

SOUTHERN UTE AND COLORADO INTERGOVERNMENTAL
AGREEMENT IMPLEMENTATION ACT OF 2003

SEPTEMBER 30, 2004.—Ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany S. 551]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 551 is 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.

BACKGROUND AND NEED FOR LEGISLATION

S. 551, the “Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003,” authorizes the Environmental Protection Agency (EPA) to treat the Southern Ute Tribe as a state for the purpose of carrying out Clean Air Act programs on the Tribe’s reservation, pursuant to an intergovernmental agreement entered into by the Tribe and the State of Colorado. The Tribe will be able to administer federal air quality programs within the exterior boundaries of its reservation according to standards set by a joint tribal-state commission.

The Southern Ute Reservation is located in the southwest corner of Colorado and contains a checkerboard land ownership pattern of tribal trust and non-tribal fee lands. For more than ten years, the State of Colorado, the Southern Ute Tribe, and the EPA have disagreed over the eligibility of the tribe and the State to be delegated authority to administer the Clean Air Act concerning the air resources within the boundaries of the tribe's reservation.

In 1999 the Tribe and the State entered into an intergovernmental agreement to resolve this dispute. Under the agreement, a joint tribal-state commission will set air quality standards in the reservation. The Tribe will then apply to the EPA for a delegation of authority to administer Clean Air Act programs according to such standards.

S. 551 authorizes the EPA to treat the Southern Ute Tribe as a state for the purpose of carrying out this intergovernmental agreement. The bill allows the tribe to pursue a civil action in the U.S. District Court for the District of Colorado to enforce the air quality programs managed by the tribe.

Under S. 551, the Tribe or the State may terminate the intergovernmental agreement. If the agreement is terminated, the EPA shall withdraw treatment of the tribe as a state for the purpose administering the Clean Air Act pursuant to the agreement.

COMMITTEE ACTION

S. 551 was introduced on March 6, 2003, by Senator Ben Nighthorse Campbell (R-CO). On November 21, 2003, the bill passed the Senate with an amendment by unanimous consent. The bill was then referred to the Committee on Energy and Commerce, and in addition to the Committee on Resources. On September 15, 2004, the Full Resources Committee met to consider the bill. No amendments were offered to S. 551, and the bill was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

S. 551—Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003

S. 551 would authorize the Environmental Protection Agency (EPA) to treat the Southern Ute Indian Tribe as a state under section 301(d) of the Clean Air Act. The bill would allow the tribe to accept delegation of EPA's authority under the Clean Air Act in the same manner as states. Enacting S. 551 would provide that, if the tribe submits an application under section 301(d) and if the application is approved, the resulting program would apply to all lands within the Southern Ute Reservation, including lands owned by non-Indians. The bill also would give jurisdiction for enforcement of those delegated powers to the U.S. District Court for the District of Colorado. According to EPA, enacting this legislation would not change the Southern Ute Indian Tribe's eligibility for federal grants in any manner. Thus, CBO estimates that enacting this legislation would not have a significant effect on the federal budget.

S. 551 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. This legislation would implement an agreement entered into voluntarily by the state of Colorado and the Southern Ute Indian Tribe, and any costs incurred by either the state or the tribe would stem from their acceptance of that agreement.

On August 15, 2003, CBO transmitted a cost estimate for S. 551 as ordered reported by the Senate Committee on Environment and Public Works on July 30, 2003. The two versions of the legislation are very similar, and our cost estimates are the same.

The CBO staff contacts for this estimate are Susanne S. Mehlman (for federal costs), and Marjorie Miller (for the state, local, and tribal impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

