

108TH CONGRESS
1ST SESSION

S. 551

To provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2003

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

A BILL

To provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, 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 “Southern Ute and Col-
5 orado Intergovernmental Agreement Implementation Act
6 of 2003”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress, after review and in rec-
3 ognition of the purposes and uniqueness of the Intergov-
4 ernmental Agreement between the Southern Ute Indian
5 Tribe and the State of Colorado, finds that—

6 (1) the Intergovernmental Agreement is con-
7 sistent with the special legal relationship between
8 Federal Government and the Tribe; and

9 (2) air quality programs developed in accord-
10 ance with the Intergovernmental Agreement and
11 submitted by the Tribe for approval by the Adminis-
12 trator may be implemented in a manner that is con-
13 sistent with the Clean Air Act (42 U.S.C. 7401 et
14 seq.).

15 (b) PURPOSE.—The purpose of this Act is to provide
16 for the implementation and enforcement of air quality con-
17 trol programs under the Clean Air Act (42 U.S.C. 7401
18 et seq.) and other air quality programs developed in ac-
19 cordance with the Intergovernmental Agreement that pro-
20 vide for—

21 (1) the regulation of air quality within the exte-
22 rior boundaries of the Reservation; and

23 (2) the establishment of a Southern Ute Indian
24 Tribe/State of Colorado Environmental Commission.

25 **SEC. 3. DEFINITIONS.**

26 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) COMMISSION.—The term “Commission”
5 means the Southern Ute Indian Tribe/State of Colo-
6 rado Environmental Commission established by the
7 State and the Tribe in accordance with the Intergov-
8 ernmental Agreement.

9 (3) INTERGOVERNMENTAL AGREEMENT.—The
10 term “Intergovernmental Agreement” means the
11 agreement entered into by the Tribe and the State
12 on December 13, 1999.

13 (4) RESERVATION.—The term “Reservation”
14 means the Southern Ute Indian Reservation.

15 (5) STATE.—The term “State” means the State
16 of Colorado.

17 (6) TRIBE.—The term “Tribe” means the
18 Southern Ute Indian Tribe.

19 **SEC. 4. TRIBAL AUTHORITY.**

20 (a) AIR PROGRAM APPLICATIONS.—

21 (1) IN GENERAL.—The Administrator is au-
22 thorized to treat the Tribe as a State for the pur-
23 pose of any air program applications submitted to
24 the Administrator by the Tribe under section 301(d)
25 of the Clean Air Act (42 U.S.C. 7601(d)) to carry

1 out, in a manner consistent with the Clean Air Act
2 (42 U.S.C. 7401 et seq.), the Intergovernmental
3 Agreement.

4 (2) **APPLICABILITY.**—If the Administrator ap-
5 proves an air program application of the Tribe, the
6 approved program shall be applicable to all air re-
7 sources within the exterior boundaries of the Res-
8 ervation.

9 (b) **TERMINATION.**—If the Tribe or the State termi-
10 nates the Intergovernmental Agreement, the Adminis-
11 trator shall promptly take appropriate administrative ac-
12 tion to withdraw treatment of the Tribe as a State for
13 the purpose described in subsection (a)(1).

14 **SEC. 5. CIVIL ENFORCEMENT.**

15 If any person fails to comply with a final civil order
16 of the Tribe or the Commission made in accordance with
17 a program under the Clean Air Act (42 U.S.C. 7401 et
18 seq.) or any other air quality program established under
19 the Intergovernmental Agreement, the Tribe or the Com-
20 mission, as appropriate, may bring a civil action for de-
21 claratory or injunctive relief, or for other orders in aid
22 of enforcement, in the United States District Court for
23 the District of Colorado.

1 **SEC. 6. JUDICIAL REVIEW.**

2 Any decision by the Commission that would be sub-
3 ject to appellate review if it were made by the Adminis-
4 trator—

5 (1) shall be subject to appellate review by the
6 United States Court of Appeals for the Tenth Cir-
7 cuit; and

8 (2) may be reviewed by the Court of Appeals
9 applying the same standard that would be applicable
10 to a decision of the Administrator.

11 **SEC. 7. DISCLAIMER.**

12 Nothing in this Act—

13 (1) modifies any provision of—

14 (A) the Clean Air Act (42 U.S.C. 7401 et
15 seq.);

16 (B) Public Law 98–290 (25 U.S.C. 668
17 note); or

18 (C) any lawful administrative rule promul-
19 gated in accordance with those statutes; or

20 (2) affects or influences in any manner any
21 past or prospective judicial interpretation or applica-
22 tion of those statutes by the United States, the
23 Tribe, the State, or any Federal, tribal, or State
24 court.

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