

Agenda Item No. \_\_\_\_  
Higher Education Coordinating Board  
July 26, 2024

**RULES GOVERNING THE SUSTAINABLE BUILDING MAINTENANCE  
PROGRAM FOR STATE-SUPPORTED  
INSTITUTIONS OF HIGHER EDUCATION**

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In compliance with Act 751 of 2023, the rules for the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education are presented to the Arkansas Higher Education Coordinating Board (AHECB) for initial approval.

The following resolution is offered for the Board's consideration:

**RESOLVED**, That the Arkansas Higher Education Coordinating Board reviews the rules presented in this agenda item for the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education to be administered by the Arkansas Division of Higher Education.

**FURTHER RESOLVED**, That the Commissioner of the Arkansas Division of Higher Education or his designee is authorized to make technical changes and corrections, when necessary, in the program rules for the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education.

**FURTHER RESOLVED**, That the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education rules be approved for public comment release.

**DIVISION OF HIGHER EDUCATION RULES GOVERNING  
THE SUSTAINABLE BUILDING MAINTENANCE PROGRAM FOR  
STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION**

**Effective Date:**

**1.00 DEFINITIONS.**

- 1.00 “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.
- 1.01 “Critical maintenance” means deferred maintenance projects that, if not addressed, could result in substantial damage to the structural integrity of a building or are related to the imminent failure of building systems such as HVAC, electrical and plumbing.
- 1.02 “Renovation of state-owned property” means updates to existing institutional facilities to address changing program needs on a campus.

**2.00 LOANS.**

- 2.01 Under the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education, the Division of Higher Education may:
- 2.01.1 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.
- 2.02 A loan from the fund made under 2.01 shall be:
- 2.02.1 For:
- 2.02.1.1 Deferred maintenance;
- 2.02.1.2 Critical maintenance; or
- 2.02.1.3 A renovation of state-owned property; and
- 2.02.2 In an amount that exceeds one hundred thousand dollars (\$100,000).
- 2.03 The term for repayment of a loan from the fund made under 1.01 of this section shall not exceed ten (10) years.
- 2.04 An applicant applying for a loan under this rule shall meet the following eligibility requirements:

2.04.1 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.

2.04.2 Criteria for loan approval will include, but are not limited to, the following:

2.04.2.1 The institution's current debt service requirements:

2.04.2.1.1 The total annual debt service (including that for the loan, if approved) may not exceed 25% of annual student tuition and fee revenue or,

2.04.2.1.2 If local millage is pledged against the loan, the millage income must equal no less than 120% of total annual debt service;

2.04.2.2 Feasibility of and need for the proposed project in the context of the educational and general mission of the institution; and

2.04.2.3 Availability of loan funds.

### **3.00 LOAN APPROVAL PROCESS.**

3.01 An applicant for a loan from the Sustainable Building Maintenance Program for State-Supported Institutions of Higher Education Revolving Loan Fund under § 6-62-1202 shall:

3.01.1 Apply for the loan on a form approved by the Division of Higher Education.

3.01.1.1 The form under section 3.01.1 shall be posted on the division's website.

3.01.2 The division shall review an application submitted under 3.01.1 of this subsection to determine if the applicant satisfies the eligibility criteria for a loan from the fund.

3.01.3 Upon approval by the division, each application shall then be reviewed by the legislature for final approval.

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

3.02.1 To offer the applicant a loan from the fund, and

3.02.2 Any conditions for making the loan from the fund.

3.03 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 Higher Education Coordinating Board for its approval.

3.03.1 In determining whether to approve an application, the board will:

3.03.1.1 First, based on project type give priority to critical maintenance needs.

3.03.1.2 Second give priority to deferred maintenance with renovation projects being the lowest priority for funding.

3.03.1.3 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 board meeting.

3.03.2 Requirements for the issuance of a loan from the fund:

3.03.2.1 Upon approval of the loan by the Higher Education Coordinating Board, the institution must sign a Certificate of Indebtedness specifying a payout schedule and 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.

3.03.2.2 The payout schedule will include a closing fee plus an annual service fee assessed by the Development Finance Authority as agreed upon by the division and the Authority and specified in the closing document(s).

3.03.2.3 The Certificate of Indebtedness will provide for penalties for late payments.

3.03.2.4 No penalties will be assessed for early retirement of the debt.

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1743

5 By: Representative Painter  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE SUSTAINABLE BUILDING MAINTENANCE  
9 PROGRAM FOR STATE-SUPPORTED INSTITUTIONS OF HIGHER  
10 EDUCATION; AND FOR OTHER PURPOSES.  
11

## Subtitle

12 TO CREATE THE SUSTAINABLE BUILDING  
13 MAINTENANCE PROGRAM FOR STATE-SUPPORTED  
14 INSTITUTIONS OF HIGHER EDUCATION.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code Title 6, Chapter 62 is amended to add an  
22 additional subchapter to read as follows:

23 Subchapter 12 – Sustainable Building Maintenance Program for State-Supported  
24 Institutions of Higher Education

25  
26 6-62-1201. Sustainable Building Maintenance Program for State-  
27 Supported Institutions of Higher Education.

28 (a) There is created the Sustainable Building Maintenance Program for  
29 State-Supported Institutions of Higher Education.

30 (b) The program shall be administered by the Division of Higher  
31 Education.  
32

33 6-62-1202. Loans.

34 (a) Under the Sustainable Building Maintenance Program for State-  
35 Supported Institutions of Higher Education, the Division of Higher Education  
36 may authorize money to be loaned from the Sustainable Building Maintenance



1 Program for State-Supported Institutions of Higher Education Revolving Loan  
2 Fund, § 19-5-1277, to a state-supported institution of higher education.

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

5 (1) For:

6 (A) Deferred maintenance;

7 (B) Critical maintenance; or

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

9 (2) In an amount that exceeds one hundred thousand dollars  
10 (\$100,000).

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

13  
14 6-62-1203. Loan approval process.

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

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

22 (b) The division shall provide an applicant for a loan from the fund  
23 with written notice of its determination regarding whether to offer the  
24 applicant a loan from the fund and any conditions for making the loan from  
25 the fund.

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

31  
32 6-62-1204. Rules.

33 (a) The Division of Higher Education shall promulgate rules for the  
34 implementation of this subchapter.

35 (b) The rules promulgated under subsection (a) of this section shall  
36 include without limitation:

