

118TH CONGRESS  
1ST SESSION

# S. 3510

To require the priority and consideration of using native plants in Federal projects, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2023

Mr. HEINRICH (for himself and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To require the priority and consideration of using native plants in Federal projects, 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 “Building Native Habi-  
5 tats at Federal Facilities Act”.

6 **SEC. 2. PRIORITY AND CONSIDERATION OF THE USE OF NA-**  
7 **TIVE PLANTS IN FEDERAL PROJECTS.**

8 (a) DEFINITIONS.—In this section:

9 (1) FEDERAL AGENCY.—The term “Federal  
10 agency” has the meaning given the term “Executive

1 agency” in section 105 of title 5, United States  
2 Code.

3 (2) FEDERAL PROJECT.—The term “Federal  
4 project” means a construction or maintenance activ-  
5 ity that—

6 (A) is carried out—

7 (i) by a Federal agency; and

8 (ii) at a Federal facility (as defined in  
9 section 930(g) of title 18, United States  
10 Code);

11 (B) involves landscape planting improve-  
12 ments; and

13 (C) is located in a State of the United  
14 States, the District of Columbia, or a common-  
15 wealth, territory, or possession of the United  
16 States.

17 (3) NATIVE PLANT.—The term “native plant”  
18 has the meaning given the term “native plant spe-  
19 cies” in section 101(a) of title I of division DD of  
20 the Consolidated Appropriations Act, 2023 (43  
21 U.S.C. 1732 note; Public Law 117–328).

22 (b) FEDERAL PROJECT REQUIREMENTS.—

23 (1) IN GENERAL.—Except as provided in para-  
24 graph (2), not later than 270 days after the date of

1 enactment of this Act, any Federal agency that car-  
2 ries out a Federal project shall—

3 (A) prioritize, as feasible with respect to  
4 cost, schedule, and product supply or a sci-  
5 entific, historical, or educational purpose, the  
6 use of native plants over non-native plants; and

7 (B) consider the benefits, such as habitat  
8 creation, supporting native pollinators, pro-  
9 viding food and shelter to insect and wildlife  
10 population, decreasing soil erosion and land-  
11 scape water usage, increasing sediment control,  
12 and controlling stormwater runoff, of using na-  
13 tive plants over the life of the Federal project  
14 when deciding whether to use native plants.

15 (2) TURFGRASS AND LAWNS.—A Federal agen-  
16 cy—

17 (A) is not required to prioritize and con-  
18 sider turfgrass and lawn plantings as required  
19 by paragraph (1); but

20 (B) is encouraged to consider, with respect  
21 to cost, schedule, product supply, overall main-  
22 tenance requirements, and property usage, the  
23 planting of native plants on appropriate areas  
24 of existing or planned turfgrass and lawns, par-

1           ticularly unused areas, while carrying out a  
2           Federal project.

3           (c) CONTRACTOR REQUIREMENTS.—In entering into  
4 a Federal contract, the head of a Federal agency shall—

5           (1) include the priority and consideration re-  
6           quirements described in subsection (b) in the con-  
7           tract, to the maximum extent practicable; and

8           (2) require that any subcontract (at any tier) of  
9           that contract include those priority and consider-  
10          ation requirements.

11          (d) UPDATE TO AGENCY-SPECIFIC DESIGN STAND-  
12          ARDS.—Not later than 270 days after the date of enact-  
13          ment of this Act, a Federal agency that maintains agency-  
14          specific facility design standards or that has landscape  
15          and maintenance development requirements or standards  
16          shall update those requirements and standards in accord-  
17          ance with subsections (b) and (c).

18          (e) CEQ GUIDANCE.—Not later than 180 days after  
19          the date of enactment of this Act, and every 2 years there-  
20          after, the Chair of the Council on Environmental Quality  
21          shall distribute to Federal agencies guidance on—

22                 (1) the use of native plants in Federal projects;  
23                 and

24                 (2) implementing the requirements of this sec-  
25                 tion.

1 (f) REPORT.—Not later than 2 years after the date  
2 of enactment of this Act, and every 2 years thereafter,  
3 the Chair of the Council on Environmental Quality shall  
4 make publicly available on the website of the Council on  
5 Environmental Quality a report on the use of native plants  
6 in Federal projects for at least the previous 2 years that  
7 includes, at a minimum, the following:

8 (1) Case studies on best practices used in var-  
9 ious Federal projects.

10 (2) A general analysis of scientific or environ-  
11 mental findings relating to selected Federal projects,  
12 the types of plants used, and any quantifiable im-  
13 pacts of native plant usage in the Federal projects.

14 (3) A description of how the Federal Govern-  
15 ment is promoting native habitats and native plant  
16 usage.

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