

Testimony  
of  
Eric D. Eberhard, Chair  
Board of Trustees  
Morris K. Udall and Stewart L. Udall Foundation  
Before the Subcommittee for Indigenous Peoples of the United States  
of the  
House Committee on Natural Resources  
on  
H.R. 2414, to Amend the Morris K. Udall and Stewart L. Udall Foundation Act  
July 16, 2019

Chairman Gallego, Ranking Member Cook, and Members of the Subcommittee for Indigenous Peoples of the United States, on behalf of the Board of Trustees and the staff of the Udall Foundation, I want to extend our gratitude to you and the staff of the Subcommittee for scheduling this hearing on H.R. 2414 today. I also want to extend our gratitude to Chairman Grijalva and Representatives Cole, Gallego, Kirkpatrick, Haaland, and O'Halleran for sponsoring H.R. 2414. We are also grateful to Senators Heinrich, Alexander, Sinema, and McSally for sponsoring S. 1345, which is the Senate companion bill to H.R. 2414. S. 1345 was marked up in the Senate Committee on Environment and Public Works on June 19<sup>th</sup> and reported to the Senate with the recommendation that it be passed.

**Overview of the Enabling Legislation**

The Morris K. Udall Foundation (Udall Foundation) was established by the U.S. Congress in 1992 as an independent executive branch agency to honor Morris K. Udall's lasting impact on this Nation's environment, public lands, and natural resources, and his support of the rights and self-governance of Native Americans and Alaska Natives (P.L. 102-259).

The Udall Foundation is governed by a Board of Trustees comprised of 13 members, nine of whom are appointed by the President with the advice and consent of the Senate. The other four are designated by law and include the Chair of the Council on Environmental Quality, the President of the University of Arizona, and the Secretaries of the Department of the Interior and the Department of Education or their designees.

The 1998 Environmental Policy and Conflict Resolution Act (P.L. 105-156) created the U.S. Institute for Environmental Conflict Resolution as a program of the Udall Foundation to assist parties in resolving environmental, public lands, and natural resources conflicts nationwide that involve Federal agencies or interests. In 2000, Congress authorized the Udall Foundation to conduct management and leadership education and provide assistance and resources for policy analysis for Native American and Alaska Native leaders (P.L. 106-568). In 2009, Congress enacted legislation to honor Stewart L. Udall and add his name to the Udall Foundation (P.L. 111-90). The agency is now known as the Morris K. Udall and Stewart L. Udall Foundation. The Udall Foundation's enabling legislation is codified at 20 U.S.C. 5601-5609. The Udall Foundation is located in Tucson, Arizona, and Washington, D.C.

As the enabling legislation was amended over the years, it became internally inconsistent and contains provisions that are unclear or duplicate authority found elsewhere in it. In addition, some of the assumptions that guided the development of the original legislation in 1992 proved to be untrue. For example, it was assumed that the University of Arizona would provide free office space for the Udall Foundation. The reality is that the Udall Foundation has always had to pay rent for office space wherever it has been housed.

H.R. 2414 updates and streamlines the original enabling legislation as it has been amended so that it is internally consistent, the authority of the Udall Foundation is defined more clearly, and any duplication of authority is eliminated. The bill does this in part by amending the language of the statute to accurately reflect the work the Udall Foundation has undertaken in three areas:

First, through the Stewart L. Udall Parks-in-Focus® program (Parks in Focus) to carry out one of the original purposes of the Udall Foundation to provide the Nation's youth with opportunities to learn about and experience the Nation's parks, wilderness, and other outdoor areas.

Second, to carry out the amendments enacted in 1998 to establish the U.S. Institute for Environmental Conflict Resolution. Those amendments were sponsored by the late Senator John McCain. He was also a sponsor of the original legislation in 1992. H.R. 2414 would recognize Senator McCain's leadership in shaping the role and work of the Udall Foundation by adding his name to the U.S. Institute.

Third, to carry out the amendment enacted in 2001 to conduct research and provide education and training to Native American and Alaska Native professionals and leaders through the Native Nations Institute for Leadership, Management, and Policy (NNI) at the Udall Center for Studies in Public Policy (Udall Center) at the University of Arizona.

Other provisions of H.R. 2414 would:

- Amend the definition of the Udall Center for Studies in Public Policy to include NNI as part of the Center and to add a new definition for the term “collaboration” to describe more accurately the work undertaken by the U.S. Institute for Environmental Conflict Resolution, consistent with the original goal of reducing, and where possible eliminating, the need for costly litigation that would otherwise result from environmental, public lands, and natural resources conflicts that involve the Federal Government.
- Clarify that the 2009 amendments authorized the Udall Foundation to maintain offices in Arizona and Washington, D.C., and to lease offices in both locations.
- Eliminate the duplication of authority in the provisions relating to the Udall Center and the U.S. Institute for Environmental Conflict Resolution.
- Clarify that the term “resource” refers to natural resources and to more accurately characterize the work of the U.S. Institute for Environmental Conflict Resolution.
- Clarify the authority of the Udall Center and the Udall Foundation to carry out education programs consistent with the purposes for which the Udall Foundation was established, including the Parks in Focus® program, to provide such assistance to NNI as Congress may direct from time to time, and otherwise make the language of the statute internally consistent.
- Authorize the Udall Foundation to utilize up to 17.5% of the annual interest earnings on the Education Trust Fund for salaries and administrative purposes. This change reflects the fact that when Congress originally enacted the enabling legislation and limited these expenses to 15% of the annual interest earnings the underlying assumptions were that the Udall Foundation would not have to rent office space and that the Trust Fund would generate interest earnings at or near the rate of 8% annually. Neither assumption proved to be correct. The Udall Foundation is required to pay rent on its office space every year and within two years of the enactment of the statute in 1992 the rate of interest earned on Federal securities declined from about 8% to about 3% today and was below 3% for many years following the recession in 2008. Both factors have negatively impacted the availability of adequate funds to cover the actual costs of administration of the education programs. The increase in the limitation on administrative costs does not require an increase in appropriations or affect the rate of the annual interest earned on the Trust Fund. It only adjusts the cap on administrative costs to reflect the real cost of the administration of the education programs.

- Clarify the authority of the Udall Foundation to solicit and accept donations and grants for all programs.
- Clarify that collaboration is a necessary part of environmental dispute resolution and that the work of the U.S. Institute for Environmental Conflict Resolution includes engagement in disputes involving conflicts over Federal processes and procedures that lead to the litigation of environmental disputes.
- Extend the authorization of appropriations to FY 2023 and provide for an audit of the Udall Foundation by the Inspector General of the Department of the Interior within two years of the enactment of H.R. 2414.

I am attaching our detailed section-by-section summary of H.R. 2414 to this testimony for the use of the Subcommittee as you may deem appropriate.

### **Overview of the Udall Foundation's Programs**

The Udall Foundation accomplishes its mission through four programs:

1. *Education Programs*, including Native American Congressional Internships, which award internships annually to deserving and qualified Native American and Alaska Native undergraduate, graduate students in order to provide them with practical experience with the Federal legislative process; Native American Fellowships, which award fellowships 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 Udall Undergraduate Scholarships, which award scholarships annually to outstanding students who intend to pursue careers related to the environment, Tribal public policy, or Native American health care.

The Udall Foundation has awarded \$8.44 million in scholarships to 1,623 undergraduate students. The recipients have been from 363 colleges and universities in all 50 states, the District of Columbia, Guam, Puerto Rico, and 73 different Tribal Nations. We have provided funding to 266 Native American Interns from 120 Tribal Nations, 97 colleges and universities, and they have served in 63 participating Congressional and Executive Branch agency offices.

2. *Parks in Focus®*, which fosters greater understanding, appreciation, stewardship, and enjoyment of the Nation's public lands and natural resources by connecting youth from underserved communities to nature through photography, positive outdoor experiences, and environmental education.

Parks in Focus® has served 4,361 participants and provided them with 8,900 hours of activities in 10 states and 40 National Parks, Monuments, Refuges,

Wilderness Areas, and Public Lands.

3. *Udall Center for Studies in Public Policy (Udall Center)*, a unit of the University of Arizona under the Senior Vice President for Research, Discovery, and Innovation, which supports policy-relevant, interdisciplinary research, science-policy dialogues, and other endeavors that link scholarship and education with decision-making, particularly in the areas of water security and management, climate change adaptation and planning, and ecosystem services valuation and protection, primarily in the Southwest and U.S.-Mexico border region.

On average, the Udall Center leverages \$3.61 in external funding for research for every \$1.00 in Udall Foundation funding. Between 2010 and 2017, the *Udall Center* produced 251 publications and made 544 public presentations on environmental policy research.

*The Native Nations Institute for Leadership, Management, and Policy (NNI)*, a program of the Udall Center for Studies in Public Policy at the University of Arizona, which is a self-determination, governance, and development resource for Native Nations. NNI's programs of policy analysis and research, education, digital resources, and Tribal services are grounded in its research findings called Native Nation Building. The Udall Foundation and the University of Arizona cofounded NNI, building on the research programs of the Harvard Project on American Indian Economic Development and extending the legacy of Morris K. Udall and Stewart L. Udall.

NNI has provided nation-building services to individuals and groups representing 53% of Federally Recognized Tribes in 29 states in the lower 48 states as well as to several Native entities in Alaska. For every \$1 million provided to NNI by the Udall Foundation, NNI raises an average of \$616,000 in other funding for its work. About 430 Indian and Native leaders participated in NNI's Indigenous Governance programs between 2013 and 2019. Since 2014, NNI's Indigenous Governance database has had 70,160 visitors, and they have reviewed about 225,000 pages of material.

4. *The U.S. Institute for Environmental Conflict Resolution (U.S. Institute)*, which provides impartial collaboration, consensus-building, and conflict resolution services on a wide range of environmental, natural and cultural resources, Tribal, and public lands issues involving the Federal Government. The U.S. Institute's range of services includes consultations, assessments, process design, convening, mediation, facilitation, training, stakeholder engagement, Tribal consultation, and other related collaboration and conflict resolution activities authorized by the Udall Foundation's enabling legislation.

The U.S. Institute has been involved in about 650 cases and consultations and provided about 150 training programs since 1999. It has generated about \$59 million in earned revenue, of which about \$44 million was outsourced to

private sector environmental conflict resolution professionals. In a typical year, the U.S. Institute assists about 30 other Federal agencies in the resolution of environmental disputes. It has worked in all 50 states and the District of Columbia, Puerto Rico, and Guam.

I am attaching a Fact Sheet prepared by the Udall Foundation to provide the Subcommittee and the public with more information on our programs, services, and annual funding. For a state-by-state overview of the work of the Udall Foundation, please visit the interactive map found at: <https://udall.gov/AboutUs/InfoByState.aspx>

## **Conclusion**

We thank the Subcommittee and the sponsors of H.R. 2414 for your time and interest in the Morris K. Udall and Stewart L. Udall Foundation and your support of the work Congress has directed us to do. We are available to provide information or to respond to questions at any time. We look forward to continuing to work with the Subcommittee and the Congress in the months and years ahead.

I'll be happy to respond to any questions you may have.

**H.R. 2414 and S. 1345 - To Amend and Reauthorize the Morris K. Udall and Stewart L. Udall Foundation Act**  
**Section-by-Section Summary**

**Section 1. Findings.**

Amends Section 3 of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5601) to include references to the Parks in Focus program and the Native Nations Institute for Leadership, Management, and Policy (NNI).

**Section 2. Definitions.**

Amends Section 4 of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5602) to:

- Include NNI in the definition of the Udall Center and to make NNI a defined term.
- Add a definition for the term “collaboration” consistent with the guidance issued by OMB and CEQ in 2005 and 2012.
- Change the “United States Institute for Environmental Conflict Resolution” to the “John S. McCain III United States Institute for Environmental Conflict Resolution”.
- Add a definition of “National Parks and wilderness.”

**Section 3. Establishment of Morris K. Udall and Stewart L. Udall Foundation.**

Amends Section 5(e) of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5603(e)) to conform it to the 2009 amendments by including both Tucson, Arizona and Washington, D.C. as the locations for the Foundation.

**Section 4. Purpose of Foundation.**

Amends Section 6 of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5604) to:

- Conform paragraph (4) to the 1998 amendments and eliminate any duplication of authority between the Udall Center and the John S. McCain III U.S. Institute for Environmental Conflict Resolution regarding research, environmental conflict resolution and training.
- Revise paragraph (5) to include training related to natural resources and conflict resolution, in conformity with the 1998 amendments.
- Revise paragraph (7) to identify the Native Nations Institute and to include the term "education" in conformity with the 2000 amendments.
- Revise paragraph (8) to include the terms "issues" and "conflicts" in conformity with the 1998 amendments.

**Section 5. Authority of Foundation.**

Amends Section 7 of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5605) to:

- Clarify the authority of the Foundation to conduct education programs including the award of scholarships, fellowships, internships, Parks-in-Focus, and NNI.
- Correct all cross references to section 5604.
- Clarify the authority of the Board of Trustees to approve education programs consistent with the purposes for which the Foundation was established.
- Include a reference to "collaboration" and "Federal, state or tribal environmental or natural resource decision-making processes or procedures that may result in a dispute or conflict."
- Clarify the authority of the Foundation to assist in the development of programs at the Udall Center in conformity with the 1998 amendments.
- Clarify the authority of the Foundation with respect to the papers of Stewart L. Udall in conformity with the 2009 amendments. Provide authority for the Foundation to assist NNI directly or indirectly as Congress may direct from time to time.
- Clarify that the funds Education Trust Funds to be allocated annually are derived solely from the annual interest earnings and do not include funds from grants, donated funds or interest earnings carried over from prior years and to raise the allocation for administrative expenses from 15% to 17.5%; and to repeal the provisions relating to office space and third party matching funds for the allocation to the Udall Center.

**Section 6. Use of Institute by Federal agency or other entity.**

Amends Section 11 of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5607b) to:

- Include the term "collaboration" where appropriate.
- Add "or with a Federal, state, or tribal process or procedure that may result in a dispute or conflict."

**Section 7. Administrative provisions.**

Amends Section 12 of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5608) to:

- Revise paragraph (a)(4) to clarify the authority of the Foundation to solicit and accept donations, grants and gifts.
  - Revise paragraph (a)(7) to clarify the authority of the Foundation rent office space in Tucson, Arizona.
- Revise paragraph (b) to clarify the authority of the Foundation to solicit and accept donations, grants and gifts for the U.S. Institute.

- **Section 8. Authorization of appropriations.**

Amends Section 13(b) of the Morris K. Udall and Stewart L. Udall Foundation Act (20 U.S.C. 5609(b)) to strike "fiscal years 2004 through 2008" and insert "fiscal years 2020 through 2023".

**Section 9. Audit of the Foundation.**

Requires the Inspector General of the Department of the Interior to conduct an audit of the Foundation not later than 2 years after the date of enactment of the amendments and reauthorization.



## ABOUT US

The Udall Foundation was established by Congress in 1992 as an independent executive branch agency to honor Morris K. Udall's lasting impact on this Nation's environment, public lands, and natural resources, and his support of the rights and self-governance of Native Americans and Alaska Natives. In 2009, Congress enacted legislation to honor Stewart L. Udall and add his name to the Udall Foundation.

## FUNDING

FY 2019 – \$5.075 million		FY 2020 Requested – \$5 million	
<b>Trust Fund</b> \$1.875 million	<b>Environmental Dispute Resolution Fund</b> \$3.2 million	<b>Trust Fund</b> \$1.8 million	<b>Environmental Dispute Resolution Fund</b> \$3.2 million

## PROGRAMS

### UNDERGRADUATE SCHOLARSHIP

Since 1996, the Udall Foundation has awarded scholarships to college sophomores and juniors for leadership, public service, and commitment to issues related to Native Nations or to the environment. Each August, the 50 newly selected scholars convene in Tucson, Arizona, for a four-day networking and skills-building conference called the Udall Scholar Orientation.

<https://www.udall.gov/OurPrograms/Scholarship/Scholarship.aspx>

Impact:

- 1,623 Scholars
- 363 Colleges and Universities
- Representing all 50 States, plus the District of Columbia, Puerto Rico, and Guam
- 73 Tribal Nations
- \$8.44 million in scholarships awarded

### NATIVE AMERICAN CONGRESSIONAL INTERNSHIP

Since 1996, the internship has provided Native American and Alaska Native students with the opportunity to gain practical experience with the Federal legislative process in order to understand firsthand the government-to-government relationship between Tribes and the Federal Government.

<https://www.udall.gov/OurPrograms/Internship/Internship.aspx>

Impact:

- 266 Interns
- 97 Colleges and Universities
- 120 Tribal Nations
- 63 Participating Congressional and Agency Offices

### U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION

Established by Congress in 1998 to provide impartial services and leadership to help Federal Agencies and other affected stakeholders address environmental disputes, conflicts, and challenges. Services include situation assessments, conflict resolution, facilitated collaboration, training, and program assessment. The U.S. Institute's work enhances project efficiency and cost savings, increases government capacity, increases the likelihood of avoiding litigation, and delivers better and more durable outcomes. It also assists parties to resolve environmental issues impacting Tribal and Native communities by strengthening government-to-government collaboration between Tribes and Federal Agencies.

<https://www.udall.gov/OurPrograms/Institute/Institute.aspx>

Impact:

- 647 cases & consultations and 150+ trainings since inception
- \$59 million in earned revenue since inception, of which approximately \$44 million was outsourced to contracted private sector Environmental Conflict Resolution (ECR) professionals
- Approximately 30 Federal Agencies assisted in a typical year
- Cases & consultations in all 50 states, plus the District of Columbia, Puerto Rico, and Guam
- 300+ members of the Roster of ECR Professionals

## NATIVE NATIONS INSTITUTE FOR LEADERSHIP, MANAGEMENT, AND POLICY

The Native Nations Institute for Leadership, Management, and Policy (NNI), founded in 2001 by the Udall Foundation and the University of Arizona as part of the Udall Center for Studies in Public Policy, serves as a self-determination, governance, and development resource for Native Nations providing rigorous, accessible research on governance and development and delivering comprehensive leadership training on Indigenous nation building.

<https://www.udall.gov/OurPrograms/NativeInstitute/NativeInstitute.aspx>

### Impact:

- Provided nation-building services to individuals and groups representing 53% of Federally Recognized Tribes in 29 Continental States, as well as to several entities in Alaska
- On average, \$616,237 per year in external funding (2010-2018) for every \$1 million in Udall Foundation funding
- 1,444 iGov Database resources
- 70,160 visitors to iGov database and nearly 223,513 pages viewed (since Nov 2014)
- 429 participants in Indigenous Governance Programs (2013-2019)

## PARKS IN FOCUS

Since 1999, the Stewart L. Udall Parks in Focus<sup>®</sup> Program has introduced underserved middle school youth to the wonders of nature and the joys of outdoor exploration through the medium of a camera's lens. The Udall Foundation leads activities in Arizona and California and has trained partners to lead additional Parks in Focus activities in Michigan, Montana, Oklahoma, and Tennessee. Parks in Focus activities are partially supported by external funding from partnerships with park units, the Western National Parks Association, and nonprofit youth organizations.

<https://www.udall.gov/OurPrograms/ParksInFocus/ParksInFocus.aspx>

### Impact:

- 4,361 Participants
- 8,900 Hours of Activities
- 10 States
- 40 National Parks, Monuments, Refuges, Wilderness Areas, and Public Lands Visited

## PH.D. FELLOWSHIP

From 1997–2011, the Udall Foundation awarded two one-year fellowships to U.S. doctoral candidates whose research concerned U.S. environmental public policy and/or environmental conflict resolution. The Ph.D. fellowship was suspended in 2012 due to the low interest earned on the Education Trust Fund. The Udall Foundation hopes to offer a new fellowship for Native American graduate students in Tribal public policy or health care in FY 2020.

### Impact:

- 30 Fellows
- 17 Colleges and Universities
- \$720,000 awarded

## UDALL CENTER FOR STUDIES IN PUBLIC POLICY

The Udall Center for Studies in Public Policy leverages Udall Foundation support for both the Native Nations Institute as well as to generate extramural funds for environmental policy research and outreach, such as studies on the interconnections of society, water, climate, energy, and ecosystems and science-policy dialogues and stakeholder meetings to assist decision-making.

<https://www.udall.gov/OurPrograms/UdallCenter/UdallCenter.aspx>

### Impact:

- On average, leverages \$3.61 in external funding (for U.S., Southwest/border, and arid region research) for every \$1 in Udall Foundation funding (2010-2017)
- 251 publications and 544 presentations (2010-2017) on U.S., Southwest/border region, global/conceptual environmental policy research