercised by a majority of all members present at a meeting of the Board, whether in person or remotely. Four members shall constitute the necessary quorum to convene a meeting of the Board and to act on any measure before it.

(2) The Governor shall appoint a Board chairperson from between the public members. The chairperson as such shall serve at the pleasure of the Governor.

(3) The Board shall meet at a minimum of 4 times annually. The Board Chairperson and the State Treasurer are authorized to call and set the agenda for special meetings of the Board.

(4) The Board and its committees may conduct meetings remotely by teleconference or videoconference, including in order to obtain a quorum and to take votes on any measure.

(5) Meetings and documents relating to investment strategy or negotiations concerning investment of Program money shall be exempt from Chapter 100 of Title 29.

(d) Standard of care.

(1) The Board, its committees, and each of their members shall discharge their duties with respect to the Program solely in the interest of the participants and beneficiaries of the Program and for the exclusive purpose of providing Program benefits to participants and their beneficiaries, including defraying reasonable expenses in administering the Program and in accordance with the trust and other program documents and applicable law.

(2) When investing, managing, or using trust assets, the Board, its committees, and each of the members shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the Program.

(e) Powers and duties.

(1) The Board shall establish, design, develop, implement, maintain, and oversee the Program in accordance with best practices for retirement saving vehicles.

(2) The Board shall, through employer and employee outreach, marketing or education initiatives, or publication of online resources, encourage participation, retirement saving and sound investment practices. The Board shall provide or make available information regarding the Program, including its applicability and registration requirements, with special emphasis on participation eligibility and the ability of employers at any time to sponsor a specified tax-favored retirement plan that would exempt them from covered employer status.

(3) The Board shall adopt rules or regulations to govern the Program, including rules or regulations governing the following:

- a. Employee eligibility and covered employer status.
- b. Enrollment and re-enrollment processes.
- c. The methods by which covered employees or participants may make and change elections.
- d. The means by which covered employees or participants may opt out of participation.
- e. Contribution limits, the initial automatic default contribution rate, the automatic annual default escalation rate and the maximum default contribution rate.

The Board may adopt rules or regulations allowing employers that are exempt under this chapter to voluntarily participate in the Program and extending eligibility to participate in the Program to individuals who are not employees, including unemployed individuals, self-employed individuals and other independent contractors.

(4) The Board is authorized to charge and collect reasonable administrative fees from participants and use such fees, as well as appropriations and other funds dedicated to supporting the Program, to defray reasonable program expenses.

(5) The Board may establish committees. Committee membership may include persons who are not members of the full board.

(6) Subject to applicable procurement requirements, the Board may enter into contracts, agreements, or arrangements for goods and services necessary or desirable for carrying out the purposes of this chapter, including recordkeeping, administrative, consulting, accounting, legal, asset management, and investment advisory services to assist in establishing, maintaining, administering, operating, and implementing the Program. The Board may discuss the opportunity for qualified minority-, woman-, veteran-, and disabled-owned financial firms, or firms with a record of equity, diversity and inclusion within the firm, as a provider of investment advisory services.

(7) The Board may effect this chapter's purpose by creating or entering into, on behalf of the Program, a consortium, alliance, joint venture, partnership, compact, or contract with another state or states or their programs or boards, which may modify the Board's duties under this chapter.

(8) The Board shall establish the trust. The trust shall include a participant fund that shall hold all participant IRA asserts and earnings and an administrative fund that shall hold all fees collected from participants, all administrative penalties recovered under this chapter, and other amounts received from other funding sources, other than appropriations and earnings thereon. Participant contributions shall be allocated to the participant fund and combined solely for investment purposes. Each participant shall own the contributions to and earnings on the participant's account. Program expenses shall be paid from the administrative fund or appropriations. Trust assets shall not be transferred or used by the Board for any purpose not expressly authorized by this chapter and shall not be commingled with State or non-program funds.

(9) The Board shall adopt an investment policy statement and select investment options, including default investment options, consistent with the objectives of the Program. The menu of investment options may encompass a range of risk and return opportunities and shall be determined taking into account the following:

a. The nature and objectives of the Program.

b. The diverse needs of participants.

c. The desirability of limiting investment choices under the Program to a reasonable number.

d. The extensive investment choices available to participants if program accounts roll over to an IRA outside of the Program.

(10) The Board shall ensure that the Program is designed and operated in a manner that will not cause it to be subject to or preempted by ERISA.

(11) The Board shall ensure that the Program is designed and operated to:

- a. Minimize costs to participants, employers and the Program.
- b. Minimize the risk that covered employees will exceed applicable annual contribution limits.
- c. Minimize any need for employers that are not covered employers to register with the Program.
- d. Facilitate and encourage employer and employee participation in the Program and participant saving.
- e. Provide resources to any employer that, as an alternative to the Program, may be interested in adopting a privately offered tax-favored retirement plan for its employees.
- f. Maximize simplicity, including ease of administration for participating employers and ease of use for participants.
- g. Maximize portability of participant accounts.
- h. Maximize financial security in retirement.

(12) The Board may arrange for collective, common, and pooled investment of assets of the Program, including investments in conjunction with other funds with which Program assets are permitted to be collectively invested, with a view to saving costs through efficiencies and economies of scale.

(13) The Board shall arrange for and facilitate compliance with all requirements applicable to the Program under the Internal Revenue Code, including requirements for favorable tax treatment of IRAs, and any other applicable law or regulation.

(14) The Board may accept on behalf of the Program any grants, gifts, appropriation, and other money from any person, governmental, or other entity to defray the costs of administering and operating the Program.

(15) The Board may implement the Program in stages, which may include phasing in the Program based on the size of employers, or other factors. To the extent practicable, the Board shall implement the Program so that covered employees can begin to participate and make contributions by January 1, 2025.

(16) The Board shall approve the annual administrative budget for the Program and oversee the collection and disbursement of money in the administrative fund.

(17) The Board, in the exercise of its sole discretion, and without liability, may remove program funds from any financial institution or investment vehicle at any time, provided that such funds shall at all times remain in the trust and be transferred promptly to an alternative financial institution or investment vehicle under the Program.

(18) The Board shall arrange for an annual financial audit of the Program by an outside auditor which shall be provided to the General Assembly. Notwithstanding § 2906(c) of Title 29, the Board shall have exclusive authority to select and contract with a certified public accounting firm to conduct the audits. Payment for any audit must be approved by the Board.

(19) The Board may enter into intergovernmental agreements or memoranda of understanding with the State and any agency or instrumentality of the State in order to further the successful implementation and operation of the Program through the provision, receipt, or other sharing of data, technical assistance, enforcement, compliance, collection, and other services or assistance to the Program, and all such agencies and instrumentalities shall cooperate with the Board in achieving those ends.

(20) The Board may establish a needs-based small business support grant program for covered employers who require payroll software or similar products or support to implement the Program. The grant program may be funded by appropriations or administrative fees. The grant program shall be subject to the annual administrative budget process. The Board shall prescribe rules and promulgate regulations governing eligibility for grant recipients, the grant application process, and terms and conditions for any award. The Board shall be responsible for providing oversight for the grant program. The Office of the State Treasurer shall administer the grant program and shall report to the Board regarding grant program operations when requested to do so by the Board.

(f) Compensation; exculpation; indemnification.

(1) Members may not receive compensation for serving on the board or its committees. Except for ex officio members, all members are entitled to reimbursement by the State for travel and other expenses incurred in attending meetings of the Board or a committee. A State employee appointed to the Board is permitted to count the time spent attending or traveling to and from Board meetings or Board committees, as part of the employee's regular work day and shall not be required to use leave time.

(2) Each Board and committee member is entitled to immunity under the provisions of Chapter 40 of Title 10 for civil liability resulting from acts or omissions arising out of and in connection with discretionary actions undertaken as a function of a member's responsibilities under this chapter if that member acted in good faith and in a manner the member reasonably believed to be in the best interest of the State, and without gross or wanton negligence.

a. A Board or a committee member is not personally liable for any act or omission made during the member's tenure, or for any loss incurred by any person as a result of participation in the Program.

b. The State shall indemnify each Board or committee member who is a party to or is threatened to be made a party to any potential, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, arising by reason of such member's participation on the Board or a committee, for any expenses, judgments, fines, costs, and amounts paid in settlement if actually and reasonably incurred in defending against the action, suit or proceeding. Indemnification is conditioned on the member having acted in good faith and in a manner the member reasonably believed to be in the best interest of the State. With respect to indemnification for a criminal matter, the member must also have had no reasonable cause to believe the member's conduct was unlawful.

c. In the event that the Attorney General is precluded from providing legal representation to a member under § 2504(3) of Title 29, the State shall indemnify a member for reasonable and actual attorney fees and disbursements a member incurs in defending against the action, suit or proceeding.

d. Any expenses incurred by a Board or committee member in defending a civil, administrative, or investigative action, suit, or proceeding arising as a result of the member's activities as a member of the Board may be paid by the State in advance of the final disposition of the action, suit, or proceeding on authorization by a majority of the members of the Board and by the Governor.

(g) The Board and its committees shall receive administrative support from the Office of the State Treasurer. The Office of the State Treasurer is authorized to and shall initiate and manage all procurement and regulatory processes related to the Program and carry out such other program-related functions as may be delegated by the Board.

(h) Unless terminated earlier as provided in this subsection, the Board shall disband and cease to exist, effective as of December 31, 2025, at which point all duties and functions of the Board under this chapter shall be transferred to and assumed by the Plans Management Board. At any time after full implementation of the Program, the Board, by majority vote, may disband and transfer no less than all of its duties and authority under this chapter to the Plans Management Board provided that the Plans Management Board, by majority vote, agrees to assume all such duties and authority prior to December 31, 2025.

§ 3704. The Program.

The Program shall have such features as the Board in its discretion may adopt, subject to applicable federal law, and the following mandatory provisions:

(1) Each participant may have only 1 account with the Program, and all participating employers shall promptly remit the participant's contributions under the Program to that account.

(2) Employers and non-participants may not contribute funds to Program accounts.

(3) Employers shall not be fiduciaries with respect to, or be liable for, program design, program-related information, educational materials, or forms or disclosures approved by the Board, or the selection or performance of vendors selected by the Board. No employer, the State or any agency or instrumentality of the State, the Program, its administrator or personnel, shall be responsible for, or obligated to monitor a covered employee's or participant's decision to participate in or opt out of the Program, or for contribution decisions, investment decisions, or failure to comply with the statutory eligibility conditions or limits on IRA contributions. No employer shall guarantee any investment, rate of return, or interest on assets in any participant account or the administrative fund or be liable for any market losses, failure to realize gains, or any other adverse consequences, including the loss of favorable tax treatment or public assistance benefits, incurred by any person as a result of participating in the Program. Nothing in this

subsection shall relieve an employer from liability for criminal, fraudulent, tortious or otherwise actionable conduct, including liability related to the failure to remit employee contributions.

(4) When and as required by the Board, covered employers shall:

a. Register with the Program and provide the Program administrator relevant information about the employer's employees.

b. Offer or assist the Program in offering all covered employees the choice to either participate in the Program by voluntarily contributing to an IRA under the Program or opt out of the Program.

c. Provide or assist the Program administrator in providing program-related information, educational materials, and disclosures to covered employees and participants.

d. Timely remit participant contributions.

e. Perform any other duties or functions the Board may require to facilitate enrollment and administration of the Program.

(5) Covered employees who do not opt out shall be automatically enrolled in the Program at the default rate specified by the Board or at the rate or amount expressly specified by an employee in connection with the payroll deduction IRA arrangements. Participants shall have the right to modify their contribution rates or amounts, or terminate their participation in the Program at any time, subject to such rules as may be adopted by the Board.

(6) The initial automatic default contribution rate shall be established by the Board in its discretion.

a. The automatic default contribution rate may be changed by the Board from time to time. It shall not be less than 3% or more than 6% of compensation.

b. The Board may determine in its discretion to increase the automatic default contribution rate for all participants based on their years of participation, provided that such increases shall be either 1% or 2% of compensation and shall not occur more frequently than annually.

c. The maximum default contribution rate established by the Board shall not exceed 15%.

d. The initial or subsequent default contribution rates shall apply to all participants who do not affirmatively select a different initial or subsequent contribution rate, or who do not affirmatively opt out of automatic contribution rate increases.

e. All contribution rates are subject to the dollar limits on contributions provided by law.

(7) Except as otherwise provided in this chapter, all IRAs established under the Program shall be Roth IRAs. The Board may authorize participants to utilize traditional IRAs in connection with the Program and allocate contributions between Roth and traditional IRAs, subject in all cases to the IRA contribution and income eligibility limits applicable under the Internal Revenue Code. If the Board authorizes participants to maintain both Roth and

traditional IRAs, each shall be deemed to be a sub-account of the participant's single account under the Program consistent with § 3704(1) of this title.

(8) Contributions shall be invested in the default investment option unless the participant affirmatively elects to invest some or all balances in one or more approved investment options offered by the Program. A participant shall have the opportunity to change investments for future contributions or existing balances or both, subject to rules adopted by the Board.

(9) A participant's total annual contributions under the Program shall be subject to the limits established under federal law.

(10) A participant's contributions and earnings thereon shall be held in the trust and combined for investment purposes only. Separate records and accounting shall be required for each account. Reports on the status of each participant's account must be provided to each participant at least annually. Participants must have online access to their accounts.

(11) A participant's account shall be portable with respect to any covered or participating employer. A former participant who is either unemployed, or who is employed by a non-covered employer, shall be permitted to contribute to accounts outside of the Program. A participant shall be entitled to maintain an account within the Program regardless of place of employment or to roll over or transfer balances into other IRAs or other retirement plans or accounts that accept such rollovers or transfers.

(12) A participant's and former participant's ability to withdraw or roll over or transfer account balances is subject to all fees, penalties, and taxes under applicable law.

(13) A participant's and former participant's ability to receive distributions of contributions and earnings is subject to applicable law.

(14) Information relating to accounts under the Program, including personally identifiable information, is confidential and shall be maintained as confidential except to the extent disclosure is necessary to administer the Program, authorized by the participant in writing, or permissible or required under other applicable law, regulation, or order.

§ 3705. Compliance.

(a) The Board shall have exclusive authority to ensure compliance with and enforce this chapter or any regulation promulgated under this chapter.

(b) The Board shall establish a process for the submission of employee complaints concerning a covered employer's alleged failure to comply with this chapter. All complaints concerning a covered employer's compliance with this chapter received by any other State agency shall be referred to the Board. The Board may, with or without a complaint,

monitor the status of covered employers' compliance with this chapter, including through review of available data and documents.

(c) If the Board determines that a covered employer is not in compliance with this chapter or regulations issued hereunder, the Board shall issue a notice to the employer outlining the nature and extent of the alleged noncompliance, providing instructions for compliance, and specifying the potential administrative penalties for noncompliance.

(d) If the employer does not come into compliance within 90 days of the date the notice was issued, the Board, in its discretion, may initiate enforcement proceedings under Subchapter III, Chapter 101 of Title 29. The Board shall not initiate enforcement proceedings against a covered employer until one year after the date on which the employer is required to comply with this chapter for the first time.

(e) The Board may, in a final order, impose administrative penalties against a covered employer who fails to comply with this chapter or any regulation promulgated under this chapter, which penalties shall not exceed \$250 per employee per year, up to a maximum total penalty of \$5,000 per year.

Section 2. Amend § 2722 of Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2722. Plans Management Board.

(a) Establishment; purposes. — ~~There is hereby established the Plans Management Board (the "Board").~~ The Plans Management Board is established. The Board's purpose ~~shall be~~ is to administer the Delaware College Investment Plan established pursuant to subchapter XII, Chapter 34 of Title 14, the Delaware Achieving a Better Life Experience Program established pursuant to Chapter 96A of Title 16, ~~and~~ the Deferred Compensation Program established pursuant to Chapter 60A of this ~~title~~ title, and the Expanding Access for Retirement and Necessary Saving Program (EARNs) established pursuant to Chapter 37 of Title 19 (collectively, "the Plans"), in each case, in accordance with the individual purposes of each of the Plans.

(d) Standard of care. — (1) With respect to the Deferred Compensation Program, and the EARNs Program, ~~(Program)-(Programs)~~ the Board, its subcommittees, and each of their members shall discharge their duties with respect to the ~~Program-Programs~~ solely in the interest of the participants and beneficiaries of the ~~Program-Programs~~ and for the exclusive purpose of providing ~~Program-Programs~~ benefits to the participants and their beneficiaries, including defraying reasonable expenses of administering the ~~Program-Programs~~, with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the purposes of the ~~Program-Programs~~.

(e) Powers and Duties of Board. —

(9) Assume the powers and duties of the Delaware EARNs Program Board established under Chapter 37 of Title 19.

Section 3. Section 1 of this Act takes effect following the date of publication in the Register of Regulations of a notice submitted by the State Treasurer that funding necessary to implement the Program, as reflected in the fiscal note, has been received from the General Assembly or other sources.

Section 4. Sections 2 of this Act takes effect on December 31, 2025 or upon the date the EARNs Program Board disbands and transfers all of its duties and authorities to the Plans Management Board, whichever is first to occur. In the event that the Plans Management Board, by majority vote, agrees to assume all the duties and authority granted to the EARNs Program Board, it shall publish notice to that effect in the Register of Regulations.