

115TH CONGRESS
2D SESSION

H. R. 5318

To establish State infrastructure banks for education.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2018

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

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”.

6 **SEC. 2. STATE INFRASTRUCTURE BANK PILOT PROGRAM.**

7 (a) ESTABLISHMENT.—

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

1 banks and multistate infrastructure banks for mak-
2 ing loans—

3 (A) to local educational agencies for build-
4 ing or repairing elementary or secondary
5 schools which provide free public education (as
6 such terms are defined in section 8101 of the
7 Elementary and Secondary Education Act of
8 1965 (20 U.S.C. 7801));

9 (B) to public libraries for building or re-
10 pairing library facilities;

11 (C) to eligible charter school entities for
12 use for the objective described in section
13 4302(2) of such Act (20 U.S.C. 7221a(2)) con-
14 sistent with part C of title IV of such Act (20
15 U.S.C. 7221 et seq.);

16 (D) to community learning centers to con-
17 nect and improve broadband services; and

18 (E) to educational service agencies for
19 building or repairing elementary schools, sec-
20 ondary schools, or other school facilities that
21 provide free public education.

22 (2) INTERSTATE COMPACTS.—Congress grants
23 consent to two or more of the States, entering into
24 a cooperative agreement under paragraph (1) with
25 the Secretary of the Treasury for the establishment

1 of a multistate infrastructure bank, to enter into an
2 interstate compact establishing such bank in accord-
3 ance with this section.

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

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

17 (1) contribute, at a minimum, in each account
18 of the bank from non-Federal sources an amount
19 equal to 25 percent of the amount of each capitaliza-
20 tion grant made to the State and contributed to the
21 bank under subsection (b);

22 (2) identify an operating entity of the State as
23 recipient of the grant if the entity has the capacity
24 to manage loan funds and issue debt instruments of
25 the State for purposes of leveraging the funds;

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

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

7 (A) credited to the account;

8 (B) available for use in providing loans to
9 projects eligible for assistance from the account;
10 and

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

16 (5) ensure that any loan from the bank to an
17 eligible charter school entity, local educational agen-
18 cy, public library, or community learning center will
19 bear interest at or below the lowest interest rates
20 being offered for bonds the income from which is ex-
21 empt from Federal taxation, as determined by the
22 State, to make the project that is the subject of the
23 loan feasible;

24 (6) ensure that repayment of any loan from the
25 bank to an eligible charter school entity, local edu-

1 cational agency, public library, or community learn-
2 ing center will commence not later than 1 year after
3 the project has been completed;

4 (7) ensure that the term for repaying any loan
5 to an eligible charter school entity, local educational
6 agency, public library, or community learning center
7 will not exceed 30 years after the date of the first
8 payment on the loan under paragraph (5);

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

16 (9) ensure that the funds loaned annually under
17 subsection (a)(1)(D) are used exclusively to connect
18 and improve broadband services; and

19 (10) 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 the conservation of
18 energy, water, or waste; 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 an eligible charter school en-

1 tity, local educational agency, public library, or com-
2 munity learning center, an infrastructure bank shall
3 consider—

4 (A) the extent to which the eligible charter
5 school entity, local educational agency, public li-
6 brary, or community learning center involved
7 lacks the fiscal capacity, including the ability to
8 raise funds through the full use of such agen-
9 cy's bonding capacity and otherwise, to under-
10 take the project for which the loan would be
11 used without the loan;

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

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

19 (D) the age of such facility; and

20 (E) demonstrated need to connect and im-
21 prove broadband services in the local commu-
22 nity.

23 (e) QUALIFYING PROJECTS.—

1 (1) IN GENERAL.—Subject to subsection (a)(1),
2 a project is eligible for a loan from an infrastructure
3 bank if it is a project that consists of—

4 (A) the construction of new elementary or
5 secondary schools to meet the needs imposed by
6 enrollment growth;

7 (B) the repair, rebuilding, or upgrading of
8 classrooms or structures related to academic
9 learning, including the repair of leaking roofs,
10 crumbling walls, inadequate plumbing, poor
11 ventilation equipment, and inadequate heating
12 or lighting equipment;

13 (C) an activity to increase physical safety
14 at the educational facility involved;

15 (D) an activity to enhance the educational
16 facility involved to provide access for students,
17 teachers, and other individuals with disabilities;

18 (E) an activity to address environmental or
19 health hazards at the educational facility in-
20 volved, such as poor ventilation, indoor air qual-
21 ity, or lighting;

22 (F) the provision of basic infrastructure
23 that facilitates educational technology, such as
24 communications outlets, electrical systems,
25 power outlets, or a communication closet;

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 disposal, treat-
10 ment, and storage requirements mandated
11 by the Resource Conservation and Recov-
12 ery Act of 1976 or similar State laws;

13 (H) work that will enable efficient use of
14 available energy resources;

15 (I) work that will reduce reliance on fossil
16 fuels and expand use of solar power, wind
17 power, and other renewable energy resources;

18 (J) work to detect, remove, or otherwise
19 contain asbestos hazards in educational facili-
20 ties;

21 (K) work to construct new public library
22 facilities or repair or upgrade existing public li-
23 brary facilities;

1 (L) work to connect entities described in
2 subsection (a)(1) to broadband services, and to
3 improve such connections for such entities;

4 (M) measures designed to reduce or elimi-
5 nate human exposure to classroom noise and
6 environmental noise pollution; or

7 (N) the repair, replacement, or upgrade of
8 kitchen equipment, kitchen appliances, and
9 kitchen facilities.

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

15 (3) GREEN PRACTICES.—An entity using a loan
16 under this section to fund a new construction or ren-
17 ovation project described in paragraph (1) shall en-
18 sure that the project is certified, verified, or con-
19 sistent with State laws, regulations, and any applica-
20 ble provisions of—

21 (A) the LEED Green Building Rating Sys-
22 tem;

23 (B) Living Building Challenge;

1 (C) the CHPS green building rating pro-
2 gram developed by the Collaborative for High
3 Performance Schools that is CHPS-verified; or

4 (D) a program that—

5 (i) has equivalent or more stringent
6 standards;

7 (ii) is adopted by the State or another
8 jurisdiction with authority over the entity;
9 and

10 (iii) includes a verifiable method to
11 demonstrate compliance with such pro-
12 gram.

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

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

21 (h) SECRETARIAL REQUIREMENTS.—In admin-
22 istering this section, the Secretary of the Treasury shall
23 specify procedures and guidelines for establishing, oper-
24 ating, and providing assistance from an infrastructure
25 bank.

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

12 (j) MANAGEMENT OF FEDERAL FUNDS.—Sections
13 3335 and 6503 of title 31, United States Code, shall not
14 apply to funds contributed under this section.

15 (k) PROGRAM ADMINISTRATION.—For each of fiscal
16 years 2018 through 2022, a State may expend not to ex-
17 ceed 2 percent of the Federal funds contributed to an in-
18 frastructure bank established by the State under this sec-
19 tion to pay the reasonable costs of administering the bank.

20 (l) SECRETARIAL REVIEW.—The Secretary of the
21 Treasury shall review the financial condition of each infra-
22 structure bank established under this section and transmit
23 to Congress a report on the results of such review not later
24 than 90 days after the completion of the review.

1 (m) AUTHORIZATION OF APPROPRIATIONS.—For
2 grants to States for the initial capitalization of infrastruc-
3 ture banks there are authorized to be appropriated
4 \$500,000,000 for fiscal year 2018 and for each of the 4
5 succeeding fiscal years.

6 **SEC. 3. DEFINITIONS.**

7 For purposes of this Act:

8 (1) COMMUNITY LEARNING CENTER.—The term
9 “community learning center” has the meaning given
10 such term in section 4201(b)(1) of the Elementary
11 and Secondary Education Act of 1965 (20 U.S.C.
12 7171(b)(1)).

13 (2) EDUCATIONAL SERVICE AGENCY.—The
14 term “educational service agency” means a regional
15 public multiservice agency authorized by State stat-
16 ute to develop, manage, and provide services or pro-
17 grams to local educational agencies.

18 (3) ELIGIBLE CHARTER SCHOOL ENTITY.—The
19 term “eligible charter school entity” means—

20 (A) a charter school (as defined in section
21 4310 of the Elementary and Secondary Edu-
22 cation Act of 1965 (20 U.S.C. 7221i)); or

23 (B) a developer (as so defined) that has
24 applied to an authorized public chartering agen-
25 cy (as so defined) to operate a charter school.

1 (4) LOCAL EDUCATIONAL AGENCY.—(A) The
2 term “local educational agency” means a public
3 board of education or other public authority legally
4 constituted within a State for either administrative
5 control or direction of, or to perform a service func-
6 tion for, public elementary or secondary schools in a
7 city, county, township, school district, or other polit-
8 ical subdivision of a State, or for such combination
9 of school districts or counties as are recognized in a
10 State as an administrative agency for its public ele-
11 mentary or secondary schools.

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

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

1 cational agency other than the Bureau of Indian Af-
2 fairs.

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

9 (6) PUBLIC LIBRARY.—The term “public li-
10 library” means a library that serves free of charge all
11 residents of a community, district, or region, and re-
12 ceives its financial support in whole or in part from
13 public funds. Such term also includes a research li-
14 brary, which, for the purposes of this sentence,
15 means a library that—

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

18 (B) has extensive collections of books,
19 manuscripts, and other materials suitable for
20 scholarly research which are not available to the
21 public through public libraries;

22 (C) engages in the dissemination of hu-
23 manistic knowledge through services to readers,
24 fellowships, educational and cultural programs,

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

3 (D) is not an integral part of an institu-
4 tion of higher education.

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

○