

109TH CONGRESS
1ST SESSION

S. 2057

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2005

Mrs. CLINTON (for herself, Mr. HARKIN, Mr. DURBIN, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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 2005”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) According to the National Center for Edu-
9 cation Statistics, an estimated \$127,000,000,000 in
10 repairs, renovations, and modernizations is needed

1 to 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 2005 study conducted by
7 American School & University magazine,
8 \$29,088,000,000 was spent to address the Nation's
9 education infrastructure needs in 2004, with the av-
10 erage total cost of a new high school being
11 \$27,000,000.

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

22 (5) The Director of the Education and Employ-
23 ment Issues division of the Government Accounting
24 Office (currently known as the Education, Work-
25 force, and Income Security division of the Govern-

1 ment Accountability Office) testified that nearly 52
2 percent of schools, affecting 21,300,000 students,
3 reported insufficient technology elements for 6 or
4 more areas.

5 (6) Large numbers of local educational agencies
6 have difficulties securing financing for school facility
7 improvement.

8 (7) The challenges facing the Nation's public el-
9 ementary schools and secondary schools and libraries
10 require the concerted efforts of all levels of govern-
11 ment and all sectors of communities.

12 (8) The United States competitive position
13 within the world economy is vulnerable if the future
14 workforce of the United States continues to be edu-
15 cated in schools and libraries not equipped for the
16 21st century.

17 (9) The deplorable state of collections in public
18 school libraries in the United States has increased
19 the demands on public libraries. In many instances,
20 public libraries substitute for school libraries, cre-
21 ating a higher demand for material and physical
22 space to house literature and educational computer
23 equipment.

24 (10) Research shows that 50 percent of a
25 child's intellectual development takes place before

1 age 4. The Nation’s public and school libraries play
2 a critical role in a child’s early development because
3 the libraries provide a wealth of books and other re-
4 sources that can give every child a head start on life
5 and learning.

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

7 (a) ESTABLISHMENT.—

8 (1) COOPERATIVE AGREEMENTS.—The Sec-
9 retary of Education (referred to in this Act as the
10 “Secretary”), after consultation with the Secretary
11 of the Treasury, may enter into cooperative agree-
12 ments with States under which—

13 (A) the States establish State infrastruc-
14 ture banks and multistate infrastructure banks
15 for the purpose of providing the loans described
16 in subparagraph (B); and

17 (B) the Secretary awards grants to States
18 to be used as initial capital for the purpose of
19 making loans through the infrastructure
20 banks—

21 (i) to local educational agencies to en-
22 able the agencies to construct, reconstruct,
23 or renovate elementary schools or sec-
24 ondary schools that provide free public
25 education; and

1 (ii) to public libraries to enable the li-
2 braries to construct, reconstruct, or ren-
3 ovate library facilities.

4 (2) INTERSTATE COMPACTS.—

5 (A) CONSENT.—Congress grants consent
6 to any 2 or more States, entering into a cooper-
7 ative agreement under paragraph (1) with the
8 Secretary for the establishment of a multistate
9 infrastructure bank, to enter into an interstate
10 compact establishing a multistate infrastructure
11 bank in accordance with this section.

12 (B) RESERVATION OF RIGHTS.—Congress
13 expressly reserves the right to alter, amend, or
14 repeal this section and any consent granted
15 pursuant to this section.

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

20 (c) INFRASTRUCTURE BANK REQUIREMENTS.—A
21 State establishing an infrastructure bank under this sec-
22 tion shall—

23 (1) contribute to the bank, from non-Federal
24 sources, an amount equal to not less than 25 per-

1 cent of the amount of each grant made for the bank
2 under subsection (a);

3 (2) identify as recipient of the grant an oper-
4 ating entity of the State that has the capacity to
5 manage loan funds, and issue debt instruments of
6 the State for purposes of leveraging the funds made
7 available through the grant or State contributions
8 under paragraph (1) related to the grant;

9 (3) allow such funds to be used as reserve for
10 debt issued by the State, so long as proceeds are de-
11 posited in the appropriate accounts for loan pur-
12 poses;

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

16 (A) credited to the account;

17 (B) available for use in providing loans for
18 a project eligible for assistance from the ac-
19 count; and

20 (C) invested in United States Treasury se-
21 curities, bank deposits, or such other financing
22 instruments as the Secretary may approve to
23 earn interest to enhance the leveraging of funds
24 for projects assisted by the bank;

1 (5) ensure that any loan from the bank will
 2 bear interest at or below the lowest interest rate
 3 being offered for bonds;

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

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

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

13 (d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE
 14 BANKS.—

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

20 (2) APPLICATIONS FOR LOANS.—

21 (A) IN GENERAL.—A local educational
 22 agency or public library desiring a loan under
 23 this section shall submit to such an infrastruc-
 24 ture bank an application that includes—

1 (i) in the case of an application for a
2 renovation project for a facility—

3 (I) a description of each architec-
4 tural, civil, structural, mechanical, or
5 electrical deficiency to be corrected
6 with the loan funds and the priorities
7 to be applied in determining which de-
8 ficiency to address first; and

9 (II) a description of the criteria
10 used by the applicant to determine the
11 type of corrective action necessary for
12 the renovation of the facility;

13 (ii) a description of any improvements
14 to be made and a cost estimate for the im-
15 provements to be made with the loan;

16 (iii) a description of how work under-
17 taken with the loan will promote energy
18 conservation; and

19 (iv) such other information as the in-
20 frastructure bank may require.

21 (B) TIMING.—An infrastructure bank shall
22 take final action on a completed application
23 submitted to it in accordance with this sub-
24 section not later than 90 days after the date of
25 the submission of the application.

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

4 (A) the extent to which the local edu-
5 cational agency or public library desiring the
6 loan would otherwise lack the fiscal capacity,
7 including the ability to raise funds through the
8 full use of bonding capacity of the agency or li-
9 brary, to undertake the project proposed in the
10 application;

11 (B) in the case of a local educational agen-
12 cy, the threat that the condition of the physical
13 plant in the proposed project poses to the safety
14 and well-being of students;

15 (C) the demonstrated need for the con-
16 struction, reconstruction, or renovation de-
17 scribed in the application, based on the condi-
18 tion of the facility in the proposed project; and

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

21 (e) ELIGIBLE PROJECTS.—

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

1 (A) the construction of an elementary
2 school or secondary school to meet the needs
3 imposed by enrollment growth;

4 (B) the repair or upgrading of classrooms
5 or structures related to academic learning at an
6 educational facility, including the repair of leak-
7 ing roofs, crumbling walls, inadequate plumb-
8 ing, poor ventilation equipment, or inadequate
9 heating or lighting equipment;

10 (C) an activity to increase physical safety
11 at an educational facility;

12 (D) an activity to enhance an educational
13 facility to provide access for students, teachers,
14 and other individuals (such as staff and par-
15 ents) who are individuals with disabilities;

16 (E) an activity to address environmental
17 hazards at an educational facility, such as poor
18 ventilation, indoor air quality, or lighting;

19 (F) the provision of basic infrastructure
20 that facilitates educational technology, such as
21 communications outlets, electrical systems,
22 power outlets, or a communication closet, at an
23 educational facility;

1 (G) work that will bring an educational fa-
2 cility into conformity with the requirements
3 of—

4 (i) environmental protection or health
5 and safety programs mandated by Federal,
6 State, or local law, if such requirements
7 were not in effect when the facility was ini-
8 tially constructed; and

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

13 (H) work that will enable efficient use of
14 available energy resources at an educational fa-
15 cility;

16 (I) work to detect, remove, or otherwise
17 contain asbestos hazards in an educational fa-
18 cility; or

19 (J) work to construct public library facili-
20 ties or repair or upgrade public library facili-
21 ties.

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

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

6 (g) LIMITATION ON REPAYMENTS.—Notwithstanding
7 any other provision of law, if an infrastructure bank
8 makes a loan under this section with funds made available
9 through a grant awarded to a State under subsection (a),
10 the funds used to repay the loan may not be credited to-
11 ward the contribution required for the State under sub-
12 section (c)(1) for a subsequent grant awarded under sub-
13 section (c).

14 (h) SECRETARIAL REQUIREMENTS.—In admin-
15 istering this section, the Secretary shall specify procedures
16 and guidelines for establishing, operating, and providing
17 assistance from an infrastructure bank.

18 (i) UNITED STATES NOT OBLIGATED.—The con-
19 tribution of Federal funds to an infrastructure bank estab-
20 lished under this section shall not be construed as a com-
21 mitment, guarantee, or obligation on the part of the
22 United States to any third party, nor shall any third party
23 have any right against the United States for payment sole-
24 ly by virtue of the contribution. Any security or debt fi-
25 nancing instrument issued by the infrastructure bank

1 shall expressly state that the security or instrument does
 2 not constitute a commitment, guarantee, or obligation of
 3 the United States.

4 (j) INCOME ATTRIBUTABLE TO INTEREST.—The in-
 5 come attributable to interest described in subsection (c)(5)
 6 shall be exempt from Federal taxation.

7 (k) MANAGEMENT OF FEDERAL FUNDS.—Sections
 8 3335 and 6503 of title 31, United States Code, shall not
 9 apply to funds contributed under this section.

10 (l) PROGRAM ADMINISTRATION.—A State may ex-
 11 pend an amount not to exceed 2 percent of the grant funds
 12 contributed to an infrastructure bank established by a
 13 State or States under this section to pay the reasonable
 14 costs of administering the infrastructure bank.

15 (m) SECRETARIAL REVIEW AND REPORT.—The Sec-
 16 retary shall—

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

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

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

24 (1) ELEMENTARY SCHOOL, FREE PUBLIC EDU-
 25 CATION, AND SECONDARY SCHOOL.—The terms “ele-

mentary school”, “free public education”, and “secondary school” have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

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

(3) OUTLYING AREA.—The term “outlying area” means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(4) PUBLIC LIBRARY.—The term “public library”—

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

1 (B) includes a research library, which, for
2 purposes of this subparagraph, means a library
3 that—

4 (i) makes its services available to the
5 public free of charge;

6 (ii) has extensive collections of books,
7 manuscripts, and other materials suitable
8 for scholarly research that are not avail-
9 able to the public through public libraries;

10 (iii) engages in the dissemination of
11 humanistic knowledge through the provi-
12 sion of services to readers, fellowships,
13 educational and cultural programs, publi-
14 cation of significant research, and other
15 activities; and

16 (iv) is not an integral part of an insti-
17 tution of higher education (as defined in
18 section 101(a) of the Higher Education
19 Act of 1965 (20 U.S.C. 1001(a)).

20 (5) STATE.—The term “State” means each of
21 the 50 States, the District of Columbia, the Com-
22 monwealth of Puerto Rico, and each of the outlying
23 areas.

