

118TH CONGRESS  
1ST SESSION

# S. 1538

To authorize the Secretary of Education to award grants for outdoor learning spaces and to develop living schoolyards.

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IN THE SENATE OF THE UNITED STATES

MAY 10, 2023

Mr. HEINRICH 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 authorize the Secretary of Education to award grants for outdoor learning spaces and to develop living schoolyards.

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 “Living Schoolyards Act  
5 of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) City planning and urban development often  
9 disconnect communities from natural systems, such  
10 as forests, waterways, and wildlife habitats. Existing

1 green spaces in our cities are not evenly distributed  
2 and the presence of neighborhood parks and nature-  
3 rich school grounds are strongly correlated with in-  
4 come in most cities across the United States. This  
5 means that communities with the fewest resources  
6 usually also have the least access to nature in their  
7 neighborhoods and on their school grounds.

8 (2) Communities across the Nation are facing  
9 more extreme weather, including flooding, excessive  
10 heat, and forest fires.

11 (3) Environmental sustainability has become a  
12 high priority in planning and design and should be  
13 incorporated in construction and renovation of  
14 schools across urban, suburban, and rural districts.

15 (4) School districts are 1 of the largest land  
16 managers in almost every city and town in the  
17 United States. The choices schools and districts  
18 make about how they manage their land directly im-  
19 pacts students' daily experiences, mental and phys-  
20 ical health, and learning outcomes. Schools can ben-  
21 efit their students, educators, and surrounding com-  
22 munities through thoughtful design and use of their  
23 grounds, paying mind to local ecological, social, and  
24 cultural context.

1           (5) On-campus green space that can be de-  
2           scribed as living schoolyards can have environmental  
3           and ecological resilience benefits, such as stormwater  
4           management, rainwater collection, carbon sequestra-  
5           tion, air quality improvement, wildlife habitat res-  
6           toration, mitigation of extreme heat, and ecological  
7           resiliency.

8           (6) The amount of time the average American  
9           child spends outdoors is in constant decline. Accord-  
10          ing to the Kaiser Family Foundation, children ages  
11          8 through 18 now spend on average 7.5 hours per  
12          day in front of a screen. More than 28,000,000 chil-  
13          dren do not live within a 10-minute walk of a park.

14          (7) Living schoolyards provide a diverse, engag-  
15          ing, multi-faceted play and social environment that  
16          encourages collaborative and cooperative play and  
17          social interaction. Adding living green spaces to  
18          schoolyards has been linked to persistent improve-  
19          ments in recess behavior. Living and green spaces  
20          have been shown to reduce bullying, anti-social be-  
21          havior, and student misconduct, as well as support  
22          trauma-informed care and education. Evidence from  
23          a case study in Philadelphia correlates the trans-  
24          formation of a schoolyard, from asphalt to a living  
25          schoolyard, with a reduction in student suspensions.

1           (8) Children spend a significant portion of their  
2           day on their school campuses, amounting to at least  
3           840 instructional hours per year from grades 1 to 3,  
4           inclusive, and up to 1,080 hours for grades 9 to 12,  
5           inclusive.

6           (9) Removing pavement and adding shade trees  
7           in places that are accessible to students and staff  
8           during the school day provides protection from high  
9           temperatures and reduces urban heat islands in the  
10          surrounding community, while also making school  
11          grounds more comfortable for both students and  
12          staff.

13          (10) A living schoolyard that is park-like with  
14          trees and other plantings provides a peaceful, com-  
15          fortable, and aesthetically pleasant environment for  
16          all students, and has been shown to increase phys-  
17          ical activity, enhance brain development and func-  
18          tion, improve vision and sleep, boost immune system  
19          health, and reduce risk of infectious and chronic dis-  
20          ease among children. These spaces have been shown  
21          to improve mental health and the ability to pay at-  
22          tention for both children and adults. These spaces  
23          also have been shown to reduce stress, anxiety, and  
24          depressive symptoms, strengthen a sense of belong-

1 ing, and restore a sense of calm and well-being and  
2 positive social behavior among students and staff.

3 (11) An on-campus living and green space,  
4 which can include a school garden, is a fundamental  
5 component of a school environment intended to in-  
6 clude and empower students, giving them a sense of  
7 place and community.

8 (12) Children should be given the opportunity  
9 to reflect and embrace their local ecological, social,  
10 and cultural context in both recreational and in-  
11 structional settings.

12 (13) Living schoolyards provide clearer context  
13 and hands-on teaching resources for standards-based  
14 instruction in life and physical sciences, health and  
15 nutrition, social science, mathematics, reading and  
16 creative writing, visual and performing art, and  
17 other subject areas.

18 (14) Outdoor activity is essential to learning,  
19 health, and the overall quality of student life.

20 **SEC. 3. DEFINITIONS.**

21 In this Act:

22 (1) ESEA TERMS.—The terms “educational  
23 service agency”, “elementary school”, “local edu-  
24 cational agency”, and “secondary school” have the  
25 meanings given the terms in section 8101 of the Ele-

1 elementary and Secondary Education Act of 1965 (20  
2 U.S.C. 7801).

3 (2) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means—

5 (A) a local educational agency;

6 (B) an educational service agency; or

7 (C) a nonprofit organization that has ex-  
8 pertise in outdoor learning spaces or outdoor  
9 education working in partnership with a local  
10 educational agency.

11 (3) LIVING SCHOOLYARD.—The term “living  
12 schoolyard”—

13 (A) means a park-like outdoor environment  
14 at an elementary school or secondary school  
15 that strengthens local ecological systems, pro-  
16 vides a wide range of hands-on learning re-  
17 sources, and fosters nature play and social op-  
18 portunities while enhancing health and well-  
19 being of children and adults; and

20 (B) may include climate appropriate trees  
21 and plants, cultivated gardens, outdoor meeting  
22 and gathering areas, and other non-petroleum-  
23 based elements designed by, and for, the stu-  
24 dents and the surrounding community.

1           (4) OUTDOOR LEARNING SPACE.—The term  
2 “outdoor learning space” means an outdoor physical  
3 space on school grounds that is—

4           (A) dedicated to meet or conduct cur-  
5 rriculum-tied activities;

6           (B) a dedicated space for outdoor class-  
7 rooms that has seating and tables installed for  
8 students and teachers to meet regularly; or

9           (C) a place that is used when the need  
10 arises to take learning outdoors.

11           (5) SECRETARY.—The term “Secretary” means  
12 the Secretary of Education.

13 **SEC. 4. GRANT PROGRAM FOR OUTDOOR LEARNING**  
14 **SPACES.**

15           (a) AUTHORIZATION OF PROGRAM.—

16           (1) RESERVATION FOR BUREAU OF INDIAN  
17 EDUCATION.—From the amount appropriated under  
18 subsection (d) to carry out this section for a fiscal  
19 year, the Secretary shall reserve 5 percent for the  
20 Secretary of the Interior to carry out this section for  
21 schools operated by the Bureau of Indian Education  
22 or schools that are operated by an Indian tribe, or  
23 an organization controlled or sanctioned by an In-  
24 dian tribal government, for the children of that tribe  
25 under a contract with, or grant from, the Depart-

1 ment of the Interior under the Indian Self-Deter-  
2 mination Act (25 U.S.C. 5321 et seq.) or the Trib-  
3 ally Controlled Schools Act of 1988 (25 U.S.C. 2501  
4 et seq.).

5 (2) AUTHORIZATION.—The Secretary shall  
6 award grants to eligible entities to enable the eligible  
7 entities to plan, design, and construct outdoor learn-  
8 ing spaces.

9 (3) PRIORITIES.—In awarding grants under  
10 this section, the Secretary shall give priority to—

11 (A) eligible entities that serve students not  
12 less than 40 percent of whom are eligible for a  
13 free or reduced price lunch under the Richard  
14 B. Russell National School Lunch Act (42  
15 U.S.C. 1751 et seq.), which calculation, in the  
16 case of high schools served by the eligible enti-  
17 ty, may be completed using comparable data  
18 from the schools that feed into the high schools;  
19 and

20 (B) eligible entities that are—

21 (i) rural high-need local educational  
22 agencies with locale codes 32, 33, 41, 42,  
23 or 43; or

24 (ii) educational service agencies serv-  
25 ing rural high-need local educational agen-

1                   cies with locale codes 32, 33, 41, 42, or  
2                   43.

3                   (4) GRANT AMOUNTS.—A grant awarded under  
4                   this section shall be in an amount equal to not less  
5                   than \$25,000 and not more than \$100,000 for each  
6                   school to be served by the eligible entity with the  
7                   grant.

8                   (b) APPLICATIONS.—An eligible entity that desires to  
9                   receive a grant under this section shall submit an applica-  
10                  tion to the Secretary at such time, in such manner, and  
11                  accompanied by such information as the Secretary may  
12                  require, including the following:

13                  (1) An identification of each public elementary  
14                  school and secondary school served by the eligible  
15                  entity that will receive assistance with grant funding  
16                  provided under this section.

17                  (2) The timeframe needed to prepare outdoor  
18                  learning spaces and the timeframe to begin using  
19                  outdoor learning spaces.

20                  (3) The percentage of students the eligible enti-  
21                  ty serves who are eligible for a free or reduced price  
22                  lunch under the Richard B. Russell National School  
23                  Lunch Act (42 U.S.C. 1751 et seq.). Such calcula-  
24                  tion, in the case of high schools served by the eligi-

1 ble entity, may be completed using comparable data  
2 from the schools that feed into the high schools.

3 (4) The projected number of schools that would  
4 participate in the outdoor learning spaces.

5 (5) The projected number of students and staff  
6 that would participate in the outdoor learning spaces  
7 on a daily basis.

8 (6) A description of how the eligible entity will  
9 assist students and staff that may need inclement  
10 weather clothing to participate in the outdoor learn-  
11 ing spaces.

12 (7) A description of how the eligible entity will  
13 consider access needs in compliance with the Ameri-  
14 cans with Disabilities Act of 1990 (42 U.S.C. 12101  
15 et seq.).

16 (c) USE OF FUNDS.—

17 (1) IN GENERAL.—An eligible entity that re-  
18 ceives a grant under this section shall use the grant  
19 funds to plan, design, and construct outdoor learn-  
20 ing spaces. Such outdoor learning spaces shall com-  
21 ply with at least 1 of the following:

22 (A) The installation or planting of shade  
23 trees, positioned on school grounds where stu-  
24 dents can access them during the school day.

25 Planting locations for shade trees shall be se-

1 lected to improve the thermal comfort of out-  
2 door learning spaces.

3 (B) Replacement of asphalt, concrete, or  
4 pavement, including a consideration of mate-  
5 rials that do not retain heat, and soil condi-  
6 tioning.

7 (C) The installation of electricity and out-  
8 lets or portable generators that benefits student  
9 learning.

10 (D) The installation of outdoor furniture,  
11 such as seating and tables or work surfaces, for  
12 staff and students.

13 (E) The availability of storage for outdoor  
14 teaching materials or wagons or carts for each  
15 teacher to transport supplies to and from the  
16 outdoor learning spaces.

17 (F) The installation of outdoor wifi nodes,  
18 and potable charging stations.

19 (G) The installation of outdoor food service  
20 facilities for serving, eating, and waste manage-  
21 ment.

22 (H) The installation of school garden in-  
23 frastructure and plantings, such as raised gar-  
24 den beds, potting soil, spigots, waterlines, irri-  
25 gation and installation of native, low water, and

1 food-producing plants that may help block the  
2 wind or provide shade.

3 (I) The installation of open-ended, perma-  
4 nent canopies or shelters that protect students  
5 from sun, rain, or wind during outdoor activi-  
6 ties.

7 (J) The installation of open-sided, perma-  
8 nent outdoor structures, with or without large  
9 retractable doors.

10 (2) CAP ON AMOUNT USED FOR PLAY AND  
11 RECREATION AMENITIES.—An eligible entity that re-  
12 ceives a grant under this section may use not more  
13 than 50 percent of the grant funds for the costs as-  
14 sociated with the installation of play and recreation  
15 amenities. In the installation of play and recreation  
16 amenities, an eligible entity shall place an emphasis  
17 on amenities made of non-petroleum-based, natural  
18 materials.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
20 are authorized to be appropriated to carry out this section  
21 \$25,000,000 for each of fiscal years 2024 through 2028.

22 **SEC. 5. LIVING SCHOOLYARD PROJECTS.**

23 (a) PLANNING GRANTS.—

24 (1) IN GENERAL.—The Secretary shall award  
25 planning grants to eligible entities to enable the eli-

1       gible entities to develop master plans, including de-  
2       sign and construction documents, to turn some or all  
3       of the outdoor spaces of the public elementary  
4       schools and secondary schools served by the eligible  
5       entities into living schoolyards.

6               (2) APPLICATIONS.—An eligible entity that de-  
7       sires to receive a grant under this subsection shall  
8       submit an application to the Secretary at such time,  
9       in such manner, and accompanied by such informa-  
10      tion as the Secretary may require, including the fol-  
11      lowing:

12               (A) An outline for, that includes the scope  
13      of, the master plan described in paragraph (3).

14               (B) A plan for educator professional devel-  
15      opment in order to support educators in uti-  
16      lizing the living schoolyard.

17               (C) Identification of State learning stand-  
18      ards that may be addressed through student in-  
19      volvement in the living schoolyard.

20               (D) A plan for how the eligible entity will  
21      provide for maintenance and operation of the  
22      living schoolyard after the grant period ends.

23               (3) MASTER PLAN.—

24               (A) IN GENERAL.—An eligible entity that  
25      receives a grant under this subsection shall use

1 the grant funds to develop a master plan, in-  
2 cluding design and construction documents, to  
3 turn some or all of the outdoor spaces of the  
4 public elementary schools and secondary schools  
5 served by the eligible entity into living school-  
6 yards. Such master plan shall—

7 (i) be developed with community  
8 input, including students, families, edu-  
9 cators, and school staff;

10 (ii) be developed with the goal of lon-  
11 gevity and resilience of living schoolyards  
12 after the grant period under this sub-  
13 section and subsection (b) has expired; and

14 (iii) include—

15 (I) ecological, climate, and bio-  
16 diversity goals;

17 (II) education and health goals;

18 (III) accessibility standards;

19 (IV) the number of students to  
20 be served at each school served under  
21 the grant, the total size of each such  
22 school property in acres, and the size  
23 of the proposed living schoolyard at  
24 each site in acres;

1 (V) a school grounds concept  
2 plan drawing of the living schoolyard  
3 design proposed for each school served  
4 under the grant;

5 (VI) an identification of commu-  
6 nity partners, including nonprofit or-  
7 ganizations or design professionals,  
8 that have expertise in outdoor learn-  
9 ing spaces or outdoor education, if ap-  
10 plicable; and

11 (VII) a longevity plan for how  
12 the eligible entity proposes to main-  
13 tain the living schoolyards over time.

14 (B) COMPONENTS OF A LIVING SCHOOL-  
15 YARD.—The master plan developed under sub-  
16 paragraph (A) may include the following living  
17 schoolyard components:

18 (i) Growing food, planting pollinator  
19 plants, and creating habitat for wildlife.

20 (ii) Conserving water, managing  
21 stormwater and observing things in nature.

22 (iii) Supporting hands-on learning for  
23 prekindergarten through grade 12 activi-  
24 ties and programs across subject areas and  
25 grade levels, such as conducting experi-

1           ments regarding soil, wind, water, and  
2           other elements.

3           (iv) Using the arts to prepare skits,  
4           plays, murals, drawings, and sculptures  
5           that celebrate nature, including its ani-  
6           mals, plants, patterns, and behaviors.

7           (v) Planting native shade trees,  
8           which—

9                   (I) directly protect students from  
10                   the effects of extreme heat due to cli-  
11                   mate change; and

12                   (II) cast shade on adjacent class-  
13                   room windows in the school building  
14                   to help reduce temperatures indoors  
15                   and save cooling costs during the  
16                   warmest parts of the school year.

17           (vi) Natural playgrounds, which in-  
18           clude natural and nature-based elements  
19           like rock gardens, sand boxes, stump logs,  
20           streams, living plants, and others that are  
21           integrated with the outdoor landscape and  
22           vegetation, and which—

23                   (I) will produce less heat than  
24                   traditional playgrounds and equip-  
25                   ment;

- 1 (II) are more inclusive and acces-  
2 sible for children of all abilities;  
3 (III) allow children to learn  
4 about nature; and  
5 (IV) are more cost-efficient than  
6 traditional playgrounds.

7 (b) IMPLEMENTATION GRANTS.—

8 (1) IN GENERAL.—The Secretary shall award  
9 implementation grants to eligible entities that re-  
10 ceived a planning grant under subsection (a) and de-  
11 veloped a master plan in accordance with subsection  
12 (a).

13 (2) APPLICATIONS.—An eligible entity that de-  
14 sires to receive a grant under this subsection shall  
15 submit an application to the Secretary at such time,  
16 in such manner, and accompanied by such informa-  
17 tion as the Secretary may require. An eligible entity  
18 may apply for more than 1 grant in order to com-  
19 plete individual schools in separate phases.

20 (3) USE OF FUNDS.—

21 (A) IN GENERAL.—An eligible entity that  
22 receives a grant under this subsection shall use  
23 the grant funds to implement some or all of the  
24 master plan developed in accordance with sub-  
25 section (a) by turning some or all of the out-

1 door spaces of the public elementary schools  
2 and secondary schools served by the eligible en-  
3 tity into living schoolyards.

4 (B) PERMISSIBLE USES.—An eligible enti-  
5 ty that receives a grant under this subsection  
6 may use not more than 25 percent of the grant  
7 funds—

8 (i) for professional development for  
9 school leadership, educators, and para-  
10 professionals related to outdoor teaching  
11 and bringing students outside for learning;  
12 and

13 (ii) to support an educator or other  
14 school staff member to maintain the living  
15 schoolyards of the elementary schools and  
16 secondary schools served by the eligible en-  
17 tity and provide professional development  
18 described in clause (i).

19 (4) MATCH.—

20 (A) IN GENERAL.—An eligible entity that  
21 receives a grant under this subsection shall pro-  
22 vide matching funds in an amount equal to 20  
23 percent of the grant award.

24 (B) WAIVER.—The Secretary may waive  
25 the matching requirement under subparagraph

1 (A) for an eligible entity that receives a grant  
2 under this subsection and serves students not  
3 less than 40 percent of whom are eligible for a  
4 free or reduced price lunch under the Richard  
5 B. Russell National School Lunch Act (42  
6 U.S.C. 1751 et seq.). Such calculation, in the  
7 case of high schools served by the eligible enti-  
8 ty, may be completed using comparable data  
9 from the schools that feed into the high schools.

10 (5) AUTHORIZATION OF APPROPRIATIONS.—

11 There are authorized to be appropriated to carry out  
12 this section \$150,000,000 for each of fiscal years  
13 2023 through 2027.

14 **SEC. 6. CLEARINGHOUSE.**

15 The Secretary shall maintain a clearinghouse of in-  
16 formation that—

17 (1) provides examples of outdoor learning  
18 spaces, including successful models being used;

19 (2) includes input from nonprofit organizations,  
20 professionals, and other community members with  
21 expertise in outdoor learning spaces and environ-  
22 mental education; and

- 1           (3) provides links and information about State
- 2           and local entities with expertise in outdoor learning
- 3           spaces and environmental education.

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