

# Union Calendar No. 444

108TH CONGRESS  
2D SESSION

# S. 551

[Report No. 108–712, Parts I and II]

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 25, 2003

Referred to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 30, 2004

Reported from the Committee on Resources

OCTOBER 4, 2004

Reported from the Committee on Energy and Commerce, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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## AN ACT

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

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

3 **SEC. 3. DEFINITIONS.**

4       In this Act:

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

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

13          (3) INTERGOVERNMENTAL AGREEMENT.—The  
14      term “Intergovernmental Agreement” means the  
15      agreement entered into by the Tribe and the State  
16      on December 13, 1999.

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

19          (5) STATE.—The term “State” means the State  
20      of Colorado.

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

23 **SEC. 4. TRIBAL AUTHORITY.**

24      (a) AIR PROGRAM APPLICATIONS.—

1           (1) IN GENERAL.—The Administrator is au-  
2           thorized to treat the Tribe as a State for the pur-  
3           pose of any air program applications submitted to  
4           the Administrator by the Tribe under section 301(d)  
5           of the Clean Air Act (42 U.S.C. 7601(d)) to carry  
6           out, in a manner consistent with the Clean Air Act  
7           (42 U.S.C. 7401 et seq.), the Intergovernmental  
8           Agreement.

9           (2) APPLICABILITY.—If the Administrator ap-  
10          proves an air program application of the Tribe, the  
11          approved program shall be applicable to all air re-  
12          sources within the exterior boundaries of the Res-  
13          ervation.

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.**

20          (a) IN GENERAL.—If any person fails to comply with  
21          a final civil order of the Tribe or the Commission made  
22          in accordance with the Clean Air Act (42 U.S.C. 7401  
23          et seq.) or any other air quality program established under  
24          the Intergovernmental Agreement, the Tribe or the Com-  
25          mission, 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 (b) NO EFFECT ON RIGHTS OR AUTHORITY.—Noth-  
5 ing in this Act alters, amends, or modifies any right or  
6 authority of any person (as defined in section 302(e) of  
7 the Clean Air Act (42 U.S.C. 7601(e)) to bring a civil  
8 action under section 304 of the Clean Air Act (42 U.S.C.  
9 7603).

10 **SEC. 6. JUDICIAL REVIEW.**

11 Any decision by the Commission that would be sub-  
12 ject to appellate review if it were made by the Adminis-  
13 trator—

14 (1) shall be subject to appellate review by the  
15 United States Court of Appeals for the Tenth Cir-  
16 cuit; and

17 (2) may be reviewed by the Court of Appeals  
18 applying the same standard that would be applicable  
19 to a decision of the Administrator.

20 **SEC. 7. DISCLAIMER.**

21 Nothing in this Act—

22 (1) modifies any provision of—

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

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

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

5                   (2) affects or influences in any manner any  
6                   past or prospective judicial interpretation or applica-  
7                   tion of those statutes by the United States, the  
8                   Tribe, the State, or any Federal, tribal, or State  
9                   court.



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