

# Calendar No. 401

108TH CONGRESS  
1ST SESSION

# S. 551

**[Report No. 108-201]**

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.

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## 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

NOVEMBER 19, 2003

Reported by Mr. INHOFE, with an amendment

[Omit the part struck through and insert the part printed in italic]

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# 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,*

1 **SECTION 1. SHORT TITLE.**

2        This Act may be cited as the “Southern Ute and Col-  
3 orado Intergovernmental Agreement Implementation Act  
4 of 2003”.

5 **SEC. 2. FINDINGS AND PURPOSE.**

6        (a) FINDINGS.—Congress, after review and in rec-  
7 ognition of the purposes and uniqueness of the Intergov-  
8 ernmental Agreement between the Southern Ute Indian  
9 Tribe and the State of Colorado, finds that—

10            (1) the Intergovernmental Agreement is con-  
11 sistent with the special legal relationship between  
12 Federal Government and the Tribe; and

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

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

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

### 3 SEC. 3. DEFINITIONS.

#### 4 In this Act:

17 (4) RESERVATION.—The term "Reservation"  
18 means the Southern Ute Indian Reservation.

21 (6) TRIBE.—The term "Tribe" means the  
22 Southern Ute Indian Tribe.

### 23 SEC 4 TRIBAL AUTHORITY

## 24 (a) AIR PROGRAM APPLICATIONS —

14 (b) TERMINATION.—If the Tribe or the State termi-  
15 nates the Intergovernmental Agreement, the Adminis-  
16 trator shall promptly take appropriate administrative ac-  
17 tion to withdraw treatment of the Tribe as a State for  
18 the purpose described in subsection (a)(1).

## 19 SEC. 5. CIVIL ENFORCEMENT.

If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with a program under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for de-

1 claratory or injunctive relief, or for other orders in aid  
2 of enforcement, in the United States District Court for  
3 the District of Colorado.

4 **SEC. 5. CIVIL ENFORCEMENT.**

5       (a) *IN GENERAL.*—*If any person fails to comply with*  
6 *a final civil order of the Tribe or the Commission made*  
7 *in accordance with the Clean Air Act (42 U.S.C. 7401 et*  
8 *seq.) or any other air quality program established under*  
9 *the Intergovernmental Agreement, the Tribe or the Commis-*  
10 *sion, as appropriate, may bring a civil action for declara-*  
11 *tory or injunctive relief, or for other orders in aid of en-*  
12 *forcement, in the United States District Court for the Dis-*  
13 *trict of Colorado.*

14       (b) *NO EFFECT ON RIGHTS OR AUTHORITY.*—*Nothing*  
15 *in this Act alters, amends, or modifies any right or author-*  
16 *ity of any person (as defined in section 302(e) of the Clean*  
17 *Air Act (42 U.S.C. 7601(e)) to bring a civil action under*  
18 *section 304 of the Clean Air Act (42 U.S.C. 7603).*

19 **SEC. 6. JUDICIAL REVIEW.**

20       Any decision by the Commission that would be sub-  
21 ject to appellate review if it were made by the Adminis-  
22 trator—

23           (1) shall be subject to appellate review by the  
24       United States Court of Appeals for the Tenth Cir-  
25       cuit; and

#### 4 SEC. 7. DISCLAIMER.

## 5 Nothing in this Act—

6 (1) modifies any provision of—

9 (B) Public Law 98-290 (25 U.S.C. 668  
10 note); or

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



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