

Calendar No. 302

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3042**

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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.

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JANUARY 28, 1998

Received; read twice and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

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**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.

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 instrumentality  
15 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  
21 issues;

22                   “(C) all Federal agencies or instrumentality  
23 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:

ROBIN H. CARLE,

*Clerk.*