

## **Title 6. Education**

### **Chapter IV. Division of Higher Education, Department of Education**

#### **Subchapter A. Generally**

#### **Part 363. Rules Governing the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "Effective Date: October 31, 2024"

#### **Subpart 1. Generally**

##### **6 CAR § 363-101. Definitions.**

As used in this part:

- (1) "Critical maintenance" means deferred maintenance projects that:
  - (A) If not addressed, could result in substantial damage to the structural integrity of a building; or
  - (B) Are related to the imminent failure of building systems such as HVAC, electrical, and plumbing;
- (2) "Deferred maintenance" means necessary maintenance, repairs, and upgrades or replacements that are put on hold until sometime in the future, most notably due to a lack of funds needed to complete a project; and
- (3) "Renovation of state-owned property" means updates to existing institutional facilities to address changing program needs on a campus.

**Authority.** Arkansas Code §§ 6-11-105, 6-62-1204.

**Codification Notes.** "HVAC" means heating, ventilation, and air conditioning.

##### **6 CAR § 363-102. Loans.**

- (a) Under the Sustainable Building Maintenance Program for State-Supported

Institutions of Higher Education, the Division of Higher Education may authorize money to be loaned from the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education Revolving Loan Fund, pursuant to Arkansas Code § 19-5-1277, to a state-supported institution of higher education.

(b) A loan from the fund made under subsection (a) of this section shall be:

(1) For:

(A) Deferred maintenance;

(B) Critical maintenance; or

(C) A renovation of state-owned property; and

(2) In an amount that exceeds one hundred thousand dollars (\$100,000).

(c) The term for repayment of a loan from the fund made under subsection (a) of this section shall not exceed ten (10) years.

(d) An applicant applying for a loan under this part shall meet the following eligibility requirements:

(1) Applications for loans for construction and/or renovation projects should be accompanied by a copy of the engineer's or architect's project budget guidelines; and

(2) Criteria for loan approval will include, but are not limited to, the following:

(A) The institution's current debt service requirements:

(i) The total annual debt service, including that for the loan, if approved, may not exceed twenty-five percent (25%) of annual student tuition and fee revenue; or

(ii) If local millage is pledged against the loan, the millage income must equal no less than one hundred twenty percent (120%) of total annual debt service;

(B) Feasibility of and need for the proposed project in the context of the educational and general mission of the institution; and

(C) Availability of loan funds.

**Authority.** Arkansas Code §§ 6-11-105, 6-62-1204.

**6 CAR § 363-103. Loan approval process.**

(a)(1)(A) An applicant for a loan from the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education Revolving Loan Fund under Arkansas Code § 6-62-1202 shall apply for the loan on a form approved by the Division of Higher Education.

(B) The form under subdivision (a)(1)(A) of this section shall be posted on the division's website.

(2) The division shall review an application submitted under subdivision (a)(1)(A) of this section to determine if the applicant satisfies the eligibility criteria for a loan from the fund.

(3) Upon approval by the division, each application shall then be reviewed by the General Assembly for final approval.

(b) The division shall provide an applicant for a loan from the fund with written notice of its determination regarding:

(1) Whether to offer the applicant a loan from the fund; and

(2) Any conditions for making the loan from the fund.

(c)(1) After an applicant for a loan from the fund has satisfied the preconditions, if any, for the division's approval of the applicant's loan application and has executed a contract for the loan from the fund, the division will present the contract for the loan from the fund to the Arkansas Higher Education Coordinating Board for its approval.

(2) In determining whether to approve an application, the Arkansas Higher Education Coordinating Board will:

(A) First, based on project type, give priority to critical maintenance needs;

(B) Second, give priority to deferred maintenance, with renovation projects being the lowest priority for funding; and

(C) As funds become available, division staff will notify the eligible institution of the intent to present the loan award for approval at the next available Arkansas Higher Education Coordinating Board meeting.

(3) Requirements for the issuance of a loan from the fund:

(A) Upon approval of the loan by the Arkansas Higher Education Coordinating Board, the institution must sign a certificate of indebtedness:

(i) Specifying a payout schedule; and

(ii) Asserting the commitment of the institutional board to budget and allocate the sums necessary to make the payments agreed upon in the certificate of indebtedness;

(B) The payout schedule will include a closing fee plus an annual service fee assessed by the Arkansas Development Finance Authority as agreed upon by the division and the authority and specified in the closing document or documents;

(C) The certificate of indebtedness will provide for penalties for late payments; and

(D) No penalties will be assessed for early retirement of the debt.

**Authority.** Arkansas Code §§ 6-11-105, 6-62-1204.