

Calendar No. 142

105TH CONGRESS
1ST Session

S. 399

[Report No. 105-60]

A BILL

To amend the 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.

JULY 31, 1997

Reported with an amendment

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1ST SESSION**S. 399****[Report No. 105-60]**

To amend the 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 SENATE OF THE UNITED STATES

MARCH 5, 1997

Mr. McCAIN introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 31, 1997

Reported by Mr. CHAFEE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the 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) in paragraph (5), by striking “fund” and
 11 inserting “Trust Fund”;

12 (2) by redesignating paragraphs (5) and (7) as
 13 paragraphs (9) and (8), respectively;

14 (3) by inserting after paragraph (4) the follow-
 15 ing:

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

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

21 (5) by inserting after paragraph (6) the follow-
 22 ing:

23 “(7) the term ‘Revolving Fund’ means the
 24 United States Institute for Environmental Conflict

1 Resolution Revolving Fund established under section
2 10;

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

6 (7) in paragraph (9) (as redesignated by para-
7 graph (2)), by striking the semicolon at the end and
8 inserting a period.

9 **SEC. 3. BOARD OF TRUSTEES.**

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

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

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

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

22 **SEC. 4. PURPOSE.**

23 Section 6 of the Morris K. Udall Scholarship and Ex-
24 cellence in National Environmental and Native American
25 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 “; and”; 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
17 States.”.

18 **SEC. 5. AUTHORITY.**

19 Section 7(a) of the Morris K. Udall Scholarship and
20 Excellence in National Environmental and Native Amer-
21 ican Public Policy Act of 1992 (20 U.S.C. 5605(a)) is
22 amended—

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

1 “(D) INSTITUTE FOR ENVIRONMENTAL
2 CONFLICT RESOLUTION.—The Foundation
3 shall—

4 “(i) establish the United States Insti-
5 tute for Environmental Conflict Resolution
6 as part of the Foundation; and

7 “(ii) identify and conduct such pro-
8 grams, activities, and services as the Foun-
9 dation determines appropriate to permit
10 the Foundation to provide assessment, me-
11 diation, training, and other related services
12 to resolve environmental disputes.”; and

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

15 **SEC. 6. REVOLVING FUND.**

16 (a) REDESIGNATION.—Sections 10 and 11 of the
17 Morris K. Udall Scholarship and Excellence in National
18 Environmental and Native American Public Policy Act of
19 1992 (20 U.S.C. 5608, 5609) are redesignated as sections
20 12 and 13, respectively.

21 (b) REVOLVING FUND.—The Morris K. Udall Schol-
22 arship and Excellence in National Environmental and Na-
23 tive American Public Policy Act of 1992 (20 U.S.C. 5601
24 et seq.) (as amended by subsection (a)) is amended by in-
25 serting after section 9 the following:

1 **“SEC. 10. ENVIRONMENTAL CONFLICT RESOLUTION RE-**
2 **VOLVING FUND.**

3 “(a) **ESTABLISHMENT.**—There is established in the
4 Treasury of the United States a United States Institute
5 for Environmental Conflict Resolution Revolving Fund to
6 be administered by the Foundation. The Revolving Fund
7 shall consist of amounts appropriated to the Revolving
8 Fund under section 13(b) and amounts paid into the Re-
9 volving Fund under section 11.

10 “(b) **EXPENDITURES.**—The Foundation shall expend
11 from the Revolving Fund such sums as the Board deter-
12 mines are necessary and appropriate to establish and oper-
13 ate the Institute, including such amounts as are necessary
14 for salaries, administration, the provision of mediation and
15 other services, and such other expenses as the Board de-
16 termines are reasonable and necessary.

17 “(c) **DISTINCTION FROM TRUST FUND.**—The Re-
18 volving Fund shall be maintained separately from the
19 Trust Fund established under section 8.

20 “(d) **PROGRAM PRIORITIES.**—The Revolving Fund
21 shall not be subject to section 7(e) or section 9.

22 “(e) **INVESTMENT OF AMOUNTS.**—

23 “(1) **IN GENERAL.**—The Secretary of the
24 Treasury shall invest such portion of the Revolving
25 Fund as is not, in the judgment of the Secretary, re-
26 quired to meet current withdrawals. Investments

1 may be made only in interest-bearing obligations of
2 the United States.

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

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

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

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

12 “(4) CREDITS TO FUND.—The interest on, and
13 the proceeds from the sale or redemption of, any ob-
14 ligations held in the Revolving Fund shall be cred-
15 ited to and form a part of the Revolving Fund.”.

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

17 The Morris K. Udall Scholarship and Excellence in
18 National Environmental and Native American Public Pol-
19 icy Act of 1992 (20 U.S.C. 5601 et seq.) (as amended
20 by section 6) is amended by inserting after section 10 the
21 following:

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

23 “(a) AUTHORIZATION.—A Federal agency may use
24 the Foundation and the Institute to provide assessment,
25 mediation, or other related services in connection with a

1 dispute or conflict related to the environment, public
 2 lands, or natural resources.

3 “(b) PAYMENT.—

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

7 “(2) PAYMENT INTO REVOLVING FUND.—A
 8 payment from an executive agency on a contract en-
 9 tered into under paragraph (1) shall be paid into the
 10 Revolving Fund.

11 “(c) NOTIFICATION AND CONCURRENCE.—

12 “(1) NOTIFICATION.—An agency or instrumen-
 13 tality of the Federal Government shall notify the
 14 chairperson of the President’s Council on Environ-
 15 mental Quality before using the Foundation or the
 16 Institute to provide the services described in sub-
 17 section (a).

18 “(2) NOTIFICATION DESCRIPTIONS.—A notifi-
 19 cation under paragraph (1) shall include a written
 20 description of—

21 “(A) the issues and parties involved;

22 “(B) prior efforts, if any, undertaken by
 23 the agency to resolve or address the issue or is-
 24 sues; and

25 “(C) other relevant information.

1 “(3) CONCURRENCE.—In a case that involves a
 2 dispute or disagreement between 2 or more agencies
 3 or instrumentalities of the Federal Government (in-
 4 cluding branches or divisions of a single agency or
 5 instrumentality), an agency or instrumentality of the
 6 Federal Government shall obtain the concurrence of
 7 the chairperson of the President’s Council on Envi-
 8 ronmental Quality before using the Foundation or
 9 Institute to provide the services described in sub-
 10 section (a).”.

11 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

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

21 “(b) REVOLVING FUND.—There are authorized to be
 22 appropriated to the Revolving Fund \$3,000,000 for fiscal
 23 year 1998 and \$2,100,000 for each of fiscal years 1999
 24 through 2002.”.

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.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Environmental Policy*
18 *and Conflict Resolution Act of 1997”.*

19 **SEC. 2. DEFINITIONS.**

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

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

1 (2) *by inserting after paragraph (3) the follow-*
2 *ing:*

3 “(4) *the term ‘environmental dispute’ means a*
4 *dispute or conflict relating to the environment, public*
5 *lands, or natural resources;”;*

6 (3) *by inserting after paragraph (5) (as redesign-*
7 *ated by paragraph (1)) the following:*

8 “(6) *the term ‘Institute’ means the United States*
9 *Institute for Environmental Conflict Resolution estab-*
10 *lished pursuant to section 7(a)(1)(D);”;*

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

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

16 (6) *in paragraph (9) (as redesignated by para-*
17 *graph (1))*

18 (A) *by striking “fund” and inserting “Trust*
19 *Fund”; and*

20 (B) *by striking the semicolon at the end and*
21 *inserting a period.*

22 **SEC. 3. BOARD OF TRUSTEES.**

23 *Section 5(b) of the Morris K. Udall Scholarship and*
24 *Excellence in National Environmental and Native Amer-*

1 *ican Public Policy Act of 1992 (20 U.S.C. 5603(b)) is*
2 *amended—*

3 *(1) in the matter preceding paragraph (1) of the*
4 *second sentence, by striking “twelve” and inserting*
5 *“thirteen”; and*

6 *(2) by adding at the end the following:*

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

11 **SEC. 4. PURPOSE.**

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

15 *(1) in paragraph (4), by striking “an Environ-*
16 *mental Conflict Resolution” and inserting “Environ-*
17 *mental Conflict Resolution and Training”;*

18 *(2) in paragraph (6), by striking “and” at the*
19 *end;*

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

22 *(4) by adding at the end the following:*

23 *“(8) establish as part of the Foundation the*
24 *United States Institute for Environmental Conflict*
25 *Resolution to assist the Federal government in imple-*

1 *menting section 101 of the National Environmental*
 2 *Policy Act of 1969 (42 U.S.C. 4331) by providing as-*
 3 *essment, mediation, and other related services to re-*
 4 *solve environmental disputes involving agencies and*
 5 *instrumentalities of the United States; and*

6 *“(9) complement the direction established by the*
 7 *President in Executive Order 12988 (61 Fed. Reg.*
 8 *4729; relating to civil justice reform).”.*

9 **SEC. 5. AUTHORITY.**

10 *Section 7(a) of the Morris K. Udall Scholarship and*
 11 *Excellence in National Environmental and Native Amer-*
 12 *ican Public Policy Act of 1992 (20 U.S.C. 5605(a)) is*
 13 *amended—*

14 *(1) in paragraph (1), by adding at the end the*
 15 *following:*

16 *“(D) INSTITUTE FOR ENVIRONMENTAL CON-*
 17 *FLICT RESOLUTION.—*

18 *“(i) IN GENERAL.—The Foundation*
 19 *shall—*

20 *“(I) establish the United States*
 21 *Institute for Environmental Conflict*
 22 *Resolution as part of the Foundation;*
 23 *and*

24 *“(II) identify and conduct such*
 25 *programs, activities, and services as*

1 *the Foundation determines appropriate*
2 *to permit the Foundation to provide*
3 *assessment, mediation, training, and*
4 *other related services to resolve envi-*
5 *ronmental disputes.*

6 “(ii) *GEOGRAPHIC PROXIMITY OF CON-*
7 *FLICT RESOLUTION PROVISION.—In provid-*
8 *ing assessment, mediation, training, and*
9 *other related services under clause (i)(II) to*
10 *resolve environmental disputes, the Founda-*
11 *tion shall consider, to the maximum extent*
12 *practicable, conflict resolution providers*
13 *within the geographic proximity of the con-*
14 *flict.”; and*

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

17 **SEC. 6. USE OF THE INSTITUTE BY A FEDERAL AGENCY.**

18 (a) *REDESIGNATION.—Sections 10 and 11 of the Mor-*
19 *ris K. Udall Scholarship and Excellence in National Envi-*
20 *ronmental and Native American Public Policy Act of 1992*
21 *(20 U.S.C. 5608, 5609) are redesignated as sections 11 and*
22 *12, respectively.*

23 (b) *USE OF THE INSTITUTE.—The Morris K. Udall*
24 *Scholarship and Excellence in National Environmental and*

1 *Native American Public Policy Act of 1992 (20 U.S.C. 5601*
2 *et seq.) is amended by inserting after section 9 the following:*

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

4 “(a) *AUTHORIZATION.*—*A Federal agency may use the*
5 *Foundation and the Institute to provide assessment, medi-*
6 *ation, or other related services in connection with a dispute*
7 *or conflict related to the environment, public lands, or natu-*
8 *ral resources.*

9 “(b) *PAYMENT.*—

10 “(1) *IN GENERAL.*—*A Federal agency may enter*
11 *into a contract and expend funds to obtain the serv-*
12 *ices of the Institute.*

13 “(2) *PAYMENT INTO TRUST FUND.*—*A payment*
14 *from an executive agency on a contract entered into*
15 *under paragraph (1) shall be paid into the Trust*
16 *Fund.*

17 “(c) *NOTIFICATION AND CONCURRENCE.*—

18 “(1) *NOTIFICATION.*—*An agency or instrumen-*
19 *tality of the Federal Government shall notify the*
20 *chairperson of the President’s Council on Environ-*
21 *mental Quality when using the Foundation or the In-*
22 *stitute to provide the services described in subsection*
23 *(a).*

1 “(2) *NOTIFICATION DESCRIPTIONS.*—A notification
2 under paragraph (1) shall include a written description
3 of—

4 “(A) *the issues and parties involved;*

5 “(B) *prior efforts, if any, undertaken by the*
6 *agency to resolve or address the issue or issues;*
7 *and*

8 “(C) *other relevant information.*

9 “(3) *CONCURRENCE.*—

10 “(A) *IN GENERAL.*—In a case that involves
11 a dispute or conflict between 2 or more agencies
12 or instrumentalities of the Federal Government
13 (including branches or divisions of a single agency
14 or instrumentality), an agency or instrumentality
15 of the Federal Government shall obtain the
16 concurrence of the chairperson of the President’s
17 Council on Environmental Quality before using
18 the Foundation or Institute to provide the services
19 described in subsection (a).

20 “(B) *INDICATION OF CONCURRENCE OR*
21 *NONCONCURRENCE.*—The chairperson of the
22 President’s Council on Environmental Quality
23 shall indicate concurrence or nonconcurrence
24 under subparagraph (A) not later than 20 days
25 after receiving notice of the dispute or conflict.”.

1 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) *IN GENERAL.*—Section 12 of the *Morris K. Udall*
 3 *Scholarship and Excellence in National Environmental and*
 4 *Native American Public Policy Act of 1992 (as redesignated*
 5 *by section 6(a)) is amended—*

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

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

10 (2) *by adding at the end the following:*

11 “(b) *ADDITIONAL AMOUNTS.*—*There are authorized to*
 12 *be appropriated to the Trust Fund to carry out this Act*
 13 *an additional amount of—*

14 “(1) \$4,250,000 for fiscal year 1998, of which—

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

16 *and*

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

18 *and*

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

21 **SEC. 8. CONFORMING AMENDMENTS.**

22 (a) *The second sentence of section 8(a) of the Morris*
 23 *K. Udall Scholarship and Excellence in National Environ-*
 24 *mental and Native American Public Policy Act of 1992 (20*
 25 *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 12”*.

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 (20*
8 *U.S.C. 5605(a)(6), 5606(b), 5607(a)) are each amended by*
9 *striking “Fund” and inserting “Trust Fund” each place it*
10 *appears.*