

20 USC Ch. 66: MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

From Title 20—EDUCATION

CHAPTER 66—MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION

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§5601. Findings

The Congress finds that—

- (1) for three decades, Congressman Morris K. Udall has served his country with distinction and honor;
- (2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water;
- (3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance;
- (4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources;
- (5) the Foundation—
 - (A) since 1995, has operated exceptional scholarship, internship, and fellowship programs for areas of study related to the environment and Native American tribal policy and health care;
 - (B) since 1999, has provided valuable environmental conflict resolution services and leadership through the National Center (previously known as the United States Institute for Environmental Conflict Resolution); and
 - (C) is committed to continue making a substantial contribution toward public policy in the future by—
 - (i) playing a significant role in developing the next generation of environmental and Native American leaders; and
 - (ii) working with current leaders to improve decisionmaking on—
 - (I) challenging environmental, energy, and related economic problems; and
 - (II) tribal governance and economic issues;

(6) Stewart L. Udall, as a member of Congress, Secretary of the Interior, environmental lawyer, and author, has provided distinguished national leadership in environmental and Native American policy for more than 50 years;

(7) as Secretary of the Interior from 1961 to 1969, Stewart L. Udall oversaw the creation of 4 national parks, 6 national monuments, 8 national seashores and lakeshores, 9 recreation areas, 20 historic sites, and 56 wildlife refuges; and

(8) it is fitting that the leadership and vision of Stewart L. Udall in the areas of environmental and Native American policy be jointly honored with that of Morris K. Udall through the foundation bearing the Udall name.

(Pub. L. 102–259, §3, Mar. 19, 1992, 106 Stat. 78; Pub. L. 111–90, §3, Nov. 3, 2009, 123 Stat. 2976; Pub. L. 116–94, div. P, title III, §302(b), Dec. 20, 2019, 133 Stat. 3187.)

AMENDMENTS

2019—Par. (5)(B). Pub. L. 116–94 substituted "the National Center (previously known as the United States Institute for Environmental Conflict Resolution)" for "the United States Institute for Environmental Conflict Resolution".

2009—Pars. (5) to (8). Pub. L. 111–90 added pars. (5) to (8).

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–90, §1, Nov. 3, 2009, 123 Stat. 2976, provided that: "This Act [amending this section, sections 5602, 5603, 5605 to 5607, 5607b, and 5608 of this title, and provisions set out as note under this section] may be cited as the 'Morris K. Udall Scholarship and Excellence in National Environmental Policy Amendments Act of 2009'."

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–160, §1, Dec. 6, 2003, 117 Stat. 2013, provided that: "This Act [amending section 5609 of this title] may be cited as the 'Environmental Policy and Conflict Resolution Advancement Act of 2003'."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–156, §1, Feb. 11, 1998, 112 Stat. 8, provided that: "This Act [enacting sections 5607a and 5607b of this title and amending sections 5602 to 5607, 5608, and 5609 of this title] may be cited as the 'Environmental Policy and Conflict Resolution Act of 1998'."

SHORT TITLE

Pub. L. 102–259, §1, Mar. 19, 1992, 106 Stat. 78, as amended by Pub. L. 111–90, §2, Nov. 3, 2009, 123 Stat. 2976, provided that: "This Act [enacting this chapter] may be cited as the 'Morris K. Udall and Stewart L. Udall Foundation Act'."

FINDINGS

Pub. L. 116–94, div. P, title III, §301, Dec. 20, 2019, 133 Stat. 3186, provided that: "Congress finds the following:

"(1) Since 1999, the Morris K. Udall and Stewart L. Udall Foundation (referred to in this Act [probably means "this title", title III of div. P of Pub. L. 116–94, which amended this section and sections 5602 to 5605 and 5607a to 5609 of this title and enacted provisions set out as a note under section 5605 of this title] as the 'Foundation') has operated the Parks in Focus program to provide opportunities for the youth of the United States to learn about and experience the Nation's parks and wilderness, and other outdoor areas.

"(2) Since 2001, the Foundation has conducted research and provided education and training to Native American and Alaska Native professionals and leaders on Native American and Alaska Native health care issues and tribal public policy through the Native Nations Institute for Leadership, Management, and Policy.

"(3) The Foundation is committed to continuing to make a substantial contribution toward public policy in the future by—

"(A) playing a significant role in developing the next generation of environmental, public health, public lands, natural resource, and Native American leaders; and

"(B) working with current leaders to improve collaboration and decision-making on challenging environmental, energy, public health, and related economic problems and tribal governance and economic development issues."

REPEAL OF PREVIOUS LEGISLATION

Pub. L. 102–259, §2, Mar. 19, 1992, 106 Stat. 78, provided that: "The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, One Hundred Second Congress, is hereby repealed." [For details concerning purported pocket veto of S. 1176, One Hundred Second Congress, see Weekly Compilation of Presidential Documents, vol. 28 (1992), no. 12, p. 507, Mar. 19, Presidential Statement, and Cong. Rec., vol. 138, pt. 3, p. 4078.]

§5602. Definitions

For the purposes of this chapter—

(1) the term "Board" means the Board of Trustees of the Foundation established under section 5603(b) of this title;

(2) the term "Center" means the Udall Center for Studies in Public Policy established in 1987 at the University of Arizona, and includes the Native Nations Institute;

(3) the term "collaboration" means to work in partnership with other entities for the purpose of—

(A) resolving disputes;

(B) addressing issues that may cause or result in disputes; or

(C) streamlining and enhancing Federal, State, or tribal environmental and natural resource decision-making processes or procedures that may result in a dispute or conflict;

(4) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(5) the term "environmental dispute" means a dispute or conflict relating to the environment, public lands, or natural resources;

(6) the term "Foundation" means the Morris K. Udall and Stewart L. Udall Foundation established under section 5603(a) of this title;

(7) the term "institution of higher education" has the same meaning given to such term by section 1001(a) of this title;

(8) the term "National Center" means the John S. McCain III National Center for Environmental Conflict Resolution established pursuant to section 5605(a)(1)(B) of this title;

(9) the term "Nation's parks and wilderness" means units of the National Park System and components of the National Wilderness Preservation System;

(10) the term "Native Nations Institute" means the Native Nations Institute for Leadership, Management, and Policy established at the University of Arizona in 2001;

(11) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified); and

(12) the term "Trust Fund" means the Morris K. Udall and Stewart L. Udall Trust Fund established in section 5606 of this title.

(Pub. L. 102–259, §4, Mar. 19, 1992, 106 Stat. 78; Pub. L. 105–156, §2, Feb. 11, 1998, 112 Stat. 8; Pub. L. 105–244, title I, §102(a)(6)(I), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 111–90, §4, Nov. 3, 2009, 123 Stat. 2977; Pub. L. 116–94, div. P, title III, §302(a), Dec. 20, 2019, 133 Stat. 3186.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in par. (11), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2019—Par. (2). Pub. L. 116–94, §302(a)(1), substituted "the Udall Center for Studies in Public Policy established in 1987 at the University of Arizona, and includes the Native Nations Institute" for "the Udall Center for Studies in Public Policy established at the University of Arizona in 1987".

Par. (3). Pub. L. 116–94, §302(a)(4), added par. (3). Former par. (3) redesignated (4).

Pars. (4), (5). Pub. L. 116–94, §302(a)(3), redesignated pars. (3) and (4) as (4) and (5), respectively.

Par. (6). Pub. L. 116–94, §302(a)(2), (3), redesignated par. (5) as (6) and struck out former par. (6) which defined the term "Institute".

Par. (7). Pub. L. 116–94, §302(a)(5), substituted "section 1001(a) of this title" for "section 1141(a) of this title".

Par. (8). Pub. L. 116–94, §302(a)(6), added par. (8). Former par. (8) redesignated (11).

Pars. (9), (10). Pub. L. 116–94, §302(a)(7), added pars. (9) and (10). Former par. (9) redesignated (12).

Pars. (11), (12). Pub. L. 116–94, §302(a)(3), redesignated pars. (8) and (9) as (11) and (12), respectively.

2009—Par. (1). Pub. L. 111–90, §4(1), struck out "Morris K. Udall Scholarship and Excellence in National Environmental Policy" before "Foundation".

Pars. (5), (9). Pub. L. 111–90, §4(2), (3), substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy".

1998—Pars. (4), (5). Pub. L. 105–156, §2(1), (2), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (9).

Par. (6). Pub. L. 105–244, which directed the substitution of "section 1001" for "section 1141(a)" in par. (6), could not be executed because "section 1141(a)" did not appear in text.

Pub. L. 105–156, §2(3), added par. (6). Former par. (6) redesignated (7).

Par. (7). Pub. L. 105–156, §2(1), (4), redesignated par. (6) as (7) and struck out "and" at end. Former par. (7) redesignated (8).

Par. (8). Pub. L. 105–156, §2(1), (5), redesignated par. (7) as (8) and substituted "; and" for period at end.

Par. (9). Pub. L. 105–156, §2(1), (6), redesignated par. (5) as (9) and substituted "'Trust Fund' " for "'fund' " and period for semicolon at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§5603. Establishment of Morris K. Udall and Stewart L. Udall Foundation

(a) Establishment

There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall and Stewart L. Udall Foundation.

(b) Board of Trustees

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of thirteen trustees, eleven of whom shall be voting members of the Board, as follows:

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.¹

(7) The chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.¹

(c) Term of office

(1) ² IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Trustees first taking offices—

(i) as designated by the President, one Trustee appointed pursuant to subsection (b)(2) and two trustees appointed pursuant to subsection (b)(3) shall each serve two years; and

(ii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1) and two Trustees appointed pursuant to subsection (b)(3) shall each serve four years; and

(iii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1), one Trustee appointed pursuant to subsection (b)(2), and one Trustee appointed pursuant to subsection (b)(3) shall each serve six years;

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made; and

(C) a Trustee may serve after the expiration of the Trustee's term until a successor has been chosen.

(d) Travel and subsistence pay

Trustees shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) Location of Foundation

The Foundation shall be located in Tucson, Arizona and the District of Columbia.

(f) Executive Director

(1) In general

There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this chapter as the Board shall prescribe.

(2) Compensation

The Executive Director of the Foundation shall be compensated at a rate determined by the Board in accordance with section 5383 of title 5.

(Pub. L. 102–259, §5, Mar. 19, 1992, 106 Stat. 79; Pub. L. 104–208, div. A, title I, §101(f) [title VI, §655], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369; Pub. L. 105–156, §3, Feb. 11, 1998, 112 Stat. 8; Pub. L. 111–90, §5, Nov. 3, 2009, 123 Stat. 2977; Pub. L. 116–94, div. P, title III, §303, Dec. 20, 2019, 133 Stat. 3187.)

AMENDMENTS

2019—Subsec. (e). Pub. L. 116–94 substituted "Arizona and the District of Columbia." for "Arizona."

2009—Pub. L. 111–90, §5(1), substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy" in section catchline.

Subsec. (a). Pub. L. 111–90, §5(2), substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy".

Subsec. (f)(2). Pub. L. 111–90, §5(3), substituted "a rate determined by the Board in accordance with section 5383 of title 5" for "the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5".

1998—Subsec. (b). Pub. L. 105–156, §3(1), substituted "thirteen" for "twelve" in introductory provisions.

Subsec. (b)(7). Pub. L. 105–156, §3(2), added par. (7).

1996—Subsec. (c)(1)(C). Pub. L. 104–208 added subpar. (C).

¹ *So in original. Probably should be capitalized.*

² *So in original. No par. (2) has been enacted.*

§5604. Purpose of Foundation

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a program for environmental policy research at the Center and a program for environmental conflict resolution and training at the National Center;

(5) develop resources to properly train professionals in the environmental, natural resource, conflict resolution, and related fields;

(6) provide educational outreach regarding environmental policy;

(7) develop resources at the Native Nations Institute to properly train Native American and Alaska Native professionals in health care and public policy, by providing education to and conducting management and leadership training of Native Americans, Alaska Natives, and others involved in tribal leadership, providing assistance and resources for policy analysis, and carrying out other appropriate activities.; ¹

(8) establish as part of the Foundation the John S. McCain III National Center for Environmental Conflict Resolution to assist the Federal Government in implementing section 4331 of title 42 by providing assessment, mediation, and other related services to resolve environmental issues, conflicts, and disputes involving agencies and instrumentalities of the United States; and

(9) complement the direction established by the President in Executive Order No. 12988 (61 Fed. Reg. 4729; relating to civil justice reform).

(Pub. L. 102–259, §6, Mar. 19, 1992, 106 Stat. 80; Pub. L. 105–156, §4, Feb. 11, 1998, 112 Stat. 9; Pub. L. 106–568, title VIII, §817(a), Dec. 27, 2000, 114 Stat. 2918; Pub. L. 116–94, div. P, title III, §304, Dec. 20, 2019, 133 Stat. 3187.)

REFERENCES IN TEXT

Executive Order No. 12988, referred to in par. (9), is set out as a note under section 519 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2019—Par. (4). Pub. L. 116–94, §304(1), substituted "establish a program for environmental policy research at the Center and a program for environmental conflict resolution and training at the National Center" for "establish a Program for Environmental Policy Research and Environmental Conflict Resolution and Training at the Center".

Par. (5). Pub. L. 116–94, §304(2), inserted ", natural resource, conflict resolution," after "environmental".

Par. (7). Pub. L. 116–94, §304(3), inserted "at the Native Nations Institute" after "develop resources" and "providing education to and" after "policy, by".

Par. (8). Pub. L. 116–94, §304(4), substituted "John S. McCain III National Center for Environmental Conflict Resolution" for "United States Institute for Environmental Conflict Resolution" and "resolve environmental issues, conflicts, and" for "resolve environmental".

2000—Par. (7). Pub. L. 106–568 inserted before semicolon at end ", by conducting management and leadership training of Native Americans, Alaska Natives, and others involved in tribal leadership, providing assistance and resources for policy analysis, and carrying out other appropriate activities."

1998—Par. (4). Pub. L. 105–156, §4(1), substituted "Environmental Conflict Resolution and Training" for "an Environmental Conflict Resolution".

Pars. (8), (9). Pub. L. 105–156, §4(2)–(4), added pars. (8) and (9).

¹ *So in original. The period probably should not appear.*

§5605. Authority of Foundation

(a) Authority of Foundation

(1) In general

(A) General programming authority

The Foundation is authorized to identify and conduct, directly or by contract, such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5604 of this title, which may include—

- (i) awarding scholarships, fellowships, internships, and grants, by national competition, to eligible individuals, as determined by the Foundation and in accordance with paragraphs (2), (3), and (4), for study in fields related to the environment or Native American and Alaska Native health care and tribal policy;
- (ii) funding the Center to carry out and manage other programs, activities, and services; and
- (iii) other education programs that the Board determines are consistent with the purposes for which the Foundation is established.

(B) John S. McCain III National Center for Environmental Conflict Resolution

(i) In general

The Foundation shall—

(I) establish the John S. McCain III National Center for Environmental Conflict Resolution as part of the Foundation; and

(II) identify and conduct such programs, activities, and services as the Foundation determines appropriate to permit the Foundation to provide assessment, mediation, collaboration, training, and other related services to resolve—

(aa) environmental disputes; and

(bb) Federal, State, or tribal environmental or natural resource decision-making processes or procedures that may result in a dispute or conflict that may cause or result in disputes.

(ii) Geographic proximity of conflict resolution provision

In providing assessment, mediation, collaboration, training, and other related services under clause (i)(II) to resolve environmental disputes, the Foundation shall consider, to the maximum extent practicable, conflict resolution providers within the geographic proximity of the conflict.

(2) Scholarships

(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this chapter may receive payments under this chapter only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) Fellowships

Fellowships shall be awarded to—

- (A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and
- (B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) Internships

Internships shall be awarded to—

- (A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 5604 of this title; and
- (B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5604 of this title.

(5) Parks in focus

The Foundation shall—

- (A) identify and invite the participation of youth throughout the United States to enjoy the Nation's parks and wilderness and other outdoor areas, in an education program intended to carry out the purpose of paragraphs (1) and (2) of section 5604 of this title; and
- (B) provide training and education programs and activities to teach Federal employees, natural resource professionals, elementary and secondary school educators, and others to work with youth to promote the use and enjoyment of the Nation's parks and wilderness and other outdoor areas.

(6) Specific programs

The Foundation shall assist in the development and implementation of programs at the Center—

- (A) to provide for an annual meeting of experts to discuss contemporary environmental issues;
- (B) to conduct environmental policy research; and
- (C) to promote dialogue with visiting policymakers on environmental, natural resource, and public lands issues.

(7) Repository

The Foundation shall provide direct or indirect assistance from the proceeds of the Trust Fund to the Center to maintain the current site of the repository for the papers of Morris K. Udall and Stewart L. Udall and other such public papers as may be appropriate and assure such papers' availability to the public.

(8) Coordination

The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution and Training to be located at the Center.

(9) Native Nations Institute

The Foundation shall provide direct or indirect assistance to the Native Nations Institute from the annual appropriations to the Trust Fund in such amounts as Congress may direct to conduct research and provide education and training to Native American and Alaska Native professionals and leaders on Native American and Alaska Native health care issues and tribal public policy issues as provided in section 5604(7) of this title.

(b) Udall Scholars

Recipients of scholarships, fellowships, and internships under this chapter shall be known as "Udall Scholars", "Udall Fellows", and "Udall Interns", respectively.

(c) Program priorities

(1) In general

The Foundation shall determine the priority of the programs to be carried out under this chapter and the amount of funds to be allocated for such programs from the funds earned annually from the interest derived from the investment of the Trust Fund, subject to paragraph (2).

(2) Limitations

In determining the amount of funds to be allocated for programs carried out under this chapter for a year—

(A) not less than 50 percent of such annual interest earnings shall be utilized for the programs set forth in paragraphs (2), (3), (4), and (5) of subsection (a);

(B) not more than 17.5 percent of such annual interest earnings shall be allocated for salaries and other administrative purposes; and

(C) not less than 20 percent of such annual interest earnings shall be appropriated to the Center for activities under paragraphs (7) and (8) of subsection (a).

(d) Donations

Any funds received by the Foundation in the form of donations or grants, as well as any unexpended earnings on interest from the Trust Fund that is carried forward from prior years—

(1) shall not be included in the calculation of the funds available for allocations pursuant to subsection (c); and

(2) shall be available to carry out the provisions of this chapter as the Board determines to be necessary and appropriate.

(Pub. L. 102–259, §7, Mar. 19, 1992, 106 Stat. 81; Pub. L. 105–156, §§5, 9(b), Feb. 11, 1998, 112 Stat. 9, 12; Pub. L. 111–90, §6, Nov. 3, 2009, 123 Stat. 2977; Pub. L. 116–94, div. P, title III, §305, Dec. 20, 2019, 133 Stat. 3188.)

AMENDMENTS

2019—Subsec. (a)(1)(A). Pub. L. 116–94, §305(1)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: "The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5604 of this title. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services."

Subsec. (a)(1)(B). Pub. L. 116–94, §305(1)(A)(i)–(iii)(I), redesignated subpar. (D) as (B), substituted "John S. McCain III National Center for Environmental Conflict Resolution" for "Institute for Environmental Conflict Resolution" in heading, and struck out former subpar. (B) which read as follows: "The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships, and grants awarded under this chapter."

Subsec. (a)(1)(B)(i)(I). Pub. L. 116–94, §305(1)(A)(iii)(II)(aa), substituted "John S. McCain III National Center for Environmental Conflict Resolution" for "United States Institute for Environmental Conflict Resolution".

Subsec. (a)(1)(B)(i)(II). Pub. L. 116–94, §305(1)(A)(iii)(II)(bb), inserted "collaboration," after "mediation," substituted "to resolve—" for "to resolve environmental disputes.", and added items (aa) and (bb).

Subsec. (a)(1)(B)(ii). Pub. L. 116–94, §305(1)(A)(iii)(III), inserted "collaboration," after "mediation,".

Subsec. (a)(1)(C). Pub. L. 116–94, §305(1)(A)(i), struck out subpar. (C) which read as follows: "The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this chapter for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation."

Subsec. (a)(1)(D). Pub. L. 116–94, §305(1)(A)(ii), redesignated subpar. (D) as (B).

Subsec. (a)(5), (6). Pub. L. 116–94, §305(1)(B), (D), added pars. (5) and (6) and struck out former par. (5) which related to awarding of grants for various purposes. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 116–94, §305(1)(C), (E), redesignated par. (6) as (7) and substituted "the papers of Morris K. Udall and Stewart L. Udall" for "Morris K. Udall's papers". Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 116–94, §305(1)(C), redesignated par. (7) as (8).

Subsec. (a)(9). Pub. L. 116–94, §305(1)(F), added par. (9).

Subsec. (c). Pub. L. 116–94, §305(2), added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: "The Foundation shall determine the priority of the programs to be carried out under this chapter and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 5604(a)(2) of this title, section 5604(a)(3) of this title, and section 5604(a)(4) of this title, not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 5604(a)(5) of this title, section 5604(a)(6) of this title, and section 5604(a)(7) of this title conditioned on a 25-percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center."

Subsec. (d). Pub. L. 116–94, §305(3), added subsec. (d).

2009—Subsec. (a)(5)(E). Pub. L. 111–90, §6(1), added subpar. (E).

Subsec. (b). Pub. L. 111–90, §6(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text read as follows: "Recipients of scholarships, fellowships, internships, and grants under this chapter shall be known as 'Morris K. Udall Scholars'."

1998—Subsec. (a)(1)(D). Pub. L. 105–156, §5(1), added subpar. (D).

Subsec. (a)(6). Pub. L. 105–156, §9(b), substituted "Trust Fund" for "Fund".

Subsec. (a)(7). Pub. L. 105–156, §5(2), inserted "and Training" after "Conflict Resolution".

REFERENCES TO UNITED STATES INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION

Pub. L. 116–94, div. P, title III, §302(c), Dec. 20, 2019, 133 Stat. 3187, provided that: "Any reference to the United States Institute for Environmental Conflict Resolution in any Federal law, Executive Order, rule, delegation of authority, or document shall be construed to refer to the John S. McCain III National Center for Environmental Conflict Resolution established under section 7(a)(1)(B) of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5605(a)(1)(B))."

§5606. Establishment of Morris K. Udall and Stewart L. Udall Trust Fund

(a) Establishment of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall and Stewart L. Udall Trust Fund" to be administered by a Foundation. The Trust Fund shall consist of amounts appropriated to it pursuant to section 5609(a) of this title and amounts credited to it under subsection (b).

(b) Investment of Trust Fund assets

(1) ¹ IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Trust Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the Trust Fund. Investments in public debt securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States" of comparable maturity.

(Pub. L. 102–259, §8, Mar. 19, 1992, 106 Stat. 82; Pub. L. 105–156, §9, Feb. 11, 1998, 112 Stat. 12; Pub. L. 111–90, §7, Nov. 3, 2009, 123 Stat. 2978.)

AMENDMENTS

2009—Pub. L. 111–90 substituted "and Stewart L. Udall" for "Scholarship and Excellence in National Environmental Policy" in section catchline and in subsec. (a).

1998—Subsec. (a). Pub. L. 105–156, §9(a), substituted "The Trust Fund" for "The fund" and "5609(a)" for "5609".

Subsec. (b). Pub. L. 105–156, §9(b), substituted "Trust Fund" for "Fund" in two places.

¹ So in original. No par. (2) has been enacted.

§5607. Expenditures and audit of Trust Fund

(a) In general

The Foundation shall pay from the interest and earnings of the Trust Fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter, including a reasonable amount for official reception and representation expenses, as determined by the Board, not to exceed \$5,000 for a fiscal year.

(b) Audit by Government Accountability Office

The activities of the Foundation and the Center under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the Government Accountability Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

(Pub. L. 102–259, §9, Mar. 19, 1992, 106 Stat. 83; Pub. L. 105–156, §9(b), Feb. 11, 1998, 112 Stat. 12; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 111–90, §8, Nov. 3, 2009, 123 Stat. 2978.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–90 inserted before period at end ", including a reasonable amount for official reception and representation expenses, as determined by the Board, not to exceed \$5,000 for a fiscal year".

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" in heading and in two places in text.

1998—Subsec. (a). Pub. L. 105–156 substituted "Trust Fund" for "Fund".

§5607a. Environmental Dispute Resolution Fund

(a) Establishment

There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 5609(b) of this title and amounts paid into the Fund under section 5607b of this title.

(b) Expenditures

The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the National Center, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary, including not to exceed \$1,000 annually for official reception and representation expenses.

(c) Distinction from Trust Fund

The Fund shall be maintained separately from the Trust Fund established under section 5606 of this title.

(d) Investment of amounts

(1) In general

The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(2) Interest-bearing obligations

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

(3) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

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

(B) by purchase of outstanding obligations at the market price.

(4) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(Pub. L. 102–259, §10, as added Pub. L. 105–156, §6(b), Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105–277, div. A, §101(h) [title V, §517(c)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512; Pub. L. 116–94, div. P, title III, §306, Dec. 20, 2019, 133 Stat. 3190.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 102–259 was renumbered section 12 and is classified to section 5608 of this title.

AMENDMENTS

2019—Subsec. (b). Pub. L. 116–94 substituted "National Center" for "Institute".

1998—Subsec. (b). Pub. L. 105–277 inserted before period at end ", including not to exceed \$1,000 annually for official reception and representation expenses".

§5607b. Use of the National Center by Federal agency or other entity

(a) Authorization

A Federal agency may use the Foundation and the National Center to provide assessment, mediation, collaboration, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources, or with a Federal, State, or tribal process or procedure that may result in a dispute or conflict.

(b) Payment

(1) In general

A Federal agency may enter into a contract and expend funds to obtain the services of the National Center.

(2) Payment into Environmental Dispute Resolution Fund

A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(c) Notification and concurrence

(1) Notification

An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the National Center to provide the services described in subsection (a).

(2) Notification descriptions

In a matter involving two or more agencies or instrumentalities of the Federal Government, notification under paragraph (1) shall include a written description of—

- (A) the issues and parties involved;
- (B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues;
- (C) all Federal agencies or instrumentalities with a direct interest or involvement in the matter and a statement that all Federal agencies or instrumentalities agree to mediation, collaboration, and dispute resolution; and
- (D) other relevant information.

(3) Concurrence

(A) In general

In a matter that involves two or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), the agencies or instrumentalities of the Federal Government shall obtain the concurrence of the chairperson of the

President's Council on Environmental Quality before using the Foundation or National Center to provide the services described in subsection (a).

(B) Indication of concurrence or nonconcurrence

The chairperson of the President's Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice under paragraph (2).

(d) Exceptions

(1) Legal issues and enforcement

(A) In general

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) that concern purely legal issues or matters, interpretation or determination of law, or enforcement of law by one agency against another agency shall not be submitted to the Foundation or National Center.

(B) Applicability

Subparagraph (A) does not apply to a dispute or conflict concerning—

- (i) agency implementation of a program or project;
- (ii) a matter involving two or more agencies with parallel authority requiring facilitation and coordination of the various Government agencies; or
- (iii) a nonlegal policy or decisionmaking matter that involves two or more agencies that are jointly operating a project.

(2) Other mandated mechanisms or avenues

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) for which Congress by law has mandated another dispute resolution mechanism or avenue to address or resolve shall not be submitted to the Foundation or National Center.

(e) Non-Federal entities

(1) Non-Federal entities, including state ¹ and local governments, Native American tribal governments, nongovernmental organizations and persons, as defined in section 1 of title 1, may use the Foundation and the National Center to provide assessment, mediation, or other related services in connection with a dispute or conflict involving the Federal government ¹ related to the environment, public lands, or natural resources.

(2) PAYMENT INTO THE ENVIRONMENTAL DISPUTE RESOLUTION FUND.—Entities utilizing services pursuant to this subsection shall reimburse the National Center for the costs of services provided. Such amounts shall be deposited into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(f) Agency management or control

Use of the Foundation or National Center to provide independent and impartial assessment, mediation, or other dispute or conflict resolution under this section shall not be considered to be the establishment or use of an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(Pub. L. 102–259, §11, as added Pub. L. 105–156, §7, Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105–277, div. A, §101(h) [title V, §517(a)], Oct. 21, 1998, 112 Stat. 2681–480, 2681-512; Pub. L. 111–90, §9, Nov. 3, 2009, 123 Stat. 2978; Pub. L. 116–94, div. P, title III, §307, Dec. 20, 2019, 133 Stat. 3190.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 11 of Pub. L. 102–259 was renumbered section 13 and is classified to section 5609 of this title.

AMENDMENTS

2019—Pub. L. 116–94, §307(1), substituted "the National Center" for "the Institute" in section catchline.

Subsec. (a). Pub. L. 116–94, §307(2), substituted "National Center" for "Institute" and "resources, or with a Federal, State, or tribal process or procedure that may result in a dispute or conflict." for "resources." and inserted "collaboration," after "mediation,".

Subsec. (b)(1). Pub. L. 116–94, §307(3), substituted "National Center" for "Institute".

Subsec. (c)(1). Pub. L. 116–94, §307(4)(A), substituted "National Center" for "Institute".

Subsec. (c)(2)(C). Pub. L. 116–94, §307(4)(B), inserted "mediation, collaboration, and" after "agree to".

Subsec. (c)(3)(A). Pub. L. 116–94, §307(4)(C), substituted "National Center" for "Institute".

Subsec. (d)(1)(A), (2). Pub. L. 116–94, §307(5), substituted "National Center" for "Institute".

Subsec. (e). Pub. L. 116–94, §307(6), substituted "National Center" for "Institute" in pars. (1) and (2).

Subsec. (f). Pub. L. 116–94, §307(7), substituted "National Center" for "Institute".

2009—Subsec. (f). Pub. L. 111–90 added subsec. (f).

1998—Pub. L. 105–277, §101(h) [title V, §517(a)(1)], inserted "or other entity" after "Federal agency" in section catchline.

Subsec. (e). Pub. L. 105–277, §101(h) [title V, §517(a)(2)], added subsec. (e).

¹ *So in original. Probably should be capitalized.*

§5608. Administrative provisions

(a) In general

In order to carry out the provisions of this chapter, the Foundation may—

(1)(A) appoint such personnel as may be necessary to carry out the provisions of this chapter, without regard to the provisions of title 5 governing appointments in the competitive service; and

(B) fix the compensation of the personnel appointed under subparagraph (A) at a rate not to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, except that up to 4 employees (in addition to the Executive Director under section 5603(f)(2) of this title) may be paid at a rate determined by the Board in accordance with section 5383 of title 5.

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, solicit, administer, and utilize donations, grants, and gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 6101 of title 41;

(7) to ¹rent office space in the District of Columbia and Tucson, Arizona, or their environs; and

(8) make other necessary expenditures.

(b) The Institute

The authorities set forth above shall apply to the National Center established pursuant to section 5607a of this title and to the activities of the Foundation under section 5604(7) of this title.

(Pub. L. 102–259, §12, formerly §10, Mar. 19, 1992, 106 Stat. 83; renumbered §12, Pub. L. 105–156, §6(a), Feb. 11, 1998, 112 Stat. 9; amended Pub. L. 105–277, div. A, §101(h) [title V, §517(b)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512; Pub. L. 106–568, title VIII, §817(b), Dec. 27, 2000, 114 Stat. 2918;

Pub. L. 111–90, §10, Nov. 3, 2009, 123 Stat. 2978; Pub. L. 116–94, div. P, title III, §308, Dec. 20, 2019, 133 Stat. 3190.)

CODIFICATION

In subsec. (a)(6), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes (41 U.S.C. 5)" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2019—Subsec. (a)(4). Pub. L. 116–94, §308(1)(A), substituted "accept, hold, solicit, administer, and utilize donations, grants, and gifts" for "accept, hold, administer, and utilize gifts".

Subsec. (a)(7). Pub. L. 116–94, §308(1)(B), substituted "in the District of Columbia and Tucson, Arizona, or their environs" for "in the District of Columbia or its environs".

Subsec. (b). Pub. L. 116–94, §308(2), substituted "apply to the National Center" for ", with the exception of paragraph (4), apply to the Institute".

2009—Subsec. (a)(1). Pub. L. 111–90, §10(1), added par. (1) and struck out former par. (1) which read as follows: "appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5;"

Subsec. (a)(7), (8). Pub. L. 111–90, §10(2)–(4), added par. (7) and redesignated former par. (7) as (8).

2000—Subsec. (b). Pub. L. 106–568 inserted before period at end "and to the activities of the Foundation under section 5604(7) of this title".

1998—Pub. L. 105–277 designated existing provisions as subsec. (a) and added subsec. (b).

¹ *So in original. The word "to" probably should not appear.*

§5609. Authorization of appropriations

(a) Trust Fund

There is authorized to be appropriated to the Trust Fund \$2,000,000 for each of fiscal years 2020 through 2023 to carry out the provisions of this chapter.

(b) Environmental Dispute Resolution Fund

There is authorized to be appropriated to the Environmental Dispute Resolution Fund established by section 5607a of this title \$4,000,000 for each of fiscal years 2020 through 2023, of which—

(1) \$3,000,000 shall be used to pay operations costs (including not more than \$1,000 for official reception and representation expenses); and

(2) \$1,000,000 shall be used for grants or other appropriate arrangements to pay the costs of services provided in a neutral manner relating to, and to support the participation of non-Federal entities (such as State and local governments, tribal governments, nongovernmental organizations, and individuals) in, environmental conflict resolution proceedings involving Federal agencies.

(c) Training of professionals in health care and public policy

There is authorized to be appropriated to carry out section 5604(7) of this title \$12,300,000 for the 5-fiscal year period beginning with the fiscal year in which this subsection is enacted.

(Pub. L. 102–259, §13, formerly §11, Mar. 19, 1992, 106 Stat. 84; renumbered §13 and amended Pub. L. 105–156, §§6(a), 8, Feb. 11, 1998, 112 Stat. 9, 12; Pub. L. 106–568, title VIII, §817(c), Dec. 27, 2000, 114 Stat. 2918; Pub. L. 108–160, §2, Dec. 6, 2003, 117 Stat. 2013; Pub. L. 116–94, div. P, title III, §309, Dec. 20, 2019, 133 Stat. 3191.)

REFERENCES IN TEXT

This subsection, referred to in subsec. (c), was enacted by Pub. L. 106–568, which was approved Dec. 27, 2000.

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–94, §309(1), substituted "\$2,000,000 for each of fiscal years 2020 through 2023" for "\$40,000,000".

Subsec. (b). Pub. L. 116–94, §309(2), substituted "fiscal years 2020 through 2023" for "fiscal years 2004 through 2008".

2003—Subsec. (b). Pub. L. 108–160 added subsec. (b) and struck out former subsec. (b) which read as follows:

"There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 5607a of this title—

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

"(A) \$3,000,000 shall be for capitalization; and

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

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

2000—Subsec. (c). Pub. L. 106–568 added subsec. (c).

1998—Pub. L. 105–156, §8, designated existing provisions as subsec. (a), inserted heading, substituted "There is authorized to be appropriated to the Trust Fund" for "There are authorized to be appropriated to the Fund", and added subsec. (b).