

110TH CONGRESS  
1ST SESSION

# S. 1542

To establish State infrastructure banks for education, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 5, 2007

Mrs. CLINTON introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To establish State infrastructure banks for education, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Investing for Tomor-  
5 row’s Schools Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) According to the School Management and  
9 Planning magazine, up to \$150,000,000,000 in re-  
10 pairs, renovations, and modernizations is needed to

1 put schools in the United States into good overall  
2 condition.

3 (2) Approximately 14,000,000 United States  
4 students attend schools that report the need for ex-  
5 tensive repair or replacement of 1 or more buildings.

6 (3) According to a recent study conducted by  
7 American School & University magazine,  
8 \$29,088,000,000 was spent to address the Nation's  
9 education infrastructure needs, with the average  
10 total cost of a new high school being \$27,000,000.

11 (4) Academic research has proven that there is  
12 a direct correlation between the condition of school  
13 facilities and student achievement. At Georgetown  
14 University, researchers have found that students as-  
15 signed to schools in poor condition could be expected  
16 to have test scores that are 10.9 percentage points  
17 lower than students in schools in excellent condition.  
18 Similar studies demonstrated improvement of up to  
19 20 percent in test scores when students were moved  
20 from a facility in poor condition to a new facility.

21 (5) Large numbers of local educational agencies  
22 have difficulties securing financing for school facility  
23 improvement.

24 (6) The challenges facing the Nation's public el-  
25 elementary schools and secondary schools and libraries

1 require the concerted efforts of all levels of govern-  
2 ment and all sectors of communities.

3 (7) The United States competitive position  
4 within the world economy is vulnerable if the future  
5 workforce of the United States continues to be edu-  
6 cated in schools and libraries not equipped for the  
7 21st century.

8 (8) The deplorable state of collections in public  
9 school libraries in the United States has increased  
10 the demands on public libraries. In many instances,  
11 public libraries substitute for school libraries, cre-  
12 ating a higher demand for material and physical  
13 space to house literature and educational computer  
14 equipment.

15 (9) Research shows that 50 percent of a child's  
16 intellectual development takes place before age 4.  
17 The Nation's public and school libraries play a crit-  
18 ical role in a child's early development because the  
19 libraries provide a wealth of books and other re-  
20 sources that can give every child a head start on life  
21 and learning.

22 **SEC. 3. STATE INFRASTRUCTURE BANK PILOT PROGRAM.**

23 (a) ESTABLISHMENT.—

24 (1) COOPERATIVE AGREEMENTS.—The Sec-  
25 retary of Education (referred to in this Act as the

1 “Secretary”), after consultation with the Secretary  
2 of the Treasury, may enter into cooperative agree-  
3 ments with States under which—

4 (A) the States establish State infrastruc-  
5 ture banks and multistate infrastructure banks  
6 for the purpose of providing the loans described  
7 in subparagraph (B); and

8 (B) the Secretary awards grants to States  
9 to be used as initial capital for the purpose of  
10 making loans through the infrastructure  
11 banks—

12 (i) to local educational agencies to en-  
13 able the agencies to construct, reconstruct,  
14 or renovate elementary schools or sec-  
15 ondary schools that provide free public  
16 education; and

17 (ii) to public libraries to enable the li-  
18 braries to construct, reconstruct, or ren-  
19 ovate library facilities.

20 (2) INTERSTATE COMPACTS.—

21 (A) CONSENT.—Congress grants consent  
22 to any 2 or more States, entering into a cooper-  
23 ative agreement under paragraph (1) with the  
24 Secretary for the establishment of a multistate  
25 infrastructure bank, to enter into an interstate

1 compact establishing a multistate infrastructure  
2 bank in accordance with this section.

3 (B) RESERVATION OF RIGHTS.—Congress  
4 expressly reserves the right to alter, amend, or  
5 repeal this section and any consent granted  
6 pursuant to this section.

7 (b) REPAYMENTS.—Each infrastructure bank estab-  
8 lished under subsection (a) shall apply repayments of prin-  
9 cipal and interest on loans funded by the grant received  
10 under subsection (a) to the making of additional loans.

11 (c) INFRASTRUCTURE BANK REQUIREMENTS.—A  
12 State establishing an infrastructure bank under this sec-  
13 tion shall—

14 (1) contribute to the bank, from non-Federal  
15 sources, an amount equal to not less than 25 per-  
16 cent of the amount of each grant made for the bank  
17 under subsection (a);

18 (2) identify as recipient of the grant an oper-  
19 ating entity of the State that has the capacity to  
20 manage loan funds, and issue debt instruments of  
21 the State for purposes of leveraging the funds made  
22 available through the grant or State contributions  
23 under paragraph (1) related to the grant;

24 (3) allow such funds to be used as reserve for  
25 debt issued by the State, so long as proceeds are de-

1       posited in the appropriate accounts for loan pur-  
2       poses;

3           (4) ensure that investment income generated by  
4       funds described in paragraph (2) and made available  
5       to an account of the bank will be—

6           (A) credited to the account;

7           (B) available for use in providing loans for  
8       a project eligible for assistance from the ac-  
9       count; and

10          (C) invested in United States Treasury se-  
11       curities, bank deposits, or such other financing  
12       instruments as the Secretary may approve to  
13       earn interest to enhance the leveraging of funds  
14       for projects assisted by the bank;

15          (5) ensure that any loan from the bank will  
16       bear interest at or below the lowest interest rate  
17       being offered for bonds;

18          (6) ensure that repayment of any loan from the  
19       bank will commence not later than 1 year after the  
20       project has been completed;

21          (7) ensure that the term for repaying any such  
22       loan will not exceed 30 years after the date of the  
23       first payment on the loan under paragraph (6); and

1           (8) require the bank to make an annual report  
 2           to the Secretary on its status, and make such other  
 3           reports as the Secretary may require by guidelines.

4           (d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE  
 5 BANKS.—

6           (1) IN GENERAL.—An infrastructure bank es-  
 7           tablished under this section may make a loan to a  
 8           local educational agency or a public library in an  
 9           amount equal to all or part of the cost of carrying  
 10          out a project eligible for a loan under subsection (e).

11          (2) APPLICATIONS FOR LOANS.—

12           (A) IN GENERAL.—A local educational  
 13          agency or public library desiring a loan under  
 14          this section shall submit to such an infrastruc-  
 15          ture bank an application that includes—

16           (i) in the case of an application for a  
 17          renovation project for a facility—

18           (I) a description of each architec-  
 19          tural, civil, structural, mechanical, or  
 20          electrical deficiency to be corrected  
 21          with the loan funds and the priorities  
 22          to be applied in determining which de-  
 23          ficiency to address first; and

24           (II) a description of the criteria  
 25          used by the applicant to determine the

1 type of corrective action necessary for  
2 the renovation of the facility;

3 (ii) a description of any improvements  
4 to be made and a cost estimate for the im-  
5 provements to be made with the loan;

6 (iii) a description of how work under-  
7 taken with the loan will promote energy  
8 conservation; and

9 (iv) such other information as the in-  
10 frastructure bank may require.

11 (B) TIMING.—An infrastructure bank shall  
12 take final action on a completed application  
13 submitted to it in accordance with this sub-  
14 section not later than 90 days after the date of  
15 the submission of the application.

16 (3) CRITERIA FOR LOANS.—In considering an  
17 application for a loan under this section, an infra-  
18 structure bank shall consider—

19 (A) the extent to which the local edu-  
20 cational agency or public library desiring the  
21 loan would otherwise lack the fiscal capacity,  
22 including the ability to raise funds through the  
23 full use of bonding capacity of the agency or li-  
24 brary, to undertake the project proposed in the  
25 application;

1           (B) in the case of a local educational agen-  
 2           cy, the threat that the condition of the physical  
 3           plant in the proposed project poses to the safety  
 4           and well-being of students;

5           (C) the demonstrated need for the con-  
 6           struction, reconstruction, or renovation de-  
 7           scribed in the application, based on the condi-  
 8           tion of the facility in the proposed project; and

9           (D) the age of the facility proposed to be  
 10          replaced, reconstructed, or renovated.

11       (e) ELIGIBLE PROJECTS.—

12           (1) IN GENERAL.—A project shall be eligible for  
 13          a loan from an infrastructure bank under this sec-  
 14          tion if the project consists of—

15           (A) the construction of an elementary  
 16          school or secondary school to meet the needs  
 17          imposed by enrollment growth;

18           (B) the repair or upgrading of classrooms  
 19          or structures related to academic learning at an  
 20          educational facility, including the repair of leak-  
 21          ing roofs, crumbling walls, inadequate plumb-  
 22          ing, poor ventilation equipment, or inadequate  
 23          heating or lighting equipment;

24           (C) an activity to increase physical safety  
 25          at an educational facility;

1 (D) an activity to enhance an educational  
2 facility to provide access for students, teachers,  
3 and other individuals (such as staff and par-  
4 ents) who are individuals with disabilities;

5 (E) an activity to address environmental  
6 hazards at an educational facility, such as poor  
7 ventilation, indoor air quality, or lighting;

8 (F) the provision of basic infrastructure  
9 that facilitates educational technology, such as  
10 communications outlets, electrical systems,  
11 power outlets, or a communication closet, at an  
12 educational facility;

13 (G) work that will bring an educational fa-  
14 cility into conformity with the requirements  
15 of—

16 (i) environmental protection or health  
17 and safety programs mandated by Federal,  
18 State, or local law, if such requirements  
19 were not in effect when the facility was ini-  
20 tially constructed; and

21 (ii) hazardous waste treatment, stor-  
22 age, and disposal requirements mandated  
23 under the Solid Waste Disposal Act (42  
24 U.S.C. 6901 et seq.) or similar State laws;

1 (H) work that will enable efficient use of  
2 available energy resources at an educational fa-  
3 cility;

4 (I) work to detect, remove, or otherwise  
5 contain asbestos hazards in an educational fa-  
6 cility; or

7 (J) work to construct public library facili-  
8 ties or repair or upgrade public library facili-  
9 ties.

10 (2) DAVIS-BACON.—The wage requirements of  
11 subchapter IV of chapter 31 of title 40, United  
12 States Code shall apply with respect to individuals  
13 employed on the projects described in paragraph (1).

14 (3) HEALTHY HIGH PERFORMANCE SCHOOLS.—

15 (A) ESTABLISHMENT OF GUIDELINES.—

16 After consultation with States and consider-  
17 ation of leading green building standards, the  
18 Secretary, in consultation with the Secretary of  
19 Energy and the Administrator of the Environ-  
20 mental Protection Agency, shall establish  
21 Healthy, High Performance School Guidelines,  
22 which shall provide guidance for the construc-  
23 tion and renovation of schools, educational fa-  
24 cilities, and libraries relating to energy effi-  
25 ciency, renewable energy, water use, building

1 materials, indoor environmental quality, and  
2 such other matters as the Secretary considers  
3 to be appropriate.

4 (B) APPLICABILITY OF GUIDELINES.—A  
5 local educational agency or public library using  
6 a loan under this section to fund a new con-  
7 struction or renovation project described in  
8 paragraph (1) shall ensure that the project con-  
9 forms, to the maximum extent practicable, to  
10 the Healthy, High Performance School Guide-  
11 lines described in subparagraph (A).

12 (f) SUPPLEMENTATION.—Any loan made by an infra-  
13 structure bank shall be used to supplement and not sup-  
14 plant other Federal, State, and local funds available to  
15 carry out school or library construction, reconstruction, or  
16 renovation (including repair).

17 (g) LIMITATION ON REPAYMENTS.—Notwithstanding  
18 any other provision of law, if an infrastructure bank  
19 makes a loan under this section with funds made available  
20 through a grant awarded to a State under subsection (a),  
21 the funds used to repay the loan may not be credited to-  
22 ward the contribution required for the State under sub-  
23 section (c)(1) for a subsequent grant awarded under sub-  
24 section (c).

1           (h) SECRETARIAL REQUIREMENTS.—In admin-  
2           istering this section, the Secretary shall specify procedures  
3           and guidelines for establishing, operating, and providing  
4           assistance from an infrastructure bank.

5           (i) UNITED STATES NOT OBLIGATED.—The con-  
6           tribution of Federal funds to an infrastructure bank estab-  
7           lished under this section shall not be construed as a com-  
8           mitment, guarantee, or obligation on the part of the  
9           United States to any third party, nor shall any third party  
10          have any right against the United States for payment sole-  
11          ly by virtue of the contribution. Any security or debt fi-  
12          nancing instrument issued by the infrastructure bank  
13          shall expressly state that the security or instrument does  
14          not constitute a commitment, guarantee, or obligation of  
15          the United States.

16          (j) INCOME ATTRIBUTABLE TO INTEREST.—The in-  
17          come attributable to interest described in subsection (e)(5)  
18          shall be exempt from Federal taxation.

19          (k) MANAGEMENT OF FEDERAL FUNDS.—Sections  
20          3335 and 6503 of title 31, United States Code, shall not  
21          apply to funds contributed under this section.

22          (l) PROGRAM ADMINISTRATION.—A State may ex-  
23          pend an amount not to exceed 2 percent of the grant funds  
24          contributed to an infrastructure bank established by a

1 State or States under this section to pay the reasonable  
2 costs of administering the infrastructure bank.

3 (m) SECRETARIAL REVIEW AND REPORT.—The Sec-  
4 retary shall—

5 (1) review the financial condition of each infra-  
6 structure bank established under this section; and

7 (2) transmit to Congress a report on the results  
8 of such review not later than 90 days after the com-  
9 pletion of the review.

10 **SEC. 4. DEFINITIONS.**

11 In this Act:

12 (1) ELEMENTARY SCHOOL, FREE PUBLIC EDU-  
13 CATION, AND SECONDARY SCHOOL.—The terms “ele-  
14 mentary school”, “free public education”, and “sec-  
15 ondary school” have the meanings given the terms  
16 in section 9101 of the Elementary and Secondary  
17 Education Act of 1965 (20 U.S.C. 7801).

18 (2) LOCAL EDUCATIONAL AGENCY.—The term  
19 “local educational agency” has the meaning given  
20 the term in section 9101 of the Elementary and Sec-  
21 ondary Education Act of 1965 (20 U.S.C. 7801)  
22 and includes a public charter school that operates as  
23 a local educational agency of the State in which the  
24 school is located.

1           (3) OUTLYING AREA.—The term “outlying  
2 area” means the United States Virgin Islands,  
3 Guam, American Samoa, the Commonwealth of the  
4 Northern Mariana Islands, the Republic of the Mar-  
5 shall Islands, the Federated States of Micronesia,  
6 and the Republic of Palau.

7           (4) PUBLIC LIBRARY.—The term “public li-  
8 brary”—

9           (A) means a library that serves, free of  
10 charge, all residents of a community, district, or  
11 region, and receives its financial support in  
12 whole or in part from public funds; and

13           (B) includes a research library, which, for  
14 purposes of this subparagraph, means a library  
15 that—

16           (i) makes its services available to the  
17 public free of charge;

18           (ii) has extensive collections of books,  
19 manuscripts, and other materials suitable  
20 for scholarly research that are not avail-  
21 able to the public through public libraries;

22           (iii) engages in the dissemination of  
23 humanistic knowledge through the provi-  
24 sion of services to readers, fellowships,  
25 educational and cultural programs, publi-

1 cation of significant research, and other  
2 activities; and

3 (iv) is not an integral part of an insti-  
4 tution of higher education (as defined in  
5 section 101(a) of the Higher Education  
6 Act of 1965 (20 U.S.C. 1001(a)).

7 (5) STATE.—The term “State” means each of  
8 the 50 States, the District of Columbia, the Com-  
9 monwealth of Puerto Rico, and each of the outlying  
10 areas.

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