

§ 116-36.7. Wake Forest Institute for Regenerative Medicine; profit sharing with State.

(a) Wake Forest [Wake Forest University Health Sciences] shall reimburse the State for State funds appropriated for the Institute [Wake Forest Institute for Regenerative Medicine] under Section 11.12(a) of S.L. 2013-360 and in prior fiscal years by returning to the State five percent (5%) of the royalty revenue received by the Institute from commercialized projects arising under those research projects supported by the State funds, either through direct research support or through substantial utilization of the cGMP [current good manufacturing practices] facility not reimbursed through other funds ("Subject Projects"). Royalty revenue reimbursed to the State shall be subject to all of the following:

- (1) The total amount to be reimbursed to the State shall be limited to the aggregate amount of State funds allocated to Wake Forest for the Institute plus simple interest at the rate of four percent (4%) annually from the time of disbursement until reimbursement commences.
- (2) Wake Forest shall be entitled to deduct the expenses reasonably incurred in prosecuting, defending, and enforcing patent rights for the Subject Projects, except to the extent the expenses are recovered from a third party, before calculating the amount to be paid to the State.
- (3) Calculation of the payments to the State shall be based upon the formula provided in subsection (b) of this section.
- (4) Payments shall be made to the State and used by the State in a manner consistent with federal law.

(b) Wake Forest on behalf of the Institute shall annually calculate and remit reimbursement payments to the State based upon the following formula:

- (1) Payments to the State shall be based on that share of royalty revenue proportional to the State funds used for the Subject Project, which shall be calculated as the ratio of State funds to total funds used to support the Subject Project, based on budgets developed consistent with federal research funding accounting guidelines and including the fair market value of unreimbursed cGMP facility utilization.
- (2) Wake Forest shall calculate net royalty revenue on a Subject Project-by-Subject-Project basis by deducting any expenses authorized under subdivision (a)(2) of this section from the total royalty revenue received from the Subject Project.
- (3) Wake Forest shall multiply net royalty revenue by the support ratio calculated in subdivision (b)(1) of this section and then multiply the product by five percent (5%) to determine the State royalty share ("State Royalty Share").
- (4) The State Royalty Share shall be remitted to the State unless the cumulative State Royalty Share payments have satisfied the total aggregate amount to be reimbursed as provided in subdivision (a)(1) of this section.

(c) Wake Forest on behalf of the Institute shall comply with the following reporting requirements:

- (1) By September 1 of each year, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Joint Legislative Oversight Committee on Health and Human Services on prior State fiscal year program activities, objectives, and accomplishments and prior State fiscal year itemized expenditures and fund sources. The annual report shall include a report of royalty revenues generated from the Subject Projects.
- (2) Provide to the Fiscal Research Division a copy of the Institute's annual audited financial statement within 30 days of issuance of the statement.

(d) Remaining allotments after September 1 shall not be released to the Institute if the reporting requirements provided in subsection (c) of this section are not satisfied.

(e) No more than one hundred twenty thousand dollars (\$120,000) in State funds shall be used for the annual salary of any one employee of the Institute. For purposes of this subsection, the term "State funds" means funds appropriated by the State to the Institute and interest earned on those funds.

(f) No State funds shall be used by the Institute (i) to hire or facilitate the hiring of a lobbyist or any person performing the duties or activities of a lobbyist, without regard to the person's title; or (ii) to facilitate any lobbying efforts. (2013-360, s. 11.12(b)-(g); 2022-74, s. 8.2.)