

105TH CONGRESS
1ST SESSION

H. R. 3042

AN ACT

To amend Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

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To amend Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, 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 “Environmental Policy
5 and Conflict Resolution Act of 1997”.

6 **SEC. 2. DEFINITIONS.**

7 Section 4 of the Morris K. Udall Scholarship and Ex-
8 cellence in National Environmental and Native American
9 Public Policy Act of 1992 (20 U.S.C. 5602) is amended—

10 (1) by redesignating paragraphs (4), (5), (6),
11 and (7) as paragraphs (5), (9), (7), and (8), respec-
12 tively;

13 (2) by inserting after paragraph (3) the follow-
14 ing:

15 “(4) the term ‘environmental dispute’ means a
16 dispute or conflict relating to the environment, pub-
17 lic lands, or natural resources;”;

18 (3) by inserting after paragraph (5) (as redesi-
19 gnated by paragraph (1)) the following:

20 “(6) the term ‘Institute’ means the United
21 States Institute for Environmental Conflict Resolu-
22 tion established pursuant to section 7(a)(1)(D);”;

23 (4) in paragraph (7) (as redesignated by para-
24 graph (1)), by striking “and” at the end;

1 (5) in paragraph (8) (as redesignated by para-
2 graph (1)), by striking the period at the end and in-
3 serting “; and”; and

4 (6) in paragraph (9) (as redesignated by para-
5 graph (1))—

6 (A) by striking “fund” and inserting
7 “Trust Fund”; and

8 (B) by striking the semicolon at the end
9 and inserting a period.

10 **SEC. 3. BOARD OF TRUSTEES.**

11 Section 5(b) of the Morris K. Udall Scholarship
12 and Excellence in National Environmental and Na-
13 tive American Public Policy Act of 1992 (20 U.S.C.
14 5603(b)) is amended—

15 (1) in the matter preceding paragraph (1) of
16 the second sentence, by striking “twelve” and insert-
17 ing “thirteen”; and

18 (2) by adding at the end the following:

19 “(7) The chairperson of the President’s Council
20 on Environmental Quality, who shall serve as a non-
21 voting, ex officio member and shall not be eligible to
22 serve as chairperson.”.

1 **SEC. 4. PURPOSE.**

2 Section 6 of the Morris K. Udall Scholarship and Ex-
3 cellence in National Environmental and Native American
4 Public Policy Act of 1992 (20 U.S.C. 5604) is amended—

5 (1) in paragraph (4), by striking “an Environ-
6 mental Conflict Resolution” and inserting “Environ-
7 mental Conflict Resolution and Training”;

8 (2) in paragraph (6), by striking “and” at the
9 end;

10 (3) in paragraph (7), by striking the period at
11 the end and inserting a semicolon; and

12 (4) by adding at the end the following:

13 “(8) establish as part of the Foundation the
14 United States Institute for Environmental Conflict
15 Resolution to assist the Federal Government in im-
16 plementing section 101 of the National Environ-
17 mental Policy Act of 1969 (42 U.S.C. 4331) by pro-
18 viding assessment, mediation, and other related serv-
19 ices to resolve environmental disputes involving
20 agencies and instrumentalities of the United States;
21 and

22 “(9) complement the direction established by
23 the President in Executive Order 12988 (61 Fed.
24 Reg. 4729; relating to civil justice reform).”.

1 **SEC. 5. AUTHORITY.**

2 Section 7(a) of the Morris K. Udall Scholarship and
3 Excellence in National Environmental and Native Amer-
4 ican Public Policy Act of 1992 (20 U.S.C. 5606(a) is
5 amended—

6 (1) in paragraph (1), by adding at the end the
7 following:

8 “(D) INSTITUTE FOR ENVIRONMENTAL
9 CONFLICT RESOLUTION.—

10 “(i) IN GENERAL.—The Foundation
11 shall—

12 “(I) establish the United States
13 Institute for Environmental Conflict
14 Resolution as part of the Foundation;
15 and

16 “(II) identify and conduct such
17 programs, activities, and services as
18 the Foundation determines appro-
19 priate to permit the Foundation to
20 provide assessment, mediation, train-
21 ing, and other related services to re-
22 solve environmental disputes.

23 “(ii) GEOGRAPHIC PROXIMITY OF
24 CONFLICT RESOLUTION PROVISION.—In
25 providing assessment, mediation, training,
26 and other related services under clause

1 (i)(II) to resolve environmental disputes,
2 the Foundation shall consider, to the maxi-
3 mum extent practicable, conflict resolution
4 providers within the geographic proximity
5 of the conflict.”; and

6 (2) in paragraph (7), by inserting “and Train-
7 ing” after “Conflict Resolution”.

8 **SEC. 6. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

9 (a) REDESIGNATION.—Sections 10 and 11 of the
10 Morris K. Udall scholarship and Excellence in National
11 Environmental and Native American Public Policy Act of
12 1992 (20 U.S.C. 5608, 5609) are redesignated as sections
13 12 and 13 of the Act, respectively.

14 (b) ENVIRONMENTAL DISPUTE RESOLUTION
15 FUND.—The Morris K. Udall Scholarship and Excellence
16 in National Environmental and Native American Public
17 Policy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended
18 by subsection (a)) is amended by inserting after section
19 9 the following:

20 **“SEC. 10. ENVIRONMENTAL DISPUTE RESOLUTION FUND.**

21 “(a) ESTABLISHMENT.—There is established in the
22 Treasury of the United States an Environmental Dispute
23 Resolution Fund to be administered by the Foundation.
24 The Fund shall consist of amounts appropriated to the

1 Fund under section 13(b) and amounts paid into the Fund
2 under section 11.

3 “(b) EXPENDITURES.—The Foundation shall expend
4 from the Fund such sums as the Board determines are
5 necessary to establish and operate the Institute, including
6 such amounts as are necessary for salaries, administra-
7 tion, the provision of mediation and other services, and
8 such other expenses as the Board determines are nec-
9 essary.

10 “(c) DISTINCTION FROM TRUST FUND.—The Fund
11 shall be maintained separately from the Trust Fund estab-
12 lished under section 8.

13 “(d) INVESTMENT OF AMOUNTS.—

14 “(1) IN GENERAL.—The Secretary of the
15 Treasury shall invest such portion of the Fund as is
16 not, in the judgment of the Secretary, required to
17 meet current withdrawals.

18 “(2) INTEREST-BEARING OBLIGATIONS.—In-
19 vestments may be made only in interest-bearing obli-
20 gations of the United States.

21 “(3) ACQUISITION OF OBLIGATIONS.—For the
22 purpose of investments under paragraph (1), obliga-
23 tions may be acquired—

24 “(A) on original issue at the issue price; or

1 “(B) by purchase of outstanding obliga-
2 tions at the market price.

3 “(4) SALE OF OBLIGATIONS.—Any obligation
4 acquired by the Fund may be sold by the Secretary
5 of the Treasury at the market price.

6 “(5) CREDITS TO FUND.—The interest on, and
7 the proceeds from the sale or redemption of, any ob-
8 ligations held in the Fund shall be credited to and
9 form a part of the Fund.”.

10 **SEC. 7. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

11 The Morris K. Udall Scholarship and Excellence in
12 National Environmental and Native American Policy Act
13 of 1992 (20 U.S.C. 5601 et seq.) (as amended by section
14 6) is amended by inserting after section 10 the following:

15 **“SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

16 “(a) AUTHORIZATION.—A Federal agency may use
17 the Foundation and the Institute to provide assessment,
18 mediation, or other related services in connection with a
19 dispute or conflict related to the environment, public
20 lands, or natural resources.

21 “(b) PAYMENT.—

22 “(1) IN GENERAL.—A Federal agency may
23 enter into a contract and expend funds to obtain the
24 services of the Institute.

1 “(2) PAYMENT INTO ENVIRONMENTAL DISPUTE
2 RESOLUTION FUND.—A payment from an executive
3 agency on a contract entered into under paragraph
4 (1) shall be paid into the Environmental Dispute
5 Resolution Fund established under section 10.

6 “(c) NOTIFICATION AND CONCURRENCE.—

7 “(1) NOTIFICATION.—An agency or instrumen-
8 tality of the Federal Government shall notify the
9 chairperson of the President’s Council on Environ-
10 mental Quality when using the Foundation or the
11 Institute to provide the services described in sub-
12 section (a).

13 “(2) NOTIFICATION DESCRIPTIONS.—In a mat-
14 ter involving two or more agencies or instrumental-
15 ities of the Federal Government, notification under
16 paragraph (1) shall include a written description
17 of—

18 “(A) the issues and parties involved;

19 “(B) prior efforts, if any, undertaken by
20 the agency to resolve or address the issue or is-
21 sues;

22 “(C) all Federal agencies or instrumental-
23 ities with a direct interest or involvement in the
24 matter and a statement that all Federal agen-

1 cies or instrumentalities agree to dispute resolu-
2 tion; and

3 “(D) other relevant information.

4 “(3) CONCURRENCE.—

5 “(A) IN GENERAL.—In a matter that in-
6 volves two or more agencies or instrumentalities
7 of the Federal Government (including branches
8 or divisions of a single agency or instrumentality),
9 the agencies or instrumentalities of the
10 Federal Government shall obtain the concurrence
11 of the chairperson of the President’s
12 Council on Environmental Quality before using
13 the Foundation or Institute to provide the services
14 described in subsection (a).

15 “(B) INDICATION OF CONCURRENCE OR
16 NONCONCURRENCE.—The chairperson of the
17 President’s Council on Environmental Quality
18 shall indicate concurrence or nonconcurrence
19 under subparagraph (A) not later than 20 days
20 after receiving notice under paragraph (2).

21 “(d) EXCEPTIONS.—

22 “(1) LEGAL ISSUES AND ENFORCEMENT.—

23 “(A) IN GENERAL.—A dispute or conflict
24 involving agencies or instrumentalities of the
25 Federal Government (including branches or di-

1 visions of a single agency or instrumentality)
2 that concern purely legal issues or matters, in-
3 terpretation or determination of law, or enforce-
4 ment of law by one agency against another
5 agency shall not be submitted to the Founda-
6 tion or Institute.

7 “(B) APPLICABILITY—Subparagraph (A)
8 does not apply to a dispute or conflict concern-
9 ing—

10 “(i) agency implementation of a pro-
11 gram or project;

12 “(ii) a matter involving two or more
13 agencies with parallel authority requiring
14 facilitation and coordination of the various
15 government agencies; or

16 “(iii) a nonlegal policy or decision-
17 making matter that involves two or more
18 agencies that are jointly operating a
19 project.

20 “(2) OTHER MANDATED MECHANISMS OR AVE-
21 NUES.—A dispute or conflict involving agencies or
22 instrumentalities of the Federal Government (includ-
23 ing branches or divisions of a single agency or in-
24 strumentality) for which Congress by law has man-
25 dated another dispute resolution mechanism or ave-

1 nue to address or resolve shall not be submitted to
2 the Foundation or Institute.”.

3 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) IN GENERAL.—Section 13 of the Morris K. Udall
5 Scholarship and Excellence in National Environmental
6 and Native American Public Policy Act of 1992 (as reded-
7 icated by section 6(a)) is amended—

8 (1) by striking “There are authorized to be ap-
9 propriated to the Fund” and inserting the following:
10 “(a) TRUST FUND.—There is authorized to be appro-
11 priated to the Trust Fund”; and

12 (2) by adding at the end the following:

13 “(b) ENVIRONMENTAL DISPUTE RESOLUTION
14 FUND.—There are authorized to be appropriated to the
15 Environmental Dispute Resolution Fund established
16 under section 10—

17 “(1) \$4,250,000 for fiscal year 1998, of
18 which—

19 “(A) \$3,000,000 shall be for capitalization;
20 and

21 “(B) \$1,250,000 shall be for operation
22 costs; and

23 “(2) \$1,250,000 for each of the fiscal years
24 1999 through 2002 for operation costs.”.

1 **SEC. 9. CONFORMING AMENDMENTS.**

2 (a) The second sentence of section 8(a) of the Morris
3 K. Udall Scholarship and Excellence in National Environ-
4 mental and Native American Public Policy Act of 1992
5 (20 U.S.C. 5606) is amended—

6 (1) by striking “fund” and inserting “Trust
7 Fund”; and

8 (2) by striking “section 11” and inserting “sec-
9 tion 13(a)”.

10 (b) Sections 7(a)(6), 8(b), and 9(a) of the Morris K.
11 Udall Scholarship and Excellence in National Environ-
12 mental and Native American Public Policy Act of 1992
13 (20 U.S.C. 5605(a)(6), 5606(b), 5607(a)) are each
14 amended by striking “Fund” and inserting “Trust Fund”
15 each place it appears.

Passed the House of Representatives November 13,
1997.

Attest:

Clerk.