

105TH CONGRESS
1ST SESSION

H. R. 3042

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.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 1997

Mr. KOLBE (for himself and Mr. PASTOR) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER 13, 1997

The Committees on Education and the Workforce and Resources discharged; considered and passed

A BILL

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Environmental Policy
3 and Conflict Resolution Act of 1997”.

4 **SEC. 2. DEFINITIONS.**

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

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

11 (2) by inserting after paragraph (3) the follow-
12 ing:

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

16 (3) by inserting after paragraph (5) (as redesign-
17 ated by paragraph (1)) the following:

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

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

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

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

3 (A) by striking “fund” and inserting
4 “Trust Fund”; and

5 (B) by striking the semicolon at the end
6 and inserting a period.

7 **SEC. 3. BOARD OF TRUSTEES.**

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

12 (1) in the matter preceding paragraph (1) of
13 the second sentence, by striking “twelve” and insert-
14 ing “thirteen”; and

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

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

20 **SEC. 4. PURPOSE.**

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

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

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

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

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

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

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

21 **SEC. 5. AUTHORITY.**

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

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

3 “(D) INSTITUTE FOR ENVIRONMENTAL
4 CONFLICT RESOLUTION.—

5 “(i) IN GENERAL.—The Foundation
6 shall—

7 “(I) establish the United States
8 Institute for Environmental Conflict
9 Resolution as part of the Foundation;
10 and

11 “(II) identify and conduct such
12 programs, activities, and services as
13 the Foundation determines appro-
14 priate to permit the Foundation to
15 provide assessment, mediation, train-
16 ing, and other related services to re-
17 solve environmental disputes.

18 “(ii) GEOGRAPHIC PROXIMITY OF
19 CONFLICT RESOLUTION PROVISION.—In
20 providing assessment, mediation, training,
21 and other related services under clause
22 (i)(II) to resolve environmental disputes,
23 the Foundation shall consider, to the maxi-
24 mum extent practicable, conflict resolution

1 providers within the geographic proximity
2 of the conflict.”; and

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

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

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

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

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

18 “(a) ESTABLISHMENT.—There is established in the
19 Treasury of the United States an Environmental Dispute
20 Resolution Fund to be administered by the Foundation.
21 The Fund shall consist of amounts appropriated to the
22 Fund under section 13(b) and amounts paid into the Fund
23 under section 11.

24 “(b) EXPENDITURES.—The Foundation shall expend
25 from the Fund such sums as the Board determines are

1 necessary to establish and operate the Institute, including
2 such amounts as are necessary for salaries, administra-
3 tion, the provision of mediation and other services, and
4 such other expenses as the Board determines are nec-
5 essary.

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

9 “(d) INVESTMENT OF AMOUNTS.—

10 “(1) IN GENERAL.—The Secretary of the
11 Treasury shall invest such portion of the Fund as is
12 not, in the judgment of the Secretary, required to
13 meet current withdrawals.

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

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

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

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

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

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

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

6 The Morris K. Udall Scholarship and Excellence in
7 National Environmental and Native American Policy Act
8 of 1992 (20 U.S.C. 5601 et seq.) (as amended by section
9 6) is amended by inserting after section 10 the following:
10 **“SEC. 11. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

11 “(a) AUTHORIZATION.—A Federal agency may use
12 the Foundation and the Institute to provide assessment,
13 mediation, or other related services in connection with a
14 dispute or conflict related to the environment, public
15 lands, or natural resources.

16 “(b) PAYMENT.—

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

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

25 “(c) NOTIFICATION AND CONCURRENCE.—

1 “(1) NOTIFICATION.—An agency or instrumen-
2 tality of the Federal Government shall notify the
3 chairperson of the President’s Council on Environ-
4 mental Quality when using the Foundation or the
5 Institute to provide the services described in sub-
6 section (a).

7 “(2) NOTIFICATION DESCRIPTIONS.—In a mat-
8 ter involving two or more agencies or instrumentality-
9 ties of the Federal Government, notification under
10 paragraph (1) shall include a written description
11 of—

12 “(A) the issues and parties involved;

13 “(B) prior efforts, if any, undertaken by
14 the agency to resolve or address the issue or is-
15 sues;

16 “(C) all Federal agencies or instrumentality-
17 ties with a direct interest or involvement in the
18 matter and a statement that all Federal agen-
19 cies or instrumentalities agree to dispute resolu-
20 tion; and

21 “(D) other relevant information.

22 “(3) CONCURRENCE.—

23 “(A) IN GENERAL.—In a matter that in-
24 volves two or more agencies or instrumentalities
25 of the Federal Government (including branches

1 or divisions of a single agency or instrumental-
2 ity), the agencies or instrumentalities of the
3 Federal Government shall obtain the concur-
4 rence of the chairperson of the President's
5 Council on Environmental Quality before using
6 the Foundation or Institute to provide the serv-
7 ices described in subsection (a).

8 “(B) INDICATION OF CONCURRENCE OR
9 NONCONCURRENCE.—The chairperson of the
10 President's Council on Environmental Quality
11 shall indicate concurrence or nonconcurrence
12 under subparagraph (A) not later than 20 days
13 after receiving notice under paragraph (2).

14 “(d) EXCEPTIONS.—

15 “(1) LEGAL ISSUES AND ENFORCEMENT.—

16 “(A) IN GENERAL.—A dispute or conflict
17 involving agencies or instrumentalities of the
18 Federal Government (including branches or di-
19 visions of a single agency or instrumentality)
20 that concern purely legal issues or matters, in-
21 terpretation or determination of law, or enforce-
22 ment of law by one agency against another
23 agency shall not be submitted to the Founda-
24 tion or Institute.

1 “(B) APPLICABILITY—Subparagraph (A)
2 does not apply to a dispute or conflict concern-
3 ing—

4 “(i) agency implementation of a pro-
5 gram or project;

6 “(ii) a matter involving two or more
7 agencies with parallel authority requiring
8 facilitation and coordination of the various
9 government agencies; or

10 “(iii) a nonlegal policy or decision-
11 making matter that involves two or more
12 agencies that are jointly operating a
13 project.

14 “(2) OTHER MANDATED MECHANISMS OR AVE-
15 NUES.—A dispute or conflict involving agencies or
16 instrumentalities of the Federal Government (includ-
17 ing branches or divisions of a single agency or in-
18 strumentality) for which Congress by law has man-
19 dated another dispute resolution mechanism or ave-
20 nue to address or resolve shall not be submitted to
21 the Foundation or Institute.”.

22 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) IN GENERAL.—Section 13 of the Morris K. Udall
24 Scholarship and Excellence in National Environmental

1 and Native American Public Policy Act of 1992 (as reded-
2 icated by section 6(a)) is amended—

3 (1) by striking “There are authorized to be ap-
4 propriated to the Fund” and inserting the following:

5 “(a) TRUST FUND.—There is authorized to be appro-
6 priated to the Trust Fund”; and

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

8 “(b) ENVIRONMENTAL DISPUTE RESOLUTION
9 FUND.—There are authorized to be appropriated to the
10 Environmental Dispute Resolution Fund established
11 under section 10—

12 “(1) \$4,250,000 for fiscal year 1998, of
13 which—

14 “(A) \$3,000,000 shall be for capitalization;
15 and

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

18 “(2) \$1,250,000 for each of the fiscal years
19 1999 through 2002 for operation costs.”.

20 **SEC. 9. CONFORMING AMENDMENTS.**

21 (a) The second sentence of section 8(a) of the Morris
22 K. Udall Scholarship and Excellence in National Environ-
23 mental and Native American Public Policy Act of 1992
24 (20 U.S.C. 5606) is amended—

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

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

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

○