

112TH CONGRESS  
2D SESSION

# H. R. 3793

To establish State infrastructure banks for education.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 2012

Mr. SHULER introduced the following bill; which was referred to the  
Committee on Education and the Workforce

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## A BILL

To establish State infrastructure banks for education.

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 2012”.

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 billion in school  
10      repair, modernization, expansion, and construction is  
11      needed.

1           (2) A 2011 survey of 50 major city school sys-  
2           tems conducted by the Council of the Great City  
3           Schools indicates that they have approximately  
4           \$15.3 billion in new construction needs; \$46.7 billion  
5           in repair, renovation, and modernization needs; and  
6           \$14.4 billion in deferred maintenance needs, which  
7           amounts to about \$76.5 billion or approximately  
8           \$8.9 million per school, including new school con-  
9           struction.

10          (3) Nearly 90 percent of all 55.5 million school-  
11          age children in the United States attend public  
12          schools. Approximately 14 million students attend  
13          schools which report the need for extensive repair or  
14          replacement of one or more buildings.

15          (4) Academic research has proven a direct cor-  
16          relation between the condition of school facilities and  
17          student achievement. Researchers have found that  
18          students assigned to schools in poor conditions can  
19          be expected to fall 10.9 percentage points behind  
20          those in buildings in excellent condition. Similar  
21          studies have demonstrated up to a 20-percent im-  
22          provement in test scores when students were moved  
23          from a poor facility to a new facility. Some schools  
24          report students missing 4 days annually due to

1 health problems caused by adverse building condi-  
2 tions.

3 (5) Large numbers of local educational agencies  
4 have difficulties securing financing for school facility  
5 improvement. Some of the deepest reductions to K-  
6 12 formula funding since the onset of the recession  
7 have occurred in the past year, and a majority of  
8 States have cut per-student educational funding. On  
9 average, some 47 percent of total education expendi-  
10 tures in the United States come from State funds.

11 (6) Local educational agencies manage over 1  
12 million acres of school building site area, with an es-  
13 timated 6.6 billion gross square feet of public school  
14 building space.

15 (7) Local educational agencies have an esti-  
16 mated \$271 billion of deferred building and grounds  
17 maintenance in their schools, excluding administra-  
18 tive facilities, which averages \$4,883 per student.

19 (8) Schools that implement energy-saving strat-  
20 egies, including following green building design and  
21 using energy-efficient building components, can re-  
22 duce energy use by as much as one-third, resulting  
23 in major environmental and cost-savings benefits.

24 (9) In 2010, the educational facilities construc-  
25 tion market was estimated at \$50 billion.

1           (10) Educating America’s future workforce in  
2           schools and libraries equipped for the 21st century  
3           is important for the United States competitive posi-  
4           tion within the world economy.

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

6           (a) ESTABLISHMENT.—

7           (1) COOPERATIVE AGREEMENTS.—Subject to  
8           the provisions of this section, the Secretary of the  
9           Treasury, in consultation with the Secretary of Edu-  
10          cation, may enter into cooperative agreements with  
11          States for the establishment of State infrastructure  
12          banks and multistate infrastructure banks for mak-  
13          ing loans—

14                (A) to local educational agencies for build-  
15                ing or repairing elementary or secondary  
16                schools which provide free public education (as  
17                such terms are defined in section 14101 of the  
18                Elementary and Secondary Education Act of  
19                1965 (20 U.S.C. 8801));

20                (B) to public libraries for building or re-  
21                pairing library facilities; and

22                (C) to eligible charter school entities for  
23                use for the objective described in section  
24                5224(2) of such Act (20 U.S.C. 7223c(2)) con-

1           sistent with subpart 2 of part B of title V of  
2           such Act (20 U.S.C. 7223 et seq.).

3           (2) INTERSTATE COMPACTS.—Congress grants  
4           consent to two or more of the States, entering into  
5           a cooperative agreement under paragraph (1) with  
6           the Secretary of the Treasury for the establishment  
7           of a multistate infrastructure bank, to enter into an  
8           interstate compact establishing such bank in accord-  
9           ance with this section.

10          (b) FUNDING.—The Secretary of the Treasury, in  
11         consultation with the Secretary of Education, shall make  
12         grants to State infrastructure banks and multistate infra-  
13         structure banks in a State in a cooperative agreement  
14         under subsection (a)(1) to provide initial capital for loans  
15         provided under this section. Each bank shall apply repay-  
16         ments of principal and interest on loans to the making  
17         of additional loans. The Secretary shall take final action  
18         on an application for a grant under this subsection within  
19         90 days of the date of the submission of such application.

20          (c) INFRASTRUCTURE BANK REQUIREMENTS.—In  
21         order to establish an infrastructure bank under this sec-  
22         tion, each State establishing the bank shall—

23                 (1) contribute, at a minimum, in each account  
24                 of the bank from non-Federal sources an amount  
25                 equal to 25 percent of the amount of each capitaliza-

1       tion grant made to the State and contributed to the  
2       bank under subsection (b);

3           (2) identify an operating entity of the State as  
4       recipient of the grant if the entity has the capacity  
5       to manage loan funds and issue debt instruments of  
6       the State for purposes of leveraging the funds;

7           (3) allow such funds to be used as reserve for  
8       debt issued by the State so long as proceeds are de-  
9       posited in the fund for loan purposes;

10          (4) ensure that investment income generated by  
11       funds contributed to an account of the bank will  
12       be—

13               (A) credited to the account;

14               (B) available for use in providing loans to  
15       projects eligible for assistance from the account;  
16       and

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

22          (5) ensure that any loan from the bank to a  
23       local educational agency or public library will bear  
24       interest at or below the lowest interest rates being  
25       offered for bonds the income from which is exempt

1 from Federal taxation, as determined by the State,  
 2 to make the project that is the subject of the loan  
 3 feasible;

4 (6) ensure that repayment of any loan from the  
 5 bank to a local educational agency or public library  
 6 will commence not later than 1 year after the project  
 7 has been completed;

8 (7) ensure that the term for repaying any loan  
 9 to a local educational agency or public library will  
 10 not exceed 30 years after the date of the first pay-  
 11 ment on the loan under paragraph (5);

12 (8) ensure that the funds loaned annually that  
 13 are used under subsection (a)(1)(C) are limited to a  
 14 percentage of the total funds loaned that does not  
 15 exceed the percentage of elementary and secondary  
 16 school students in the State enrolled in charter  
 17 schools during the most recent school year for which  
 18 enrollment data are available; and

19 (9) require the bank to make an annual report  
 20 to the Secretary on its status and make such other  
 21 reports as the Secretary may require by guidelines.

22 (d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE  
 23 BANKS.—

24 (1) IN GENERAL.—An infrastructure bank es-  
 25 tablished under this section may make loans in an

1 amount equal to all or part of the cost of carrying  
2 out a project eligible for assistance under this sec-  
3 tion.

4 (2) APPLICATIONS FOR LOANS.—An application  
5 to an infrastructure bank for a loan shall include—

6 (A) in the case of a renovation project, a  
7 description of each architectural, civil, struc-  
8 tural, mechanical, or electrical deficiency to be  
9 corrected with funds under a loan and the pri-  
10 orities to be applied;

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

14 (C) a description of improvements to be  
15 made and a cost estimate for the improvements;

16 (D) a description of how work undertaken  
17 with the loan will promote energy conservation;  
18 and

19 (E) such other information as the infra-  
20 structure bank may require.

21 An infrastructure bank shall take final action on a  
22 completed application submitted to it within 90 days  
23 after the date of its submission.

24 (3) CRITERIA FOR LOANS.—In considering ap-  
25 plications for a loan to a local educational agency or



1 a public library an infrastructure bank shall con-  
2 sider—

3 (A) the extent to which the local edu-  
4 cational agency or public library involved lacks  
5 the fiscal capacity, including the ability to raise  
6 funds through the full use of such agency's  
7 bonding capacity and otherwise, to undertake  
8 the project for which the loan would be used  
9 without the loan;

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

14 (C) the demonstrated need for the con-  
15 struction, reconstruction, or renovation based  
16 on the condition of the facility in the project;  
17 and

18 (D) the age of such facility.

19 (e) CERTAIN QUALIFYING PROJECTS.—

20 (1) IN GENERAL.—A project is eligible for a  
21 loan to a local educational agency or public libraries  
22 from an infrastructure bank if it is a project that  
23 consists of—

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

4 (B) the repair or upgrading of classrooms  
5 or structures related to academic learning, in-  
6 cluding the repair of leaking roofs, crumbling  
7 walls, inadequate plumbing, poor ventilation  
8 equipment, and inadequate heating or light  
9 equipment;

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

12 (D) an activity to enhance the educational  
13 facility involved to provide access for students,  
14 teachers, and other individuals with disabilities;

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

23 (G) work that will bring an educational fa-  
24 cility into conformity with the requirements  
25 of—

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

6 (ii) hazardous waste disposal, treat-  
7 ment, and storage requirements mandated  
8 by the Resource Conservation and Recov-  
9 ery Act of 1976 or similar State laws;

10 (H) work that will enable efficient use of  
11 available energy resources, especially coal, solar  
12 power, and other renewable energy resources;

13 (I) work to detect, remove, or otherwise  
14 contain asbestos hazards in educational facili-  
15 ties; or

16 (J) work to construct new public library  
17 facilities or repair or upgrade existing public li-  
18 brary facilities.

19 (2) DAVIS-BACON.—The wage requirements of  
20 the Act of March 3, 1931 (referred to as the “Davis-  
21 Bacon Act”, 40 U.S.C. 276a et seq.) shall apply  
22 with respect to individuals employed on the projects  
23 described in paragraph (1).

24 (3) GREEN PRACTICES.—An entity using a loan  
25 under this section to fund a new construction or ren-

1       ovation project described in paragraph (1) shall en-  
2       sure that the project uses, to the maximum extent  
3       practicable, green practices that are certified,  
4       verified, or consistent with any applicable provisions  
5       of—

6                   (A) the LEED Green Building Rating Sys-  
7       tem;

8                   (B) Energy Star;

9                   (C) the CHPS Criteria;

10                  (D) Green Globes; or

11                  (E) an equivalent program adopted by the  
12       State or another jurisdiction with authority over  
13       the entity.

14       (f) SUPPLEMENTATION.—Any loan made by an infra-  
15       structure bank shall be used to supplement and not sup-  
16       plant other Federal, State, and local funds available.

17       (g) LIMITATION ON REPAYMENTS.—Notwithstanding  
18       any other provision of law, the repayment of a loan from  
19       an infrastructure bank under this section may not be cred-  
20       ited towards the non-Federal share of the cost of any  
21       project.

22       (h) SECRETARIAL REQUIREMENTS.—In admin-  
23       istering this section, the Secretary of the Treasury shall  
24       specify procedures and guidelines for establishing, oper-

1 ating, and providing assistance from an infrastructure  
2 bank.

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

14 (j) MANAGEMENT OF FEDERAL FUNDS.—Sections  
15 3335 and 6503 of title 31, United States Code, shall not  
16 apply to funds contributed under this section.

17 (k) PROGRAM ADMINISTRATION.—For each of fiscal  
18 years 2013 through 2017, a State may expend not to ex-  
19 ceed 2 percent of the Federal funds contributed to an in-  
20 frastructure bank established by the State under this sec-  
21 tion to pay the reasonable costs of administering the bank.

22 (l) SECRETARIAL REVIEW.—The Secretary of the  
23 Treasury shall review the financial condition of each infra-  
24 structure bank established under this section and transmit

1 to Congress a report on the results of such review not later  
 2 than 90 days after the completion of the review.

3 (m) AUTHORIZATION OF APPROPRIATIONS.—For  
 4 grants to States for the initial capitalization of infrastruc-  
 5 ture banks there are authorized to be appropriated  
 6 \$500,000,000 for fiscal year 2013 and for each of the 4  
 7 succeeding fiscal years.

8 **SEC. 4. DEFINITIONS.**

9 For purposes of this Act:

10 (1) ELIGIBLE CHARTER SCHOOL ENTITY.—The  
 11 term “eligible charter school entity” means—

12 (A) a charter school (as defined in section  
 13 5210 of the Elementary and Secondary Edu-  
 14 cation Act of 1965 (20 U.S.C. 7221i)); or

15 (B) a developer (as so defined) that has  
 16 applied to an authorized public chartering agen-  
 17 cy (as so defined) to operate a charter school.

18 (2) LOCAL EDUCATIONAL AGENCY.—(A) The  
 19 term “local educational agency” means a public  
 20 board of education or other public authority legally  
 21 constituted within a State for either administrative  
 22 control or direction of, or to perform a service func-  
 23 tion for, public elementary or secondary schools in a  
 24 city, county, township, school district, or other polit-  
 25 ical subdivision of a State, or for such combination

1 of school districts or counties as are recognized in a  
2 State as an administrative agency for its public ele-  
3 mentary or secondary schools.

4 (B) The term includes any other public institu-  
5 tion or agency having administrative control and di-  
6 rection of a public elementary or secondary school.

7 (C) The term includes an elementary or sec-  
8 ondary school funded by the Bureau of Indian Af-  
9 fairs but only to the extent that such inclusion  
10 makes such school eligible for programs for which  
11 specific eligibility is not provided to such school in  
12 another provision of law and such school does not  
13 have a student population that is smaller than the  
14 student population of the local educational agency  
15 receiving assistance under this Act with the smallest  
16 student population, except that such school shall not  
17 be subject to the jurisdiction of any State edu-  
18 cational agency other than the Bureau of Indian Af-  
19 fairs.

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

1           (4) PUBLIC LIBRARY.—The term “public li-  
2       brary” means a library that serves free of charge all  
3       residents of a community, district, or region, and re-  
4       ceives its financial support in whole or in part from  
5       public funds. Such term also includes a research li-  
6       brary, which, for the purposes of this sentence,  
7       means a library that—

8           (A) makes its services available to the pub-  
9       lic free of charge;

10          (B) has extensive collections of books,  
11       manuscripts, and other materials suitable for  
12       scholarly research which are not available to the  
13       public through public libraries;

14          (C) engages in the dissemination of hu-  
15       manistic knowledge through services to readers,  
16       fellowships, educational and cultural programs,  
17       publication of significant research, and other  
18       activities; and

19          (D) is not an integral part of an institu-  
20       tion of higher education.

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

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