ARIZONA STATE SENATE

Fifty-Third Legislature, First Regular Session

FINAL AMENDED

FACT SHEET FOR H.B. 2547/S.B. 1532

university infrastructure capital financing; appropriations

Purpose

Appropriates $27 million to universities from the state General Fund (GF) in FY 2019 through FY 2043 for cash costs of, or debt financing for, capital projects. Requires a university, for each licensure agreement, royalty agreement or agreement for the sale or transfer of intellectual property that is entered into from and after April 30, 2017, to deposit specified funds into the state GF.

Background

The universities' FY 2016 Debt Capacity Reports project expected debt ratios through FY 2025. The rate and year in which each university is projected to have its highest debt ratio is as follows:

- ASU: 4.8% (5.2% with SPEED) in FY 2019
- NAU: 5.4% (7.4% with SPEED) in FY 2018
- UA: 5.3% (6.6% with SPEED) in FY 2017

In conjunction with annual state GF appropriations that fund university research facilities constructed under A.R.S. § 15-1670, Laws 2003, Chapter 267 requires the universities to deposit into the state GF 20 percent of income from licensure and royalty payments and 25 percent of income from the sale or transfer of intellectual property during the preceding fiscal year (not to exceed the state's annual GF appropriation for the research facilities).

While not defined in statute, the universities have interpreted *income* as gross royalties net of expenditures on legal fees (required to secure patents, etc.), the costs of managing the technology transfer process, and distributions of revenues to the inventors and their laboratories. In terms of FY 2016 gross royalty revenues, ASU reported $10.8 million of licensing and royalty revenues, NAU reported $5,290 of licensing and royalty revenue, and UA reported $2.0 million of licensure, royalty, and assignment revenues.

In terms of net income, NAU and UA both reported a loss in FY 2016. ASU reported a net income of $603,000 in FY 2016. ASU did not deposit any portion of these monies into the state GF, citing a $40.3 million cumulative net loss from prior years. Statute does not provide, however, for offsetting annual income with prior year losses.

The original intent of A.R.S. § 15-1670 was to reimburse the state GF for its investments made in the universities' research facilities. However, the universities' current policy effectively precludes reimbursement.

Provisions

University Infrastructure Capital Financing

1. Establishes a capital infrastructure fund (Fund) for each university.

2. Continuously appropriates monies in each Fund.

3. Requires each university to administer its own Fund.

4. Exempts monies in the Fund from lapsing.

5. Appropriates $27 million from the state GF to the Fund in FY 2019 as follows:
   a) $11,927,400 to Arizona State University;
   b) $10,551,700 to University of Arizona; and
   c) $4,520,900 to Northern Arizona University.

6. Appropriates, in FYs 2020 through 2043, from the state GF to the Fund an amount equal to the amount appropriated in the preceding fiscal year, adjusted by a growth rate of either two percent or the change in the GDP price deflator, from the second preceding calendar year to the calendar year immediately preceding the budget year, whichever is less, but not below the amount appropriated in the preceding fiscal year.

7. Stipulates that each annual appropriation is a current expense of this state in the fiscal year in which it occurs and is not a general obligation indebtedness of this state or of any university.

8. Requires each university, in each fiscal year in which monies are appropriated to the Fund, to also deposit from its own funds a matching amount equal to the amount appropriated from the state GF used for paying debt service on debt financing for capital projects.

9. Requires each university to use monies in the Fund, from whatever source, exclusively for either cash costs of, or on debt financing for, capital projects.

10. Prohibits monies in the Fund from being used for:
    a) any project reviewed by JCCR before April 15, 2017;
    b) construction, use, furnishing, improvement, operating, marketing, promotion or maintenance of a facility that is used primarily by a professional sports franchise; or
    c) operating expenditures.

11. Prohibits the Board of Regents (ABOR) from issuing total debt financing for which debt service is paid in a principal amount of more than $1 billion.

12. Requires each university to report the required information relating to its Fund in the agency budget submittal to the Governor's Office of Strategic Planning and Budgeting.

13. Requires each university, before any expenditure of monies in the Fund, *for any capital project not subject to debt financing*, to submit the scope, purpose and estimated cost of the project for review by the Joint Committee on Capital Review (JCCR).

14. Requires each university, before any expenditure of monies in the Fund, *for any capital project subject to debt financing*, to submit the scope, purpose and estimated cost of the project to JCCR. Stipulates that a project may not proceed until JCCR approves it.

15. Requires JCCR to hear and review a submitted project not subject to debt financing not later than JCCR's second meeting after the project is submitted to JCCR.

16. Requires JCCR to hear and approve or disapprove a project subject to debt financing not later than JCCR's second meeting after the project is submitted to JCCR.

17. Allows ABOR, on behalf of each university under its jurisdiction, to enter into or issue debt financings.

18. Allows ABOR to additionally secure, pledge for or make payment on such debt financings in whole or in part from monies in the Fund of that university.

19. Requires that debt service payments funded with monies from a university's Fund shall be included in the calculation of that university's debt service limit.

20. Allows ABOR to refund any debt financing paid with Fund monies.

21. Requires that debt financing to be secured from the same source of revenues as the debt financing authorized here.

22. Allows the refunding debt financing to be issued at or before maturity of the debt financing being refunded

23. Requires debt financing to be submitted by ABOR for review by JCCR.

24. Requires JCCR to hear and review a refunding debt financing not later JCCR's second meeting after the refunding debt financing is submitted to JCCR.

25. States that the refunding debt financing is not subject to the $1 billion university infrastructure bonding cap.

26. Provides definitions.

Licensure or Royalty Agreement

27. Strikes language requiring ABOR to deposit 30 percent of the income received in the preceding year resulting from the conveyance of ownership interests in business enterprises acquired to develop technology or intellectual property, if a constitutional amendment authorizing ownerships and securities by ABOR is approved by the qualifying electors.

28. Requires a university, for each licensure agreement, royalty agreement or agreement for the sale or transfer of intellectual property that is entered into from and after April 30, 2017, to deposit not later than October 1 with the State Treasurer in the state GF:

Licensure or Royalty Agreement	In the first three years	20% of net income received during the preceding fiscal year
	After the first three years	20% of gross income received during the preceding fiscal year
Intellectual Property	In any year	25% of gross revenues received during the preceding fiscal year

29. Requires each university, when calculating net income and gross revenues, to calculate amounts received in the prior fiscal year and not include cumulative losses from other fiscal years.

30. Prohibits each university from reducing its required deposits from any agreements due to net income associated with other projects.

31. Stipulates that licensure or royalty amounts transferred to the state GF shall not exceed the amount appropriated in that fiscal year for lease-purchase capital financing for research infrastructure projects and university infrastructure capital financing.

32. Requires each state university to report to the Joint Legislative Budget Committee (JLBC) the total amount of gross revenue and net income the university received from each agreement.

33. Defines *component unit of the university* as an entity that is legally separate from, but related to, the university and whose primary purpose is to support the university. Component unit includes a university foundation and an entity that contracts with the university to manage technology transfer activities.

<u>Amendments Adopted to S.B. 1532 by Committee of the Whole</u>

1. Exempts bond refinancing/refunding from the $1 billion university infrastructure bonding cap.

2. Requires JCCR review of refinancing.

3. Includes technical changes.

Senate Action on S.B. 1532

ED	5/03/17	DP	6-4-0
3rd Read	5/04/17		23-7-0

(H.B. 2547 was substituted for S.B. 1532 on 3rd Read)

House Action on H.B. 2547

ED	5/03/17	DP	6-4-0-1
3rd Read	5/04/17		33-26-1

Signed by the Governor 5/22/17
Chapter 328

Prepared by Senate Research
June 6, 2017
CS/jn