

REFERENCE TITLE: **universities; funding revisions**

State of Arizona
House of Representatives
Fifty-second Legislature
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2015

HB 2364

Introduced by
Representative Thorpe

AN ACT

**AMENDING SECTIONS 15-1626, 15-1682.01, 15-1682.02, 15-1683 AND 35-146,
ARIZONA REVISED STATUTES; RELATING TO UNIVERSITIES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-1626, Arizona Revised Statutes, is amended to
3 read:
4 15-1626. General administrative powers and duties of board:
5 definition
6 A. The board shall:
7 1. Have and exercise the powers necessary for the effective governance
8 and administration of the institutions under its control. To that end, the
9 board may adopt, and authorize each university to adopt, such regulations,
10 policies, rules or measures as are deemed necessary and may delegate in
11 writing to its committees, to its university presidents, or their designees,
12 or to other entities under its control, any part of its authority for the
13 administration and governance of such institutions, including those powers
14 enumerated in section 15-1625, subsection B, paragraphs 2 and 4, paragraphs
15 3, 4, 8, 9, 11 and 12 of this subsection and subsection B of this section.
16 Any delegation of authority may be rescinded by the board at any time in
17 whole or in part.
18 2. Appoint and employ and determine the compensation of presidents
19 with such power and authority and for such purposes in connection with the
20 operation of the institutions as the board deems necessary.
21 3. Appoint and employ and determine the compensation of
22 vice-presidents, deans, professors, instructors, lecturers, fellows and such
23 other officers and employees with such power and authority and for such
24 purposes in connection with the operation of the institutions as the board
25 deems necessary, or delegate its authority pursuant to paragraph 1 of this
26 subsection.
27 4. Remove any officer or employee when the interests of education in
28 this state so require in accordance with its personnel rules and policies.
29 5. Fix tuitions and fees to be charged and differentiate the tuitions
30 and fees between institutions and between residents, nonresidents,
31 undergraduate students, graduate students, students from foreign countries
32 and students who have earned credit hours in excess of the credit hour
33 threshold. For the purposes of this paragraph, the undergraduate credit hour
34 threshold is one hundred forty-five hours for students who attend a
35 university under the jurisdiction of the board. The undergraduate credit
36 hour threshold shall be based on the actual full-time equivalent student
37 enrollment counted on the forty-fifth day of every fall and spring semester,
38 divided by two, and any budget adjustment based on student enrollment shall
39 occur in the fiscal year following the actual full-time equivalent student
40 enrollment count. The undergraduate credit hour threshold shall not apply to
41 degree programs that require credit hours above the credit hour threshold,
42 credits earned in the pursuit of up to two baccalaureate degrees, credits
43 earned in the pursuit of up to two state regulated licensures or
44 certificates, credits earned in the pursuit of teaching certification,
45 credits transferred from a private institution of higher education, credits

1 transferred from an institution of higher education in another state, credits
2 earned at another institution of higher education but that are not accepted
3 as transfer credits at the university where the student is currently enrolled
4 and credits earned by students who enroll at a university under the
5 jurisdiction of the board more than twenty-four months after the end of that
6 student's previous enrollment at a public institution of higher education in
7 this state. On or before October 15 of each year, the board shall report to
8 the joint legislative budget committee the number of in-state students and
9 out-of-state students who were enrolled at universities under the
10 jurisdiction of the board during the previous fiscal year who met or exceeded
11 the undergraduate credit hour threshold prescribed in this paragraph. ~~The~~
12 ~~amount of tuition, registration fees and other revenues included in the~~
13 ~~operating budget for the university adopted by the board as prescribed in~~
14 ~~paragraph 13 of this subsection shall be deposited, pursuant to sections~~
15 ~~35-146 and 35-147. All other~~ Tuition and fee revenue shall be retained by
16 each university for expenditure as approved by the board, except that the
17 universities shall not use any tuition or fee revenue to fund or support an
18 alumni association. **ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE BOARD SHALL**
19 **SUBMIT A REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE ON ALL TUITION**
20 **REVENUES RECEIVED BY EACH UNIVERSITY UNDER ITS JURISDICTION THAT DETAILS THE**
21 **EXPENDITURE OF ALL TUITION REVENUES FOR THE PRIOR FISCAL YEAR.**

22 6. Except as provided in subsection I of this section, adopt rules to
23 govern its tuition and fee setting process that provide for the following:

24 (a) At least one public hearing at each university as an opportunity
25 for students and members of the public to comment on any proposed increase in
26 tuition or fees.

27 (b) Publication of the notice of public hearing at least ten days
28 prior to the hearing in a newspaper of general circulation in Maricopa
29 county, Coconino county and Pima county. The notice shall include the date,
30 time and location of the public hearing.

31 (c) Public disclosure by each university of any proposed increases in
32 tuition or fees at least ten days prior to the public hearing.

33 (d) **A ROLL CALL VOTE OF ANY** final board action on changes in tuition
34 or fees ~~shall be taken by roll call vote.~~

35 The procedural requirements of subdivisions (a), (b), (c) and (d) of this
36 paragraph apply only to those changes in tuition or fees that require board
37 approval.

38 7. Pursuant to section 35-115, submit a budget request for each
39 institution under its jurisdiction that includes the estimated tuition and
40 fee revenue available to support the programs of the institution as described
41 in the budget request. The estimated available tuition and fee revenue shall
42 be based on the tuition and registration fee rates in effect at the time the
43 budget request is submitted with adjustments for projected changes in
44 enrollment as provided by the board. **THE BOARD, IN COLLABORATION WITH THE**
45 **UNIVERSITIES UNDER ITS JURISDICTION, SHALL ANNUALLY ADOPT AND PERIODICALLY**

1 UPDATE AND IMPROVE ON A PERFORMANCE-BASED FUNDING MODEL THAT THE BOARD WILL
2 USE IN PREPARING THE ANNUAL BUDGET REQUEST SUBMITTED PURSUANT TO THIS
3 SECTION. THE LEGISLATURE SHALL USE THE PERFORMANCE-BASED FUNDING MODEL TO
4 DETERMINE THE ANNUAL INCREASE TO THE BASE LEVEL OF STATE GENERAL FUND SUPPORT
5 TO THE UNIVERSITIES. THE MODEL SHALL BE BASED ON READILY AVAILABLE AND
6 AUDITABLE METRICS THAT INCLUDE THE ACTUAL INCREMENTAL GROWTH OF DEGREES
7 CONFERRED, THE ACTUAL INCREMENTAL GROWTH OF COMPLETED STUDENT CREDIT HOURS
8 AND THE ACTUAL INCREMENTAL GROWTH OF EXTERNALLY FUNDED RESEARCH AND PUBLIC
9 SERVICE SPENDING. THE FUNDING FORMULA MAY GIVE ADDED WEIGHT TO HIGH-VALUE
10 DEGREES THAT ARE IN SHORT SUPPLY OR THAT ARE ESSENTIAL TO THIS STATE'S
11 LONG-TERM ECONOMIC DEVELOPMENT STRATEGY. IN ORDER TO REDUCE THE VOLATILITY
12 OF THESE METRICS, THE BOARD MAY USE AN ACTUAL AVERAGE OF THE ANNUAL GROWTH
13 OVER A PERIOD OF NOT MORE THAN THREE YEARS. THE BOARD SHALL ADOPT A
14 PERFORMANCE-BASED FUNDING MODEL ON OR BEFORE JUNE 30, 2016 FOR USE IN
15 DEVELOPING THE BOARD'S ANNUAL BUDGET REQUEST FOR THE FISCAL YEAR THAT BEGINS
16 JULY 1 OF THE FOLLOWING CALENDAR YEAR. THE BOARD SHALL MAKE THE MODEL
17 AVAILABLE TO THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING AND BUDGETING AND
18 THE JOINT LEGISLATIVE BUDGET COMMITTEE FOR THEIR USE IN PREPARING THEIR
19 ANNUAL BUDGET ESTIMATES AND RECOMMENDATIONS. IN EACH SUBSEQUENT YEAR, THE
20 BOARD SHALL ADOPT, WITH OR WITHOUT AMENDMENT, THE PERFORMANCE-BASED FUNDING
21 MODEL ON OR BEFORE JUNE 30 AND COMMUNICATE ANY REVISIONS TO THE PREVIOUSLY
22 ADOPTED MODEL TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF
23 THE HOUSE OF REPRESENTATIVES AND THEIR RESPECTIVE BUDGET OFFICES. THE BOARD
24 SHALL MAINTAIN AND UPDATE AS NECESSARY A DATA DIRECTORY FOR ALL DATA ELEMENTS
25 THAT ARE USED IN MAINTAINING AND OPERATING THE PERFORMANCE-BASED FUNDING
26 MODEL. THE BOARD SHALL MAKE THIS DIRECTORY AVAILABLE TO THE GOVERNOR, THE
27 LEGISLATURE AND THE PUBLIC THROUGH THE BOARD'S WEBSITE.

28 8. Establish curriculums and designate courses at the several
29 institutions that in its judgment will best serve the interests of this
30 state.

31 9. Award such degrees and diplomas on the completion of such courses
32 and curriculum requirements as it deems appropriate.

33 10. Prescribe qualifications for admission of all students to the
34 universities. The board shall establish policies for guaranteed admission
35 that assure fair and equitable access to students in this state from public,
36 private and charter schools and homeschools. For the purpose of determining
37 the qualifications of honorably discharged veterans, veterans are those
38 persons who served in the armed forces for a minimum of two years and who
39 were previously enrolled at a university or community college in this state.
40 No prior failing grades received by the veteran at the university or
41 community college in this state may be considered.

42 11. Adopt any energy conservation standards promulgated by the
43 department of administration for the construction of new buildings.

1 12. Employ for such time and purposes as the board requires attorneys
2 whose compensation shall be fixed and paid by the board. Litigation to which
3 the board is a party and for which self-insurance is not provided may be
4 compromised or settled at the direction of the board.

5 ~~13. Adopt annually an operating budget for each university equal to the~~
6 ~~sum of appropriated general fund monies and the amount of tuition,~~
7 ~~registration fees and other revenues approved by the board and allocated to~~
8 ~~each university operating budget.~~

9 ~~14.~~ 13. In consultation with the state board of education and other
10 education groups, develop and implement a program to award honors
11 endorsements to be affixed to the high school diplomas of qualifying high
12 school pupils and to be included in the transcripts of pupils who are awarded
13 endorsements. The board shall develop application procedures and testing
14 criteria and adopt testing instruments and procedures to administer the
15 program. In order to receive an honors endorsement, a pupil must demonstrate
16 an extraordinary level of knowledge, skill and competency as measured by the
17 testing instruments adopted by the board in mathematics, English, science and
18 social studies. Additional subjects may be added at the determination of the
19 board. The program is voluntary for pupils.

20 ~~15.~~ 14. Require the publisher of each literary and nonliterary
21 textbook used in the universities of this state to furnish computer software
22 in a standardized format when software becomes available for nonliterary
23 textbooks to the Arizona board of regents from which braille versions of the
24 textbooks may be produced.

25 ~~16.~~ 15. Require universities that provide a degree in education to
26 require courses that are necessary to obtain a provisional structured English
27 immersion endorsement as prescribed by the state board of education.

28 ~~17.~~ 16. Acquire United States flags for each classroom that are
29 manufactured in the United States and that are at least two feet by three
30 feet and hardware to appropriately display the United States flags, acquire a
31 legible copy of the Constitution of the United States and the Bill of Rights,
32 display the flags in each classroom in accordance with title 4 of the United
33 States Code and display a legible copy of the Constitution of the United
34 States and the Bill of Rights adjacent to the flag.

35 ~~18.~~ 17. To facilitate the transfer of military personnel and their
36 dependents to and from the public schools of this state, pursue, in
37 cooperation with the state board of education, reciprocity agreements with
38 other states concerning the transfer credits for military personnel and their
39 dependents. A reciprocity agreement entered into pursuant to this paragraph
40 shall:

- 41 (a) Address procedures for each of the following:
 - 42 (i) The transfer of student records.
 - 43 (ii) Awarding credit for completed ~~course-work~~ COURSEWORK.

1 (iii) Permitting a student to satisfy the graduation requirements
2 prescribed in section 15-701.01 through the successful performance on
3 comparable exit-level assessment instruments administered in another state.

4 (b) Include appropriate criteria developed by the state board of
5 education and the Arizona board of regents.

6 ~~19-~~ 18. Require a university to publicly post notices of all of its
7 employment openings, including the title and description, instructions for
8 applying and relevant contact information.

9 ~~20-~~ 19. In consultation with the community college districts in this
10 state, develop and implement common equivalencies for specific levels of
11 achievement on advanced placement examinations and international
12 baccalaureate examinations in order to award commensurate postsecondary
13 academic credits at community colleges and public universities in this state.

14 ~~21-~~ 20. On or before August 1 of each year, report to the joint
15 legislative budget committee the graduation rate by university campus during
16 the previous fiscal year. The board shall also report the retention rate by
17 university campus and by class, as determined by date of entry during the
18 previous fiscal year.

19 B. The board shall adopt personnel policies for all employees of the
20 board and the universities.

21 C. In conjunction with the auditor general, the board shall develop a
22 uniform accounting and reporting system, which shall be reviewed by the joint
23 legislative budget committee before final adoption by the board. The board
24 shall require each university to comply with the uniform accounting and
25 reporting system.

26 D. The board may employ legal assistance in procuring loans for the
27 institutions from the United States government. Fees or compensation paid
28 for such legal assistance shall not be a claim on the general fund of this
29 state but shall be paid from funds of the institutions.

30 E. The board shall approve or disapprove any contract or agreement
31 entered into by the university of Arizona hospital with the Arizona health
32 facilities authority.

33 F. The board may adopt policies that authorize the institutions under
34 its jurisdiction to enter into employment contracts with nontenured employees
35 for periods of more than one year but not more than five years. The policies
36 shall prescribe limitations on the authority of the institutions to enter
37 into employment contracts for periods of more than one year but not more than
38 five years, including the requirement that the board approve the contracts.

39 G. The board may adopt a plan or plans for employee benefits that
40 allow for participation in a cafeteria plan that meets the requirements of
41 the United States internal revenue code of 1986.

42 H. The board may establish a program for the exchange of students
43 between the universities under the jurisdiction of the board and colleges and
44 universities located in the state of Sonora, Mexico. Notwithstanding
45 subsection A, paragraph 5 of this section, the program may provide for

1 in-state tuition at the universities under the jurisdiction of the board for
2 fifty Sonoran students in exchange for similar tuition provisions for up to
3 fifty Arizona students enrolled or seeking enrollment in Sonoran colleges or
4 universities. The board may direct the universities to work in conjunction
5 with the Arizona-Mexico commission to coordinate recruitment and admissions
6 activities.

7 I. Subsection A, paragraph 6, subdivisions (a), (b), (c) and (d) of
8 this section do not apply to fee increases that are set by individual
9 universities and that do not require approval by the Arizona board of regents
10 before the fee increase becomes effective.

11 ~~J. The Arizona board of regents, in collaboration with the~~
12 ~~universities under its jurisdiction, shall adopt a performance funding model.~~
13 ~~The performance funding model shall use performance metrics that include the~~
14 ~~increase in degrees awarded, the increase in completed student credit hours~~
15 ~~and the increase in externally generated research and public service funding.~~
16 ~~The funding formula may give added weight to degrees related to science,~~
17 ~~technology, engineering and mathematics and other high-value degrees that are~~
18 ~~in short supply or that are essential to this state's long-term economic~~
19 ~~development strategy.~~

20 ~~K. The Arizona board of regents shall use the performance funding~~
21 ~~model adopted pursuant to subsection J of this section in developing and~~
22 ~~submitting budget requests for the universities under its jurisdiction.~~

23 ~~↳~~ J. On or before November 1 of each year, the Arizona board of
24 regents shall submit to the joint legislative budget committee and the
25 governor's office of strategic planning and budgeting a report on university
26 debt and obligations, including:

- 27 1. Long-term notes and obligations.
- 28 2. Certificates of participation and other obligations pursuant to any
- 29 lease-purchase agreements.
- 30 3. Revenue bonds.
- 31 4. Bonds issued pursuant to section 15-1682.03.

32 ~~M.~~ K. The report issued pursuant to subsection ~~↳~~ J of this section
33 shall contain, for the most recent fiscal year:

- 34 1. The aggregate level of outstanding principal and the principal and
35 interest payments, by type of debt or obligation.
- 36 2. An itemization, by campus and project, of the amount of yearly
37 principal and interest to be paid in the most recent and the next five fiscal
38 years.

39 ~~N.~~ L. The board may enter into an intergovernmental agreement
40 pursuant to section 15-1747 to manage universities under its jurisdiction
41 subject to the terms of the reciprocity agreement.

42 ~~O.~~ M. For the purposes of this section, "university debt and
43 obligations" means debt and obligations, the principal and interest of which
44 are paid in whole or in part with university monies.

1 Sec. 2. Section 15-1682.01, Arizona Revised Statutes, is amended to
2 read:

3 15-1682.01. Lease-purchase agreements

4 A. Any lease-purchase agreement executed by the board relating to land
5 acquisition, capital projects, energy systems or energy management systems
6 shall provide that:

7 1. The obligation of this state to make any payment under the
8 agreement is a current expense of the board and is not a general obligation
9 indebtedness of this state or the board.

10 2. If the legislature fails to appropriate monies or the board fails
11 to allocate monies for any periodic payment or renewal term of the agreement,
12 the agreement terminates at the end of the current term and this state and
13 the board are relieved of any subsequent obligation under the agreement.

14 3. The joint committee on capital review shall review the project
15 before the lease-purchase agreement takes effect, **BUT ONLY TO THE EXTENT OF**
16 **THAT PORTION OF THE PROJECT THAT IS FINANCED BY STATE APPROPRIATIONS.**
17 **PROJECTS OR PORTIONS OF PROJECTS THAT ARE FINANCED BY INDIRECT OR THIRD-PARTY**
18 **FINANCING PURSUANT TO SECTION 15-1682.02 ARE NOT SUBJECT TO REVIEW BY THE**
19 **JOINT COMMITTEE ON CAPITAL REVIEW.**

20 B. A lease-purchase agreement under this section shall comply with the
21 constitution and other laws of this state.

22 Sec. 3. Section 15-1682.02, Arizona Revised Statutes, is amended to
23 read:

24 15-1682.02. Indirect and third-party financing

25 ~~A. The board may secure indirect or third-party financing for any~~
26 ~~project if the following conditions are met:~~

27 ~~1. The term of the indirect or third-party financing does not exceed~~
28 ~~the earlier of forty years or the useful life of the capital improvements.~~

29 ~~2. The project for which indirect or third party financing is secured~~
30 ~~is reviewed by the joint committee on capital review. Private entities are~~
31 ~~not required to divulge proprietary information to the committee for review.~~

32 ~~B. For a project that is to be developed on board or institutional~~
33 ~~land, that is intended to be commercial in nature and if the majority of the~~
34 ~~project's business is anticipated to come from the nonuniversity population,~~
35 ~~the board or institution shall report on the scope, purpose and estimated~~
36 ~~cost of the project to the joint committee on capital review at least two~~
37 ~~months before the anticipated execution of an agreement. A private entity is~~
38 ~~not required to divulge proprietary information to the joint committee on~~
39 ~~capital review. The joint committee on capital review may provide~~
40 ~~recommendations to the board or a university on the reported project.~~

41 Sec. 4. Section 15-1683, Arizona Revised Statutes, is amended to read:

42 15-1683. Issuance of bonds

43 A. The board shall have power, and is hereby authorized from time to
44 time, to issue bonds:

1 1. To acquire any one project, or more than one, or any combination
2 thereof, for such institution, if both of the following conditions are met:

3 (a) As of the date of issuance of bonds or certificates of
4 participation for any institution, projected debt service on bonds and
5 certificates of participation then outstanding and proposed to be issued for
6 such institution, as shown in the most recent capital improvement plan
7 reported to the board, may not exceed, in any fiscal year shown in such
8 capital improvement plan, more than eight ~~per-cent~~ PERCENT of such
9 institution's total projected expenditures and mandatory transfers. The
10 calculation of compliance with this condition shall be as set forth in and
11 approved by the board in its adopted capital improvement plan for such
12 institution.

13 (b) The project to be acquired with the proceeds of the bonds is
14 reviewed by the joint committee on capital review. IF THE JOINT COMMITTEE ON
15 CAPITAL REVIEW DOES NOT REVIEW THE PROJECT TO BE ACQUIRED WITH THE PROCEEDS
16 OF THE BONDS WITHIN NINETY CALENDAR DAYS AFTER A UNIVERSITY HAS FORMALLY
17 SUBMITTED PROJECT PLANS TO JOINT LEGISLATIVE BUDGET COMMITTEE STAFF, THE
18 PROJECT IS DEEMED TO HAVE RECEIVED A FAVORABLE RECOMMENDATION FROM THE JOINT
19 COMMITTEE ON CAPITAL REVIEW.

20 2. To refund bonds heretofore and hereafter issued to acquire any
21 project or projects for such institution as hereinafter provided for.

22 3. To refund any such refunding bonds.

23 4. For any one, or more than one, or all of such purposes, or any
24 combination thereof.

25 B. All bonds shall be authorized by resolution of the board and may be
26 issued in one or more series, may bear such date or dates, may be in such
27 denomination or denominations, may mature at such time or times not exceeding
28 the earlier of forty years from the respective dates thereof or the useful
29 life of the capital improvements, may mature in such amount or amounts, may
30 bear interest at such rate or rates as shall be determined by the board,
31 payable at such time or times, may be in such form, either coupon or
32 registered as to principal only or as to both principal and interest, may
33 carry such registration privileges, including the conversion of a fully
34 registered bond to a coupon bond or bonds and the conversion of a coupon bond
35 to a fully registered bond, may be executed in such manner, may be made
36 payable in such medium of payment, at such place or places within or without
37 the state, and may be subject to such terms of redemption prior to their
38 expressed maturity, with or without premium, as such resolution or other
39 resolutions may provide. All bonds issued under this article shall be sold
40 as the board shall determine. Such resolution may provide that one of the
41 officers of the board shall sign such bonds manually and that the other
42 signatures may be printed, lithographed, engraved or otherwise reproduced
43 thereon. The coupon bonds shall be fully negotiable within the meaning of
44 the uniform commercial code, title 47.

1 Sec. 5. Section 35-146, Arizona Revised Statutes, is amended to read:

2 35-146. Deposit of receipts by budget units

3 A. All monies received by any officer or employee of any budget unit
4 shall be promptly remitted to the state treasurer and no monies shall be
5 held, used or deposited in any personal or special bank account temporarily
6 or otherwise by any agent or employee except as expressly provided by this
7 chapter.

8 B. All monies received by the state treasurer shall be credited to the
9 state general fund, unless otherwise prescribed by law.

10 ~~C. Upon receipt, the amount of tuition, registration fees and other~~
11 ~~revenues included in the operating budget adopted by the board for each~~
12 ~~university as prescribed in section 15-1626, subsection A, paragraph 13 shall~~
13 ~~be promptly remitted to the state treasurer.~~