

Fiscal Analysis

Proposed Rules for Administering the NC Innovation Council Regulatory Sandbox Program

Prepared by

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Basic Information

Agency	NC Innovation Council
Citations and Titles	04 NCAC 25. 0105(b)(16) - Regulatory Sandbox Applications 04 NCAC 25. 0107(c) - Sandbox Operations
Description of the Proposed Rules	Rules 25.105(b)(16) and 25.107(c) define how application fees will be managed and applied to applicants seeking to participate in the sandbox program.
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<i>Authority</i>	<i>G.S. 169-6(b)</i>
Necessity	The NC Innovation Council proposed permanent rules are necessary for the public to have a clear understanding of how the authorizing legislation is being implemented, to provide transparency, and direction on how the sandbox program will be administered, how fees will be determined, and how the NC Innovation Council will be managed.
Impact Summary	State government: Yes, but minimal over the five year projections. Consumers: No, the law and rules institute consumer protections to mitigate risks. Private entities: Yes, but minimal and reasonable.

Background and Purpose

On October 7, 2021, Governor Roy Cooper signed S.L. 2021-264, which enacted the North Carolina Financial and Insurance Regulatory Sandbox Act and established the North Carolina Innovation Council (NC Innovation Council). On September 22, 2023, the General Assembly enacted S.L. 2023-259, which, expanded Article 169, requiring the NC Innovation Council to adopt rules governing the operations, supervision, management, and communications for the regulatory sandbox. The legislation directed the NC Innovation Council to adopt new permanent rules to implement the requirements of the legislation in an expeditious manner. The new rules address several topics including the application of nonprofit partners that are positioned to provide technical assistance to potential sandbox participants, the application process and review and approval/denial process, the administration of sandbox applications, oversight, penalties and application and participant fees.

The NC Innovation Council is now proposing permanent rules that will take effect March 1, 2025. A copy of the proposed rules are included as Appendix A. This fiscal and regulatory analysis (“fiscal note”) examines anticipated financial and regulatory impact the proposed rules governing fees, which have the potential to directly or indirectly impact State funds but not have a substantial impact economic impact.

The proposed rules for adoption, focused on operations, processes, and oversight for the sandbox and the NC Innovation Council, will result in costs to the private sector in the form of application and participating fees. An application fee of \$50, established by G.S. 169-6(b), is due upon application submission for all businesses seeking to participate in the regulatory sandbox. This revenue will be credited to the NC Innovation Council. Additionally, the proposed rules provide directives expounding upon the participant fees of \$450 per approved sandbox participant and additional participation fees based on the size of companies and number of consumers impacted. These funds are authorized to be credited to the NC Innovation Council to cover reasonable agency expenses.

The intent of the rule, 04 NCAC 25. 0107, is to establish the structure for the additional participation fees based on the size of the company and the scale of the product or service. G.S. 169-6(b) gives the NC Innovation Council the power to establish and publish the fee schedule for additional participation fees. Table 1 prescribes the proposed graduated participation fee schedule for approved sandbox participant companies. Unfortunately, the realization of these revenues is not predictable given that the regulatory sandbox is a voluntary program to spark innovative services and products for North Carolina residents. The fees are applied using a graduating scale, imposing the largest fees on the largest companies and participant’s predicting large revenue gains from the sandbox product or service. This allows lesser fees for the smaller, likely newer companies and entities to help foster participation and advancement for these smaller and startup firms.

Description of Proposed Rules

04 NCAC 25.0105 REGULATORY SANDBOX APPLICATIONS(b)(16)

- (16) All sandbox applicants are required to pay a \$50 application fee that must be received in a format determined by the Council.

04 NCAC 25. 0107 SANDBOX OPERATIONS(c)

- (c) Sandbox applicants must pay a participation fee, due upon execution of the waiver agreement, based on the number of employees the entity or parent entity, as appropriate, has and the expected revenue of the innovative product as set out below:

Number of Employees	Revenue (or Risk)	Less than \$10,000	\$10,000 to less than \$100,000	\$100,000 to less than \$1,000,000	\$1,000,000 to less than \$10,000,000	\$10,000,000 and more
1-10		\$450	\$900	\$1,800	\$3,600	\$7,200
11-100		\$900	\$1,800	\$3,600	\$7,200	\$14,400
101-1000		\$1,800	\$3,600	\$7,200	\$14,400	\$28,800
1,001-50,000		\$3,600	\$7,200	\$14,400	\$28,800	\$57,600
50,001 and more		\$7,200	\$14,400	\$28,800	\$57,600	\$115,200

Proposed Rulemaking Schedule

The proposed rulemaking schedule for 04 NCAC 25. 0101 -0111 – NC Innovation Council and Financial and Insurance Regulatory Sandbox is described in Table 2, below.

October 23, 2024	NC Innovation Council vote to approve publishing rules
October 24, 2024	Notice of Text to OAH
November 15, 2024	Beginning of 60-day comment period
January 14, 2025	End of comment period
January 22, 2025	Goal for NC Innovation Council to adopt rules
February 27, 2025	Rules Review Commission Meeting for approval of rules
March 1, 2025	Goal for effective date of rules

Impact Analysis

This section will assess the impact of the proposed rule on State funds and companies or entities that participate in the sandbox program, discuss how the fees were determined, and consider and assess impacts attributable to these rules.

The persons subject to, or impacted by, the proposed NC Innovation Rules, include would be applicants and sandbox participants, i.e. companies or business entities, the NC Innovation Council and the State of North Carolina government and residents.

Fiscal Impacts on Companies and Business Entities

Interested companies and/or business entities would incur a modest application fee of \$50, as set forth in G.S. 169-6(b). The fee is comparatively low to other State administered sandbox programs, where fees range from \$100 to \$2000. Given the complexity and length of potential applications this fee is not necessarily adequate to cover the administrative burden. However, this low entry fee is intended to foster and remove barriers for small and startup firms to participate in the sandbox program. Because the nature of the sandbox program is voluntary and new, no data is currently available to make assumptions on the number of applications that could be received annually and there by revenues realized. Further, if an applicant is approved there are participation fees outlined in G.S. 169-6(b) with an apparent minimum amount set at \$450 per participant product or service. Given that additional fees graduate based on the projected product or service revenue and the size of the companies, these participation fees do not appear to be an impediment or overly burdensome for potential sandbox participants.

Fiscal Impacts on Revenues of the NC Innovation Council and State Government

The impact on revenues of State government is unknown currently. North Carolina was the 10th state in the United States to enact a regulatory sandbox and stands alone as the only State to enact a financial and insurance sandbox simultaneously. To date only a handful of State peer sandbox programs have reported the number of participants and there is little data on their fiscal impact.

Further, the impact on the NC Innovation Council's revenue account is similarly unknown. Per G.S. 169-6(b) a \$50 application fee is imposed, and a minimum \$450 participation fee is imposed for approved applicants per product or service. The NC Innovation Council anticipates no more than five applications in Fiscal Year 2025. Therefore, the NC Innovation Council will rely on existing State revenues allocated by the General Assembly to support the operations of the sandbox program as it develops.

Fiscal Impacts on the State or its Residents

The sandbox program is intended to provide a test market using North Carolina residents for an innovative product or service. The potential market is limited by law to minimize negative consumer impacts, and the law G.S. 169 and the proposed rules afford adequate consumer protections to mitigate risks.

Fiscal Year	Fee Revenue Received	Program Administration Costs (Currently funded via GA allocation)			General Assembly Admin Allocation (each year less the fund balance)	Fiscal Impact per year (fees) – (GA allocation – admin costs)	Carry Over Funds from Previous Year	NC Innovation Council Fund Balance
		Salary	Benefits & Recurring Costs	Total Costs				
2025	\$0	\$75,000 (1 PT w/benefits)	\$75,000	\$150,000	\$150,000	\$0	\$150,000	\$150,000
2026	\$45,250 (5 applicants/ 3 approved)	\$102,081 (1 FTE)	\$85,737	\$187,818	\$150,000	\$7,432	\$150,000	\$157,432
2027	\$25,450 (5 applicants/ 4 approved)	\$105,143 (1 FTE)	\$86,737	\$191,880	\$154,062	(12,368)	\$157,432	\$145,064
2028	\$68,700 (6 applicants/ 5 approved)	\$108,297 (1 FTE)	\$87,768	\$196,065	\$154,185	\$26,820	\$145,064	\$171,884
2029	\$68,900 (10 applications/ 5 approved)	\$111,546 (1 FTE)	\$94,000	\$205,546	\$159,481	\$22,835	\$171,884	\$194,719

The above chart outlines a possible scenario for collection of application and participation fees over a five-year period. Given that this is a new program for the State and that very little external data exists these figures are not based on data and are not able to be validated. The chart proposes utilizing fees collected for reasonable operations costs for the NC Innovation Council as authorized by G.S. 169-6(b).

The Fee Revenue Received is very sensitive to the size and expected revenue (or risk) of the piloted service. Even one large company with large revenue expectations would change this to over \$100k in a single approved application. So, the sensitivity of the projections are highly dependent upon a set of unknown factors. If in fact, we do receive applications and approvals for such services, this would require a higher degree of oversight from the council and thus the funding would be spent on one or two additional support personnel for the Council. At this point, we do not expect the annual budget to support additional personnel but will adjust as necessary. If the Fee Revenue supports it, the first action the Council expects to take would be to move our part time Executive Director to full time.