

103D CONGRESS
1ST SESSION

S. 1156

AN ACT

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Catawba Tribe of Indians in the State of South
Carolina and the restoration of the Federal trust
relationship with the Tribe, and for other pur-
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To provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the Tribe, 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 “Catawba Indian Tribe
5 of South Carolina Land Claims Settlement Act of 1993”.

1 **SEC. 2. DECLARATION OF POLICY, CONGRESSIONAL FIND-**
2 **INGS AND PURPOSE.**

3 (a) FINDINGS.—The Congress declares and finds
4 that:

5 (1) It is the policy of the United States to pro-
6 mote tribal self-determination and economic self-suf-
7 ficiency and to support the resolution of disputes
8 over historical claims through settlements mutually
9 agreed to by Indian and non-Indian parties.

10 (2) There is pending before the United States
11 District Court for the District of South Carolina a
12 lawsuit disputing ownership of approximately
13 140,000 acres of land in the State of South Carolina
14 and other rights of the Catawba Indian Tribe under
15 Federal law.

16 (3) The Catawba Indian Tribe initiated a relat-
17 ed lawsuit against the United States in the United
18 States Court of Federal Claims seeking monetary
19 damages.

20 (4) Some of the significant historical events
21 which have led to the present situation include:

22 (A) In treaties with the Crown in 1760
23 and 1763, the Tribe ceded vast portions of its
24 aboriginal territory in the present States of
25 North and South Carolina in return for guaran-

1 tees of being quietly settled on a 144,000-acre
2 reservation.

3 (B) The Tribe's district court suit con-
4 tended that in 1840 the Tribe and the State en-
5 tered into an agreement without Federal ap-
6 proval or participation whereby the Tribe ceded
7 its treaty reservation to the State, thereby giv-
8 ing rise to the Tribe's claim that it was dispos-
9 sessed of its lands in violation of Federal law.

10 (C) In 1943, the United States entered
11 into an agreement with the Tribe and the State
12 to provide services to the Tribe and its mem-
13 bers. The State purchased 3,434 acres of land
14 and conveyed it to the Secretary in trust for the
15 Tribe and the Tribe organized under the Indian
16 Reorganization Act.

17 (D) In 1959, when Congress enacted the
18 Catawba Tribe of South Carolina Division of
19 Assets Act (25 U.S.C. 931-938), Federal
20 agents assured the Tribe that if the Tribe
21 would release the Government from its obliga-
22 tion under the 1943 agreement and agree to
23 Federal legislation terminating the Federal
24 trust relationship and liquidating the 1943 res-

1 ervation, the status of the Tribe's land claim
2 would not be jeopardized by termination.

3 (E) In 1980, the Tribe initiated Federal
4 court litigation to regain possession of its treaty
5 lands and in 1986, the United States Supreme
6 Court ruled in South Carolina against Catawba
7 Indian Tribe that the 1959 Act resulted in the
8 application of State statutes of limitations to
9 the Tribe's land claim. Two subsequent deci-
10 sions of the United States Court of Appeals for
11 the Fourth Circuit have held that some portion
12 of the Tribe's claim is barred by State statutes
13 of limitations and that some portion is not
14 barred.

15 (5) The pendency of these lawsuits has led to
16 substantial economic and social hardship for a large
17 number of landowners, citizens and communities in
18 the State of South Carolina, including the Catawba
19 Indian Tribe. Congress recognizes that if these
20 claims are not resolved, further litigation against
21 tens of thousands of landowners would be likely;
22 that any final resolution of pending disputes through
23 a process of litigation would take many years and
24 entail great expenses to all parties; continue eco-
25 nomic and socially damaging controversies; pro-

1 long uncertainty as to the ownership of property;
2 and seriously impair long-term economic planning
3 and development for all parties.

4 (6) The 102d Congress has enacted legislation
5 suspending until October 1, 1993, the running of
6 any unexpired statute of limitation applicable to the
7 Tribe's land claim in order to provide additional
8 time to negotiate settlement of these claims.

9 (7) It is recognized that both Indian and non-
10 Indian parties enter into this settlement to resolve
11 the disputes raised in these lawsuits and to derive
12 certain benefits. The parties' Settlement Agreement
13 constitutes a good faith effort to resolve these law-
14 suits and other claims and requires implementing
15 legislation by the Congress of the United States, the
16 General Assembly of the State of South Carolina,
17 and the governing bodies of the South Carolina
18 counties of York and Lancaster.

19 (8) To advance the goals of the Federal policy
20 of Indian self-determination and restoration of ter-
21 minated Indian Tribes, and in recognition of the
22 United States obligation to the Tribe and the Fed-
23 eral policy of settling historical Indian claims
24 through comprehensive settlement agreements, it is
25 appropriate that the United States participate in the

1 funding and implementation of the Settlement
2 Agreement.

3 (b) PURPOSE.—It is the purpose of this Act—

4 (1) to approve, ratify, and confirm the Settle-
5 ment Agreement entered into by the non-Indian set-
6 tlement parties and the Tribe;

7 (2) to authorize and direct the Secretary to im-
8 plement the terms of such Settlement Agreement;

9 (3) to authorize the actions and appropriations
10 necessary to implement the provisions of the Settle-
11 ment Agreement and this Act;

12 (4) to remove the cloud on titles in the State
13 of South Carolina resulting from the Tribe’s land
14 claim; and

15 (5) to restore the trust relationship between the
16 Tribe and the United States.

17 **SEC. 3. DEFINITIONS.**

18 For purposes of this Act:

19 (1) The term “Tribe” means the Catawba In-
20 dian Tribe of South Carolina as constituted in ab-
21 original times, which was party to the Treaty of
22 Pine Tree Hill in 1760 as confirmed by the Treaty
23 of Augusta in 1763, which was party also to the
24 Treaty of Nation Ford in 1840, and which was the
25 subject of the Termination Act, and all predecessors

1 and successors in interest, including the Catawba In-
2 dian Tribe of South Carolina, Inc.

3 (2) The term “claim” or “claims” means any
4 claim which was asserted by the Tribe in either Suit,
5 and any other claim which could have been asserted
6 by the Tribe or any Catawba Indian of a right, title
7 or interest in property, to trespass or property dam-
8 ages, or of hunting, fishing or other rights to natu-
9 ral resources, if such claim is based upon aboriginal
10 title, recognized title, or title by grant, patent, or
11 treaty including the Treaty of Pine Tree Hill of
12 1760, the Treaty of Augusta of 1763, or the Treaty
13 of Nation Ford of 1840.

14 (3) The term “Executive Committee” means
15 the body of the Tribe composed of the Tribe’s execu-
16 tive officers as selected by the Tribe in accordance
17 with its constitution.

18 (4) The term “Existing Reservation” means
19 that tract of approximately 630 acres conveyed to
20 the State in trust for the Tribe by J.M. Doby on
21 December 24, 1842, by deed recorded in York Coun-
22 ty Deed Book N, pp. 340–341.

23 (5) The term “General Council” means the
24 membership of the Tribe convened as the Tribe’s

1 governing body for the purpose of conducting tribal
2 business pursuant to the Tribe's constitution.

3 (6) The term "Member" means individuals who
4 are currently members of the Tribe or who are en-
5 rolled in accordance with this Act.

6 (7) The term "Reservation" or "Expanded Res-
7 ervation" means the Existing Reservation and the
8 lands added to the Existing Reservation in accord-
9 ance with section 12 of this Act, which are to be
10 held in trust by the Secretary in accordance with
11 this Act.

12 (8) The term "Secretary" means the Secretary
13 of the Interior.

14 (8A) The term "service area" means the area
15 composed of the State of South Carolina and
16 Cabarrus, Cleveland, Gaston, Mecklenburg, Ruther-
17 ford, and Union counties in the State of North
18 Carolina.

19 (9) The term "Settlement Agreement" means
20 the document entitled "Agreement in Principle " be-
21 tween the Tribe and the State of South Carolina and
22 attached to the copy of the State implementing legis-
23 lation and filed with the Secretary of State of the
24 State of South Carolina, as amended to conform to

1 this Act and printed in the Congressional Record on
2 the date of the enactment of this Act.

3 (10) The term “State” means, except for sec-
4 tion 6 (a) through (f), the State of South Carolina.

5 (11) The term “State Act” means the Act en-
6 acted into law by the State of South Carolina on
7 June 14, 1993, and codified as S.C. Code Ann., sec-
8 tions 27–16–10 through 27–16–140, to implement
9 the Settlement Agreement.

10 (12) The term “Suit” or “Suits” means Ca-
11 tawba Indian Tribe of South Carolina v. State of
12 South Carolina, et al., docketed as Civil Action No.
13 80–2050 and filed in the United States District
14 Court for the District of South Carolina; and Ca-
15 tawba Indian Tribe of South Carolina v. The United
16 States of America, docketed as Civil Action No. 90–
17 553L and filed in the United States Court of
18 Federal Claims.

19 (13) The term “Termination Act” means the
20 Act entitled “An Act to provide for the division of
21 the tribal assets of the Catawba Indian Tribe of
22 South Carolina among the members of the Tribe
23 and for other purposes”, approved September 21,
24 1959 (73 Stat. 592; 25 U.S.C. 931–938).

1 (14) The term “transfer” includes (but is not
2 limited to) any voluntary or involuntary sale, grant,
3 lease, allotment, partition, or other conveyance; any
4 transaction the purpose of which was to effect a
5 sale, grant, lease, allotment, partition, or convey-
6 ance; and any act, event or circumstance that re-
7 sulted in a change in title to, possession of, domin-
8 ion over, or control of land, water, minerals, timber,
9 or other natural resources.

10 (15) The term “Trust Funds” means the trust
11 funds established by section 11 of this Act.

12 **SEC. 4. RESTORATION OF FEDERAL TRUST RELATIONSHIP.**

13 (a) RESTORATION OF THE FEDERAL TRUST RELA-
14 TIONSHIP AND APPROVAL, RATIFICATION, AND CON-
15 FIRMATION OF THE SETTLEMENT AGREEMENT.—On the
16 effective date of this Act—

17 (1) the trust relationship between the Tribe and
18 the United States is restored; and

19 (2) the Settlement Agreement and the State
20 Act are approved, ratified, and confirmed by the
21 United States to effectuate the purposes of this Act,
22 and shall be complied with in the same manner and
23 to the same extent as if they had been enacted into
24 Federal law.

1 (b) ELIGIBILITY FOR FEDERAL BENEFITS AND
2 SERVICES.—Notwithstanding any other provision of law,
3 on the effective date of this Act, the Tribe and the Mem-
4 bers shall be eligible for all benefits and services furnished
5 to federally recognized Indian Tribes and their members
6 because of their status as Indians. On the effective date
7 of this Act, the Secretary shall enter the Tribe on the list
8 of federally recognized bands and Tribes maintained by
9 the Department of the Interior; and its members shall be
10 entitled to special services, educational benefits, medical
11 care, and welfare assistance provided by the United States
12 to Indians because of their status as Indians, and the
13 Tribe shall be entitled to the special services performed
14 by the United States for Tribes because of their status
15 as Indian Tribes. For the purpose of eligibility for Federal
16 services made available to members of federally recognized
17 Indian Tribes because of their status as Indian tribal
18 members, Members of the Tribe in the Tribe’s service area
19 shall be deemed to be residing on or near a reservation.

20 (c) REPEAL OF TERMINATION ACT.—The Termi-
21 nation Act is repealed.

22 (d) EFFECT ON PROPERTY RIGHTS AND OTHER OB-
23 LIGATIONS.—Except as otherwise specifically provided in
24 this Act, this Act shall not affect any property right or
25 obligation or any contractual right or obligation in exist-

1 ence before the effective date of this Act, or any obligation
2 for taxes levied before that date.

3 (e) EXTENT OF JURISDICTION.—This Act shall not
4 be construed to empower the Tribe with special jurisdic-
5 tion or to deprive the State of jurisdiction other than as
6 expressly provided by this Act or by the State Act. The
7 jurisdiction and governmental powers of the Tribe shall
8 be solely those set forth in this Act and the State Act.

9 **SEC. 5. SETTLEMENT FUNDS.**

10 (a) AUTHORIZATION FOR APPROPRIATION.—There is
11 hereby authorized to be appropriated \$32,000,000 for the
12 Federal share which shall be deposited in the trust funds
13 established pursuant to section 11 of this Act or paid pur-
14 suant to section 6(g).

15 (b) DISBURSEMENT IN ACCORDANCE WITH SETTLE-
16 MENT AGREEMENT.—The Federal funds appropriated
17 pursuant to this Act shall be disbursed in four equal an-
18 nual installments of \$8,000,000 beginning in the fiscal
19 year following enactment of this Act. Funds transferred
20 to the Secretary from other sources shall be deposited in
21 the trust funds established pursuant to section 11 of this
22 Act or paid pursuant to section 6(g) within 30 days of
23 receipt by the Secretary.

24 (c) PRIVATE FUNDS.—Any private payments made to
25 settle the claims may be treated, at the election of the

1 taxpayer, as either a payment in settlement of litigation
2 or a charitable contribution for Federal income tax pur-
3 poses.

4 (d) FEDERAL, STATE, LOCAL AND PRIVATE CON-
5 TRIBUTIONS HELD IN TRUST BY SECRETARY.—The Sec-
6 retary shall, on behalf of the Tribe, collect those contribu-
7 tions toward settlement appropriated or received by the
8 State pursuant to section 5.2 of the Settlement Agreement
9 and shall either hold such funds totalling \$18,000,000, to-
10 gether with the Federal funds appropriated pursuant to
11 this Act, in trust for the Tribe pursuant to the provisions
12 of section 11 of this Act or pay such funds pursuant to
13 section 6(g) of this Act.

14 (e) NONPAYMENT OF STATE, LOCAL, OR PRIVATE
15 CONTRIBUTIONS.—The Secretary shall not be accountable
16 or incur any liability under this Act for the collection, de-
17 posit, or management of the non-Federal contributions
18 made pursuant to section 5.2 of the Settlement Agree-
19 ment, or payment of such funds pursuant to section 6(g)
20 of this Act, until such time as such funds are received
21 by the Secretary.

1 **SEC. 6. RATIFICATION OF PRIOR TRANSFERS; EXTINGUISH-**
2 **MENT OF ABORIGINAL TITLE, RIGHTS AND**
3 **CLAIMS.**

4 (a) RATIFICATION OF TRANSFERS.—Any transfer of
5 land or natural resources located anywhere within the
6 United States from, by, or on behalf of the Tribe, any
7 one or more of its Members, or anyone purporting to be
8 a Member, including but without limitation any transfer
9 pursuant to any treaty, compact, or statute of any State,
10 shall be deemed to have been made in accordance with
11 the Constitution and all laws of the United States, and
12 Congress hereby approves and ratifies any such transfer
13 effective as of the date of such transfer. Nothing in this
14 section shall be construed to affect or eliminate the per-
15 sonal claim of any individual Member (except for any Fed-
16 eral common law fraud claim) which is pursued under any
17 law of general applicability that protects non-Indians as
18 well as Indians.

19 (b) ABORIGINAL TITLE.—To the extent that any
20 transfer of land or natural resources described in sub-
21 section (a) of this section may involve land or natural re-
22 sources to which the Tribe, any of its Members, or anyone
23 purporting to be a Member, or any other Indian, Indian
24 nation, or Tribe or band of Indians had aboriginal title,
25 subsection (a) of this section shall be regarded as an extin-

1 guishment of aboriginal title as of the date of such
2 transfer.

3 (c) EXTINGUISHMENT OF CLAIMS.—By virtue of the
4 approval and ratification of any transfer of land or natural
5 resources effected by this section, or the extinguishment
6 of aboriginal title effected thereby, all claims against the
7 United States, any State or subdivision thereof, or any
8 other person or entity, by the Tribe, any of its Members,
9 or anyone purporting to be a Member, or any predecessors
10 or successors in interest thereof or any other Indian, In-
11 dian Nation, or Tribe or band of Indians, arising at the
12 time of or subsequent to the transfer and based on any
13 interest in or right involving such land or natural re-
14 sources, including without limitation claims for trespass
15 damages or claims for use and occupancy, shall be deemed
16 extinguished as of the date of the transfer.

17 (d) EXTINGUISHMENT OF TITLE.—(1) All claims and
18 all right, title, and interest that the Tribe, its Members,
19 or any person or group of persons purporting to be Ca-
20 tawba Indians may have to aboriginal title, recognized
21 title, or title by grant, patent, or treaty to the lands lo-
22 cated anywhere in the United States are hereby extin-
23 guished.

24 (2) This extinguishment of claims shall also extin-
25 guish title to any hunting, fishing, or water rights or

1 rights to any other natural resource claimed by the Tribe
2 or a Member based on aboriginal or treaty recognized title,
3 and all trespass damages and other damages associated
4 with use, occupancy or possession, or entry upon such
5 lands.

6 (e) BAR TO FUTURE CLAIMS.—The United States is
7 hereby barred from asserting by or on behalf of the Tribe
8 or any of its Members, or anyone purporting to be a Mem-
9 ber, any claim arising before the effective date of this Act
10 from the transfer of any land or natural resources by deed
11 or other grant, or by treaty, compact, or act of law, on
12 the grounds that such transfer was not made in accord-
13 ance with the laws of South Carolina or the Constitution
14 or laws of the United States.

15 (f) NO DEROGATION OF FEE SIMPLE IN EXISTING
16 RESERVATION, OR EFFECT ON MEMBERS' FEE INTER-
17 ESTS.—Nothing in this Act shall be construed to diminish
18 or derogate from the Tribe's estate in the Existing Res-
19 ervation; or to divest or disturb title in any land conveyed
20 to any person or entity as a result of the Termination Act
21 and the liquidation and partition of tribal lands; or to di-
22 vest or disturb the right, title and interest of any member
23 in any fee simple, leasehold or remainder estate or any
24 equitable or beneficial right or interest any such member
25 may own individually and not as a member of the Tribe.

1 (g) COSTS AND ATTORNEYS' FEES.—The parties to
2 the Suits shall bear their own costs and attorneys' fees.
3 As provided by section 6.4 of the Settlement Agreement,
4 the Secretary shall pay to the Tribe's attorney in the Suits
5 attorneys' fees, and expenses not to exceed 10 percent of
6 the \$50,000,000 obligated for payment to the Tribe by
7 Federal, State, local, and private parties pursuant to sec-
8 tion 5 of the Settlement Agreement.

9 (h) PERSONAL CLAIMS NOT AFFECTED.—Nothing in
10 this section shall be deemed to affect, diminish, or elimi-
11 nate the personal claim of any individual Indian which is
12 pursued under any law of general applicability (other than
13 Federal common law fraud) that protects non-Indians as
14 well as Indians.

15 (i) FEDERAL PAYMENT.—In the event any of the
16 Federal payments are not paid as set forth in section 5,
17 such failure to pay shall give rise to a cause of action by
18 the Tribe against the United States for money damages
19 for the amount authorized to be paid to the Tribe in sec-
20 tion 5(a) in settlement of the Tribe's claim, and the Tribe
21 is authorized to bring an action in the United States Court
22 of Claims for such funds plus applicable interest. The
23 United States hereby waives any affirmative defense to
24 such action.

1 (j) STATE PAYMENT.—In the event any of the State
2 payments are not paid as set forth in section 5, such fail-
3 ure to pay shall give rise to a cause of action in the United
4 States District Court for the District of South Carolina
5 by the Tribe against the State of South Carolina for
6 money damages for the amount authorized to be paid to
7 the Tribe in section 5(d) in settlement of the Tribe’s claim.
8 Pursuant to §27–16–50 (E) of the State Act, the State
9 of South Carolina waives any Eleventh Amendment immu-
10 nity to such action.

11 **SEC. 7. BASE MEMBERSHIP ROLL.**

12 (a) BASE MEMBERSHIP ROLL CRITERIA.—Within
13 one year after enactment of this section, the Tribe shall
14 submit to the Secretary, for approval, its base membership
15 roll. An individual is eligible for inclusion on the base
16 membership roll if that individual is living on the date of
17 enactment of this Act and—

18 (1) is listed on the membership roll published
19 by the Secretary in the Federal Register on Feb-
20 ruary 25, 1961 (26 FR 1680–1688, “Notice of
21 Final Membership Roll”), and is not excluded under
22 the provisions of subsection (c);

23 (2) the Executive Committee determines, based
24 on the criteria used to compile the roll referred to
25 in paragraph (1), that the individual should have

1 been included on the membership roll at that time,
2 but was not; or

3 (3) is a lineal descendant of a Member whose
4 name appeared or should have appeared on the
5 membership roll referred to in paragraph (1).

6 (b) BASE MEMBERSHIP ROLL NOTICE.—Within 90
7 days after the enactment of this Act, the Secretary shall
8 publish in the Federal Register, and in three newspapers
9 of general circulation in the Tribe's service area, a notice
10 stating—

11 (1) that a base membership roll is being pre-
12 pared by the Tribe and that the current membership
13 roll is open and will remain open for a period of 90
14 days;

15 (2) the requirements for inclusion on the base
16 membership roll;

17 (3) the final membership roll published by the
18 Secretary in the Federal Register on February 25,
19 1961;

20 (4) the current membership roll as prepared by
21 the Executive Committee and approved by the Gen-
22 eral Council; and

23 (5) the name and address of the tribal or Fed-
24 eral official to whom inquiries should be made.

1 (c) COMPLETION OF BASE MEMBERSHIP ROLL.—
2 Within 120 days after publication of notice under sub-
3 section (b), the Secretary, after consultation with the
4 Tribe, shall prepare and publish in the Federal Register,
5 and in three newspapers of general circulation in the
6 Tribe's service area, a proposed final base membership roll
7 of the Tribe. Within 60 days from the date of publication
8 of the proposed final base membership roll, an appeal may
9 be filed with the Executive Committee under rules made
10 by the Executive Committee in consultation with the Sec-
11 retary. Such an appeal may be filed by a Member with
12 respect to the inclusion of any name on the proposed final
13 base membership roll and by any person with respect to
14 the exclusion of his or her name from the final base mem-
15 bership roll. The Executive Committee shall review such
16 appeals and render a decision, subject to the Secretary's
17 approval. If the Executive Committee and the Secretary
18 disagree, the Secretary's decision will be final. All such
19 appeals shall be resolved within 90 days following publica-
20 tion of the proposed roll. The final base membership roll
21 of the Tribe shall then be published in the Federal Reg-
22 ister, and in three newspapers of general circulation in the
23 Tribe's service area, and shall be final for purposes of the
24 distribution of funds from the Per Capita Trust Fund.

1 (e) FUTURE MEMBERSHIP IN THE TRIBE.—The
2 Tribe shall have the right to determine future membership
3 in the Tribe; however, in no event may an individual be
4 enrolled as a tribal member unless the individual is a lineal
5 descendant of a person on the base membership roll and
6 has continued to maintain political relations with the
7 Tribe.

8 **SEC. 8. TRANSITIONAL AND PROVISIONAL GOVERNMENT.**

9 (a) FUTURE TRIBAL GOVERNMENT.—The Tribe
10 shall adopt a new constitution within 24 months after the
11 effective date of this Act.

12 (b) EXECUTIVE COMMITTEE AS TRANSITIONAL
13 BODY.—(1) Until the Tribe has adopted a constitution,
14 the existing tribal constitution shall remain in effect and
15 the Executive Committee is recognized as the provisional
16 and transitional governing body of the Tribe. Until an
17 election of tribal officers under the new constitution, the
18 Executive Committee shall—

19 (A) represent the Tribe and its Members in the
20 implementation of this Act; and

21 (B) during such period—

22 (i) have full authority to enter into con-
23 tracts, grant agreements and other arrange-
24 ments with any Federal department or agency;
25 and

1 (ii) have full authority to administer or op-
2 erate any program under such contracts or
3 agreements.

4 (2) Until the initial election of tribal officers under
5 a new constitution and by-laws, the Executive Committee
6 shall—

7 (A) determine tribal membership in accordance
8 with the provisions of section 7; and

9 (B) oversee and implement the revision and
10 proposal to the Tribe of a new constitution and con-
11 duct such tribal meetings and elections as are re-
12 quired by this Act.

13 **SEC. 9. TRIBAL CONSTITUTION AND GOVERNANCE.**

14 (a) INDIAN REORGANIZATION ACT.—If the Tribe so
15 elects, it may organize under the Act of June 18, 1934
16 (25 U.S.C. 461 et seq.; commonly referred to as the “In-
17 dian Reorganization Act”). The Tribe shall be subject to
18 such Act except to the extent such sections are inconsis-
19 tent with this Act.

20 (b) ADOPTION OF NEW TRIBAL CONSTITUTION.—
21 Within 180 days after the effective date of this Act, the
22 Executive Committee shall draft and distribute to each
23 Member eligible to vote under the tribal constitution in
24 effect on the effective date of this Act, a proposed con-
25 stitution and bylaws for the Tribe together with a brief,

1 impartial description of the proposed constitution and by-
2 laws and a notice of the date, time and location of the
3 election under this subsection. Not sooner than 30 days
4 or later than 90 days after the distribution of the proposed
5 constitution, the Executive Committee shall conduct a se-
6 cret-ballot election to adopt a new constitution and bylaws.

7 (c) MAJORITY VOTE FOR ADOPTION; PROCEDURE IN
8 EVENT OF FAILURE TO ADOPT PROPOSED CONSTITU-
9 TION.—(1) The tribal constitution and bylaws shall be
10 ratified and adopted if—

11 (A) not less than 30 percent of those entitled
12 to vote do vote; and

13 (B) approved by a majority of those actually
14 voting.

15 (2) If in any such election such majority does not ap-
16 prove the adoption of the proposed constitution and by-
17 laws, the Executive Committee shall prepare another pro-
18 posed constitution and bylaws and present it to the Tribe
19 in the same manner provided in this section for the first
20 constitution and bylaws. Such new proposed constitution
21 and bylaws shall be distributed to the eligible voters of
22 the Tribe no later than 180 days after the date of the
23 election in which the first proposed constitution and by-
24 laws failed of adoption. An election on the question of the
25 adoption of the new proposal of the Executive Committee

1 shall be conducted in the same manner provided in sub-
2 section (b) for the election on the first proposed constitu-
3 tion and bylaws.

4 (d) ELECTION OF TRIBAL OFFICERS.—Within 120
5 days after the Tribe ratifies and adopts a constitution and
6 bylaws, the Executive Committee shall conduct an election
7 by secret ballot for the purpose of electing tribal officials
8 as provided in the constitution and bylaws. Subsequent
9 elections shall be held in accordance with the Tribe's con-
10 stitution and bylaws.

11 (e) EXTENSION OF TIME.—Any time periods pre-
12 scribed in subsections (b) and (c) may be altered by writ-
13 ten agreement between the Executive Committee and the
14 Secretary.

15 **SEC. 10. ADMINISTRATIVE PROVISIONS RELATING TO JU-**
16 **RISDICTION, TAXATION, AND OTHER MAT-**
17 **TERS.**

18 In the administration of this Act:

19 (1) All matters involving tribal powers, immuni-
20 ties, and jurisdiction, whether criminal, civil, or reg-
21 ulatory, shall be governed by the terms and provi-
22 sions of the Settlement Agreement and the State
23 Act, unless otherwise provided in this Act.

24 (2) All matters relating to taxation involving
25 the Tribe, its Members, and any property owned by

1 or held in trust for the Tribe or its Members, shall
2 be governed by the terms and provisions of the Set-
3 tlement Agreement and the State Act, unless other-
4 wise provided in this Act.

5 (3) All matters pertaining to governance and
6 regulation of the reservation (including environ-
7 mental regulation and riparian rights) shall be gov-
8 erned by the terms and provisions of the Settlement
9 Agreement and the State Act, including, but not
10 limited to, section 17 of the Settlement Agreement
11 and section 27-16-120 of the State Act, unless oth-
12 erwise provided in this Act.

13 (4) The Indian Child Welfare Act of 1978 (25
14 U.S.C. 1901 et seq.) shall apply to Catawba Indian
15 children except as provided in the Settlement Agree-
16 ment.

17 (5) Whether or not the Tribe, under section
18 9(a), elects to organize under the Act of June 18,
19 1934, the Tribe, in any constitution adopted by the
20 Tribe, may be authorized to exercise such authority
21 as is consistent with the Settlement Agreement and
22 the State Act.

23 (6) Section 7871 of the Internal Revenue Code
24 of 1986 (26 U.S.C. 7871, commonly referred to as
25 the "Indian Tribal Government Tax Status Act)

1 shall apply to the Tribe and its Reservation. In no
2 event, however, may the Tribe pledge or hypothecate
3 the income or principal of the Catawba Education or
4 Social Services and Elderly Trust Funds or other-
5 wise use them as security or a source of payment for
6 bonds the Tribe may issue.

7 (7) The Indian Self-Determination and Edu-
8 cation Assistance Act (25 U.S.C. 450 et seq.) shall
9 apply to the Tribe except to the extent that such ap-
10 plication may be inconsistent with this Act or the
11 Settlement Agreement.

12 **SEC. 11. TRIBAL TRUST FUNDS.**

13 (a) PURPOSES OF TRUST FUNDS.—All funds paid
14 pursuant to section 5 of this Act, except for payments
15 made pursuant to section 6(g), shall be deposited with the
16 Secretary in trust for the benefit of the Tribe. Separate
17 trust funds shall be established for the following purposes:
18 economic development, land acquisition, education, social
19 services and elderly assistance, and per capita payments.
20 Except as provided in this section, the Tribe, in consulta-
21 tion with the Secretary, shall determine the share of settle-
22 ment payments to be deposited in each Trust Fund, and
23 define, consistently with the provisions of this section, the
24 purposes of each Trust Fund and provisions for admin-
25 istering each, specifically including provisions for periodic

1 distribution of current and accumulated income, and for
2 invasion and restoration of principal.

3 (b) OUTSIDE MANAGEMENT OPTION.—(1) The
4 Tribe, in consultation with and subject to the approval of
5 the Secretary, as set forth in this section, is authorized
6 to place any of the Trust Funds under professional man-
7 agement, outside the Department of the Interior.

8 (2) If the Tribe elects to place any of the Trust
9 Funds under professional management outside the De-
10 partment of the Interior, it may engage a consulting or
11 advisory firm to assist in the selection of an independent
12 professional investment management firm, and it shall en-
13 gage, with the approval of the Secretary, an independent
14 investment management firm of proven competence and
15 experience established in the business of counseling large
16 endowments, trusts, or pension funds.

17 (3) The Secretary shall have 45 days to approve or
18 reject any independent investment management firm se-
19 lected by the Tribe. If the Secretary fails to approve or
20 reject the firm selected by the Tribe within 45 days, the
21 investment management firm selected by the Tribe shall
22 be deemed to have been approved by the Secretary.

23 (4) Secretarial approval of an investment manage-
24 ment firm shall not be unreasonably withheld, and any
25 Secretarial disapproval of an investment management firm

1 shall be accompanied by a detailed explanation setting
2 forth the Secretary's reasons for such disapproval.

3 (5)(A) For funds placed under professional manage-
4 ment, the Tribe, in consultation with the Secretary and
5 its investment manager, shall develop—

6 (i) current operating and long-term capital
7 budgets; and

8 (ii) a plan for managing, investing, and distrib-
9 uting income and principal from the Trust Funds to
10 match the requirements of the Tribe's operating and
11 capital budgets.

12 (B) For each Trust Fund which the Tribe elects to
13 place under outside professional management, the invest-
14 ment plan shall provide for investment of Trust Fund as-
15 sets so as to serve the purposes described in this section
16 and in the Trust Fund provisions which the Tribe shall
17 establish in consultation with the Secretary and the inde-
18 pendent investment management firm.

19 (C) Distributions from each Trust Fund shall not ex-
20 ceed the limits on the use of principal and income imposed
21 by the applicable provisions of this Act for that particular
22 Trust Fund.

23 (D)(i) The Tribe's investment management plan shall
24 not become effective until approved by the Secretary.

1 (ii) Upon submission of the plan by the Tribe to the
2 Secretary for approval, the Secretary shall have 45 days
3 to approve or reject the plan. If the Secretary fails to ap-
4 prove or disapprove the plan within 45 days, the plan shall
5 be deemed to have been approved by the Secretary and
6 shall become effective immediately.

7 (iii) Secretarial approval of the plan shall not be un-
8 reasonably withheld and any secretarial rejection of the
9 plan shall be accompanied by a detailed explanation set-
10 ting forth the Secretary's reasons for rejecting the plan.

11 (E) Until the selection of an established investment
12 management firm of proven competence and experience,
13 the Tribe shall rely on the management, investment, and
14 administration of the Trust Funds by the Secretary pursu-
15 ant to the provisions of this section.

16 (c) TRANSFER OF TRUST FUNDS; EXCULPATION OF
17 SECRETARY.—Upon the Secretary's approval of the
18 Tribe's investment management firm and an investment
19 management plan, all funds previously deposited in trust
20 funds held by the Secretary and all funds subsequently
21 paid into the trust funds, which are chosen for outside
22 management, shall be transferred to the accounts estab-
23 lished by an investment management firm in accordance
24 with the approved investment management plan. The Sec-
25 retary shall be exculpated by the Tribe from liability for

1 any loss of principal or interest resulting from investment
2 decisions made by the investment management firm. Any
3 Trust Fund transferred to an investment management
4 firm shall be returned to the Secretary upon written re-
5 quest of the Tribe, and the Secretary shall manage such
6 funds for the benefit of the Tribe.

7 (d) LAND ACQUISITION TRUST.—(1) The Secretary
8 shall establish and maintain a Catawba Land Acquisition
9 Trust Fund, and until the Tribe engages an outside firm
10 for investment management of this trust fund, the Sec-
11 retary shall manage, invest, and administer this trust
12 fund. The original principal amount of the Land Acquisi-
13 tion Trust Fund shall be determined by the Tribe in con-
14 sultation with the Secretary.

15 (2) The principal and income of the Land Acquisition
16 Trust Fund may be used for the purchase and develop-
17 ment of Reservation and non-Reservation land pursuant
18 to the Settlement Agreement, costs related to land acquisi-
19 tion, and costs of construction of infrastructure and devel-
20 opment of the Reservation and non-Reservation land.

21 (3)(A) Upon acquisition of the maximum amount of
22 land allowed for expansion of the Reservation, or upon re-
23 quest of the Tribe and approval of the Secretary pursuant
24 to the Secretarial approval provisions set forth in sub-
25 section (b)(5)(D) of this section, all or part of the balance

1 of this trust fund may be merged into one or more of the
2 Economic Development Trust Fund, the Education Trust
3 Fund, or the Social Services and Elderly Assistance Trust
4 Fund.

5 (B) Alternatively, at the Tribe's election, the Land
6 Acquisition Trust Fund may remain in existence after all
7 the Reservation land is purchased in order to pay for the
8 purchase of non-Reservation land.

9 (4)(A) The Tribe may pledge or hypothecate the in-
10 come and principal of the Land Acquisition Trust Fund
11 to secure loans for the purchase of Reservation and non-
12 Reservation lands.

13 (B) Following the effective date of this Act and be-
14 fore the final annual disbursement is made as provided
15 in section 5 of this Act, the Tribe may pledge or hypoth-
16 ecate up to 50 percent of the unpaid annual installments
17 required to be paid to this Trust Fund, the Economic De-
18 velopment Trust Fund and the Social Services and Elderly
19 Assistance Trust Fund by section 5 of this Act and by
20 section 5 of the Settlement Agreement, to secure loans to
21 finance the acquisition of Reservation or non-Reservation
22 land or infrastructure improvements on such lands.

23 (e) ECONOMIC DEVELOPMENT TRUST.—(1) The Sec-
24 retary shall establish and maintain a Catawba Economic
25 Development Trust Fund, and until the Tribe engages an

1 outside firm for investment management of this Trust
2 Fund, the Secretary shall manage, invest, and administer
3 this Trust Fund. The original principal amount of the
4 Economic Development Trust Fund shall be determined
5 by the Tribe in consultation with the Secretary. The prin-
6 cipal and income of this Trust Fund may be used to sup-
7 port tribal economic development activities, including but
8 not limited to infrastructure improvements and tribal
9 business ventures and commercial investments benefiting
10 the Tribe.

11 (2) The Tribe, in consultation with the Secretary,
12 may pledge or hypothecate future income and up to 50
13 percent of the principal of this Trust Fund to secure loans
14 for economic development. In defining the provisions for
15 administration of this Trust Fund, and before pledging
16 or hypothecating future income or principal, the Tribe and
17 the Secretary shall agree on rules and standards for the
18 invasion of principal and for repayment or restoration of
19 principal, which shall encourage preservation of principal,
20 and provide that, if feasible, a portion of all profits derived
21 from activities funded by principal be applied to repay-
22 ment of the Trust Fund.

23 (3) Following the effective date of this Act and before
24 the final annual disbursement is made as provided in sec-
25 tion 5 of this Act, the Tribe may pledge or hypothecate

1 up to 50 percent of the unpaid annual installments re-
2 quired to be paid by section 5 of this Act and by section
3 5 of the Settlement Agreement to secure loans to finance
4 economic development activities of the Tribe, including
5 (but not limited to) infrastructure improvements on Res-
6 ervation and non-Reservation lands.

7 (4) If the Tribe develops sound lending guidelines ap-
8 proved by the Secretary, a portion of the income from this
9 Trust Fund may also be used to fund a revolving credit
10 account for loans to support tribal businesses or business
11 enterprises of tribal members.

12 (f) EDUCATION TRUST.—The Secretary shall estab-
13 lish and maintain a Catawba Education Trust Fund, and
14 until the Tribe engages an outside firm for investment
15 management of this Trust Fund, the Secretary shall man-
16 age, invest, and administer this Trust Fund. The original
17 principal amount of this Trust Fund shall be determined
18 by the Tribe in consultation with the Secretary; subject
19 to the requirement that upon completion of all payments
20 into the Trust Funds, an amount equal to at least $\frac{1}{3}$ of
21 all State, local, and private contributions made pursuant
22 to the Settlement Agreement shall have been paid into the
23 Education Trust Fund. Income from this Trust Fund
24 shall be distributed in a manner consistent with the terms
25 of the Settlement Agreement. The principal of this Trust

1 Fund shall not be invaded or transferred to any other
2 Trust Fund, nor shall it be pledged or encumbered as se-
3 curity.

4 (g) SOCIAL SERVICES AND ELDERLY ASSISTANCE
5 TRUST.—(1) The Secretary shall establish and maintain
6 a Catawba Social Services and Elderly Assistance Trust
7 Fund and, until the Tribe engages an outside firm for in-
8 vestment management of this Trust Fund, the Secretary
9 shall manage, invest, and administer the Social Services
10 and Elderly Assistance Trust Fund. The original principal
11 amount of this Trust Fund shall be determined by the
12 Tribe in consultation with the Secretary.

13 (2) The income of this Trust Fund shall be periodi-
14 cally distributed to the Tribe to support social services
15 programs, including (but not limited to) housing, care of
16 elderly, or physically or mentally disabled Members, child
17 care, supplemental health care, education, cultural preser-
18 vation, burial and cemetery maintenance, and operation
19 of tribal government.

20 (3) The Tribe, in consultation with the Secretary,
21 shall establish eligibility criteria and procedures to carry
22 out this subsection.

23 (h) PER CAPITA PAYMENT TRUST FUND.—(1) The
24 Secretary shall establish and maintain a Catawba Per
25 Capita Payment Trust Fund in an amount equal to 15

1 percent of the settlement funds paid pursuant to section
2 5 of the Settlement Agreement. Until the Tribe engages
3 an outside firm for investment management of this Trust
4 Fund, the Secretary shall manage, invest, and administer
5 the Catawba Per Capita Payment Trust Fund.

6 (2) Each person (or their estate) whose name appears
7 on the final base membership roll of the Tribe published
8 by the Secretary pursuant to section 7(c) of this Act will
9 receive a one-time, non-recurring payment from this Trust
10 Fund.

11 (3) The amount payable to each member shall be de-
12 termined by dividing the trust principal and any accrued
13 interest thereon by the number of Members on the final
14 base membership roll.

15 (4)(A) Subject to the provisions of this paragraph,
16 each enrolled member who has reached the age of 21 years
17 on the date the final roll is published shall receive the pay-
18 ment on the date of distribution, which shall be as soon
19 as practicable after date of publication of the final base
20 membership roll. Adult Members shall be paid their pro
21 rata share of this Trust Fund on the date of distribution
22 unless they elect in writing to leave their pro rata share
23 in the Trust Fund, in which case such share shall not be
24 distributed.

1 (B) The pro rata share of adult Members who elect
2 not to withdraw their payment from this Trust Fund shall
3 be managed, invested and administered, together with the
4 funds of Members who have not attained the age of 21
5 years on the date the final base membership roll is pub-
6 lished, until such Member requests in writing that their
7 pro rata share be distributed, at which time such Mem-
8 ber's pro rata share shall be paid, together with the net
9 income of the Trust Fund allocable to such Member's
10 share as of the date of distribution.

11 (C) No member may elect to have their pro rata share
12 managed by this Trust Fund for a period of more than
13 21 years after the date of publication of the final base
14 membership roll.

15 (5)(A) Subject to the provisions of this paragraph,
16 the pro rata share of any Member who has not attained
17 the age of 21 years on the date the final base membership
18 roll is published shall be managed, invested and adminis-
19 tered pursuant to the provisions of this section until such
20 Member has attained the age of 21 years, at which time
21 such Member's pro rata share shall be paid, together with
22 the net income of the Trust Fund allocable to such Mem-
23 ber's share as of the date of payment. Such Members shall
24 be paid their pro rata share of this Trust Fund on the
25 date they attain 21 years of age unless they elect in writ-

1 ing to leave their pro rata share in the Trust Fund, in
2 which case such share shall not be distributed.

3 (B) The pro rata share of such Members who elect
4 not to withdraw their payment from this trust fund shall
5 be managed, invested and administered, together with the
6 funds of members who have not attained the age of 21
7 years on the date the final base membership roll is pub-
8 lished, until such Member requests in writing that their
9 pro rata share be distributed, at which time such Mem-
10 ber's pro rata share shall be paid, together with the net
11 income of the Trust Fund allocable to such Member's
12 share as of the date of distribution.

13 (C) No Member may elect to have their pro rata
14 share retained and managed by this Trust Fund beyond
15 the expiration of the period of 21 years after the date of
16 publication of the final base membership roll.

17 (6) After payments have been made to all Members
18 entitled to receive payments, this Trust Fund shall termi-
19 nate, and any balance remaining in this Trust Fund shall
20 be merged into the Economic Development Trust Fund,
21 the Education Trust Fund, or the Social Services and El-
22 derly Assistance Trust Fund, as the Tribe may determine.

23 (i) DURATION OF TRUST FUNDS.—Subject to the
24 provisions of this section and with the exception of the
25 Catawba Per Capita Payment Trust Fund, the Trust

1 Funds established in accordance with this section shall
2 continue in existence so long as the Tribe exists and is
3 recognized by the United States. The principal of these
4 Trust Funds shall not be invaded or distributed except
5 as expressly authorized in this Act or in the Settlement
6 Agreement.

7 (j) TRANSFER OF MONEY AMONG TRUST FUNDS.—
8 The Tribe, in consultation with the Secretary, shall have
9 the authority to transfer principal and accumulated in-
10 come between Trust Funds only as follows:

11 (1) Funds may be transferred among the Ca-
12 tawba Economic Development Trust Fund, the Ca-
13 tawba Land Acquisition Trust Fund and the Ca-
14 tawba Social Services and Elderly Assistance Trust
15 Fund, and from any of those three Trust Funds into
16 the Catawba Education Trust Fund; except, that the
17 mandatory share of State, local, and private sector
18 funds invested in the original corpus of the Catawba
19 Education Trust Fund shall not be transferred to
20 any other Trust Fund.

21 (2) Any Trust Fund, except for the Catawba
22 Education Trust Fund, may be dissolved by a vote
23 of two-thirds of those Members eligible to vote, and
24 the assets in such Trust Fund shall be transferred
25 to the remaining Trust Funds; except, that (A) no

1 assets shall be transferred from any of the Trust
2 Funds into the Catawba Per Capita Payment Trust
3 Fund, and (B) the mandatory share of State, local
4 and private funds invested in the original corpus of
5 the Catawba Education Trust Fund may not be
6 transferred or used for any non-educational pur-
7 poses.

8 (3) The dissolution of any Trust Fund shall re-
9 quire the approval of the Secretary pursuant to the
10 Secretarial approval provisions set forth in sub-
11 section (b)(5)(D) of this section.

12 (k) TRUST FUND ACCOUNTING.—(1) The Secretary
13 shall account to the Tribe periodically, and at least annu-
14 ally, for all Catawba Trust Funds being managed and ad-
15 ministered by the Secretary. The accounting shall—

16 (A) identify the assets in which the Trust
17 Funds have been invested during the relevant period;

18 (B) report income earned during the period,
19 distinguishing current income and capital gains;

20 (C) indicate dates and amounts of distributions
21 to the Tribe, separately distinguishing current in-
22 come, accumulated income, and distributions of prin-
23 cipal; and

24 (D) identify any invasions or repayments of
25 principal during the relevant period and record pro-

1 visions the Tribe has made for repayment or restora-
2 tion of principal.

3 (2)(A) Any outside investment management firm en-
4 gaged by the Tribe shall account to the Tribe and sepa-
5 rately to the Secretary at periodic intervals, at least quar-
6 terly. Its accounting shall—

7 (i) identify the assets in which the Trust Funds
8 have been invested during the relevant period;

9 (ii) report income earned during the period,
10 separating current income and capital gains;

11 (iii) indicate dates and amounts of distributions
12 to the Tribe, distinguishing current income, accumu-
13 lated income, and distributions of principal; and

14 (iv) identify any invasions or repayments of
15 principal during the relevant period and record pro-
16 visions the Tribe has made for repayment or restora-
17 tion of principal.

18 (B) Prior to distributing principal from any Trust
19 Fund, the investment management firm shall notify the
20 Secretary of the proposed distribution and the Tribe's pro-
21 posed use of such funds, following procedures to be agreed
22 upon by the investment management firm, the Secretary,
23 and the Tribe. The Secretary shall have 15 days within
24 which to object in writing to any such invasion of prin-

1 cipal. Failure to object will be deemed approval of the dis-
2 tribution.

3 (C) All Trust Funds held and managed by any invest-
4 ment management firm shall be audited annually by a cer-
5 tified public accounting firm approved by the Secretary,
6 and a copy of the annual audit shall be submitted to the
7 Tribe and to the Secretary within four months following
8 the close of the Trust Funds's fiscal year.

9 (I) REPLACEMENT OF INVESTMENT MANAGEMENT
10 FIRM AND MODIFICATION OF INVESTMENT MANAGEMENT
11 PLAN.—The Tribe shall not replace the investment man-
12 agement firm approved by the Secretary without prior
13 written notification to the Secretary and approval by the
14 Secretary of any investment management firm chosen by
15 the Tribe as a replacement. Such Secretarial approval
16 shall be given or denied in accordance with the Secretarial
17 approval provisions contained in subsection (b)(5)(D) of
18 this section. The Tribe and its investment management
19 firm shall also notify the Secretary in writing of any revi-
20 sions in the investment management plan which materially
21 increase investment risk or significantly change the invest-
22 ment management plan, or the agreement, made in con-
23 sultation with the Secretary pursuant to which the outside
24 management firm was retained.

1 (m) TRUST FUNDS NOT COUNTED FOR CERTAIN
2 PURPOSES; USE AS MATCHING FUNDS.—None of the
3 funds, assets, income, payments, or distributions from the
4 trust funds established pursuant to this section shall at
5 any time affect the eligibility of the Tribe or its Members
6 for, or be used as a basis for denying or reducing funds
7 to the Tribe or its Members under any Federal, State, or
8 local program. Distributions from these Trust Funds may
9 be used as matching funds, where appropriate, for Federal
10 grants or loans.

11 **SEC. 12. ESTABLISHMENT OF EXPANDED RESERVATION.**

12 (a) EXISTING RESERVATION.—The Secretary is au-
13 thorized to receive from the State, by such transfer docu-
14 ment as the Secretary and the State shall approve, all
15 rights, title, and interests of the State in and to the Exist-
16 ing Reservation to be held by the United States as trustee
17 for the Tribe, and, effective on the date of such transfer,
18 the obligation of the State as trustee for the Tribe with
19 respect to such land shall cease.

20 (b) EXPANDED RESERVATION.—(1) The Existing
21 Reservation shall be expanded in the manner prescribed
22 by the Settlement Agreement.

23 (2) Within 180 days following the date of the enact-
24 ment of this Act, the Secretary, after consulting with the
25 Tribe, shall ascertain the boundaries and area of the exist-

1 ing reservation. In addition, the Secretary, after consult-
2 ing with the Tribe, shall engage a professional land plan-
3 ning firm as provided in the Settlement Agreement. The
4 Secretary shall bear the cost of all services rendered pur-
5 suant to this section.

6 (3) The Tribe may identify, purchase and request
7 that the Secretary place into reservation status, tracts of
8 lands in the manner prescribed by the Settlement Agree-
9 ment. The Tribe may not request that any land be placed
10 in reservation status, unless those lands were acquired by
11 the Tribe and qualify for reservation status in full compli-
12 ance with the Settlement Agreement, including section 14
13 thereof.

14 (4) The Secretary shall bear the cost of all title ex-
15 aminations, preliminary subsurface soil investigations, and
16 level one environmental audits to be performed on each
17 parcel contemplated for purchase by the Tribe or the Sec-
18 retary for the Expanded Reservation, and shall report the
19 results to the Tribe. The Secretary's or the Tribe's pay-
20 ment of any option fee and the purchase price may be
21 drawn from the Catawba Land Acquisition Trust Fund.

22 (5) The total area of the Expanded Reservation shall
23 be limited to 3,000 acres, including the Existing Reserva-
24 tion, but the Tribe may exclude from this limit up to 600
25 acres of additional land under the conditions set forth in

1 the Settlement Agreement. The Tribe may seek to have
2 the permissible area of the Expanded Reservation en-
3 larged by an additional 600 acres as set forth in the Set-
4 tlement Agreement.

5 (6) All lands acquired for the Expanded Reservation
6 shall be held in trust together with the Existing Reserva-
7 tion which the State is to convey to the United States.

8 (7) Nothing in this Act shall prohibit the Secretary
9 from providing technical and financial assistance to the
10 Tribe to fulfill the purposes of this section.

11 (c) EXPANSION ZONES.—(1) Subject to the condi-
12 tions, criteria, and procedures set forth in the Settlement
13 Agreement, the Tribe shall endeavor at the outset to ac-
14 quire contiguous tracts for the Expanded Reservation in
15 the “Catawba Reservation Primary Expansion Zone”, as
16 defined in the Settlement Agreement.

17 (2) Subject to the conditions, criteria, and procedures
18 set forth in the Settlement Agreement, the Tribe may elect
19 to purchase contiguous tracts in an alternative area, the
20 “Catawba Reservation Secondary Expansion Zone”, as de-
21 fined in the Settlement Agreement.

22 (3) The Tribe may propose different or additional ex-
23 pansion zones subject to the authorizations required in the
24 Settlement Agreement and the State implementing legisla-
25 tion.

1 (d) NON-CONTIGUOUS TRACTS.—The Tribe, in con-
2 sultation with the Secretary, shall take such actions as are
3 reasonable to expand the Existing Reservation by assem-
4 bling a composite tract of contiguous parcels that border
5 and surround the Existing Reservation. Before requesting
6 that any non-contiguous tract be placed in Reservation
7 status, the Tribe shall comply with section 14 of the Set-
8 tlement Agreement. Upon the approval of the Tribe’s ap-
9 plication under and in accordance with section 14 of the
10 Settlement Agreement, the Secretary, in consultation with
11 the Tribe, may proceed to place non-contiguous tracts in
12 Reservation status. No purchases of non-contiguous tracts
13 shall be made for the Reservation except as set forth in
14 the Settlement Agreement and the State implementing
15 legislation.

16 (e) VOLUNTARY LAND PURCHASES.—(1) The power
17 of eminent domain shall not be used by the Secretary or
18 any governmental authority in acquiring parcels of land
19 for the benefit of the Tribe, whether or not the parcels
20 are to be part of the Reservation. All such purchases shall
21 be made only from willing sellers by voluntary conveyances
22 subject to the terms of the Settlement Agreement.

23 (2) Conveyances by private land owners to the Sec-
24 retary or to the Tribe for the Expanded Reservation will
25 be deemed, however, to be involuntary conversions within

1 the meaning of section 1033 of the Internal Revenue Code
2 of 1986.

3 (3) Notwithstanding any other provision of this sec-
4 tion and the provisions of the first section of the Act of
5 August 1, 1888 (ch. 728, 25 Stat. 357; 40 U.S.C. 257),
6 and the first section of the Act of February 26, 1931 (ch.
7 307, 46 Stat. 1421; 40 U.S.C. 258a), the Secretary or
8 the Tribe may acquire a less than complete interest in land
9 otherwise qualifying under section 14 of the Settlement
10 Agreement for treatment as Reservation land for the bene-
11 fit of the Tribe from the ostensible owner of the land if
12 the Secretary or the Tribe and the ostensible owner have
13 agreed upon the identity of the land to be sold and upon
14 the purchase price and other terms of sale. If the osten-
15 sible owner agrees to the sale, the Secretary may use con-
16 demnation proceedings to perfect or clear title and to ac-
17 quire any interests of putative co-tenants whose address
18 is unknown or the interests of unknown or unborn heirs
19 or persons subject to mental disability.

20 (f) TERMS AND CONDITIONS OF ACQUISITION.—All
21 properties acquired by the Secretary for the Tribe or ac-
22 quired by the Tribe shall be acquired subject to the terms
23 and conditions set forth in the Settlement Agreement. The
24 Tribe and the Secretary, acting on behalf of the Tribe and
25 with its consent, are also authorized to acquire Reserva-

1 tion and non-Reservation lands using the methods of fi-
2 nancing described in the Settlement Agreement.

3 (g) AUTHORITY TO ERECT PERMANENT IMPROVE-
4 MENTS ON EXISTING AND EXPANDED RESERVATION
5 LAND AND NON-RESERVATION LAND HELD IN TRUST.—
6 Notwithstanding any other provision of law or regulation,
7 the Attorney General of the United States may approve
8 any deed or other instrument which conveys to the United
9 States lands purchased pursuant to the provisions of this
10 section and the Settlement Agreement. The Secretary or
11 the Tribe may erect permanent improvements of a sub-
12 stantial value, or any other improvements authorized by
13 law on such land after such land is conveyed to the United
14 States.

15 (h) EASEMENTS OVER RESERVATION.—(1) The ac-
16 quisition of lands for the Expanded Reservation shall not
17 extinguish any easements or rights-of-way then encumber-
18 ing such lands unless the Secretary or the Tribe enters
19 into a written agreement with the owners terminating such
20 easements or rights-of-way.

21 (2)(A) The Tribe, with the approval of the Secretary,
22 shall have the power to grant or convey easements and
23 rights-of-way, in a manner consistent with the Settlement
24 Agreement.

1 (B) Unless the Tribe and the State agree upon a
2 valuation formula for pricing easements over the Reserva-
3 tion, the Secretary shall be subject to proceedings for con-
4 demnation and eminent domain to acquire easements and
5 rights of way for public purposes through the Reservation
6 under the laws of the State in circumstances where no
7 other reasonable access is available.

8 (C) With the approval of the Tribe, the Secretary
9 may grant easements or rights-of-way over the Reserva-
10 tion for private purposes, and implied easements of neces-
11 sity shall apply to all lands acquired by the Tribe, unless
12 expressly excluded by the parties.

13 (i) JURISDICTIONAL STATUS.—Only land made part
14 of the Reservation shall be governed by the special juris-
15 dictional provisions set forth in the Settlement Agreement
16 and the State Act.

17 (j) SALE AND TRANSFER OF RESERVATION
18 LANDS.—With the approval of the Secretary, the Tribe
19 may sell, exchange, or lease lands within the Reservation,
20 and sell timber or other natural resources on the Reserva-
21 tion under circumstances and in the manner prescribed
22 by the Settlement Agreement and the State Act.

23 (k) TIME LIMIT ON ACQUISITIONS.—All acquisitions
24 of contiguous land to expand the Reservation or of non-
25 contiguous lands to be placed in Reservation status shall

1 be completed or under contract of purchase within 10
2 years from the date the last payment is made into the
3 Land Acquisition Trust; except that for a period of 20
4 years after the date the last payment is made into the
5 Catawba Land Acquisition Trust Fund, the Tribe may,
6 subject to the limitation on the total size of the Reserva-
7 tion, continue to add parcels to up to two Reservation
8 areas so long as the parcels acquired are contiguous to
9 one of those two Reservation areas.

10 (l) LEASES OF RESERVATION LANDS.—The provi-
11 sions of the first section of the Act of August 9, 1955
12 (ch. 615, 69 Stat. 539; 25 U.S.C. 415) shall not apply
13 to the Tribe and its Reservation. The Tribe, with the ap-
14 proval of the Secretary, shall be authorized to lease its
15 Reservation lands for terms up to but not exceeding 99
16 years.

17 (m) NON-APPLICABILITY OF BIA LAND ACQUISITION
18 REGULATIONS.—The general land acquisition regulations
19 of the Bureau of Indian Affairs, contained in part 151
20 of title 25, Code of Federal Regulations, shall not apply
21 to the acquisition of lands authorized by this section.

22 **SEC. 13. NON-RESERVATION PROPERTIES.**

23 (a) ACQUISITION OF NON-RESERVATION PROP-
24 erties.—The Tribe may draw upon the corpus or accu-
25 mulated income of the Catawba Land Acquisition Trust

1 Fund or the Catawba Economic Development Trust Fund
2 to acquire and hold parcels of real estate outside the Res-
3 ervation for the purposes and in the manner delineated
4 in the Settlement Agreement. Jurisdiction and status of
5 all non-Reservation lands shall be governed by section 15
6 of the Settlement Agreement.

7 (b) AUTHORITY TO DISPOSE OF LANDS.—Notwith-
8 standing any other provision of law, the Tribe may lease,
9 sell, mortgage, restrict, encumber, or otherwise dispose of
10 such non-Reservation lands in the same manner as other
11 persons and entities under State law, and the Tribe as
12 land owner shall be subject to the same obligations and
13 responsibilities as other persons and entities under State,
14 Federal, and local law.

15 (c) RESTRICTIONS.—Ownership and transfer of non-
16 Reservation parcels shall not be subject to Federal law re-
17 strictions on alienation, including (but not limited to) the
18 restrictions imposed by Federal common law and the pro-
19 visions of the section 2116 of the Revised Statutes (25
20 U.S.C. 177).

21 **SEC. 14. GAMES OF CHANCE.**

22 (a) INAPPLICABILITY OF INDIAN GAMING REGU-
23 LATORY ACT.—The Indian Gaming Regulatory Act (25
24 U.S.C. 2701 et seq.) shall not apply to the Tribe.

1 (b) GAMES OF CHANCE GENERALLY.—The Tribe
2 shall have the rights and responsibilities set forth in the
3 Settlement Agreement and the State Act with respect to
4 the conduct of games of chance. Except as specifically set
5 forth in the Settlement Agreement and the State Act, all
6 laws, ordinances, and regulations of the State, and its po-
7 litical subdivisions, shall govern the regulation of gambling
8 devices and the conduct of gambling or wagering by the
9 Tribe on and off the Reservation.

10 **SEC. 15. GENERAL PROVISIONS.**

11 (a) SEVERABILITY.—If any provision of section 4(a),
12 5, or 6 of this Act is rendered invalid by the final action
13 of a court, then all of this Act is invalid. Should any other
14 section of this Act be rendered invalid by the final action
15 of a court, the remaining sections of this Act shall remain
16 in full force and effect.

17 (b) INTERPRETATION CONSISTENT WITH SETTLE-
18 MENT AGREEMENT.—To the extent possible, this Act shall
19 be construed in a manner consistent with the Settlement
20 Agreement and the State Act. In the event of a conflict
21 between the provisions of this Act and the Settlement
22 Agreement or the State Act, the terms of this Act shall
23 govern. In the event of a conflict between the State Act
24 and the Settlement Agreement, the terms of the State Act
25 shall govern. The Settlement Agreement and the State Act

1 shall be maintained on file and available for public inspec-
2 tion at the Department of the Interior.

3 (c) IMPACT OF SUBSEQUENTLY ENACTED LAWS.—

4 The provisions of any Federal law enacted after the date
5 of enactment of this Act shall not apply in the State if
6 such provision would materially affect or preempt the ap-
7 plication of the laws of the State, including application
8 of the laws of the State applicable to lands owned by or
9 held in trust for Indians, or Indian Nations, Tribes or
10 bands of Indians. However, such Federal law shall apply
11 within the State if the State grants its approval by a law
12 or joint resolution enacted by the General Assembly of
13 South Carolina and signed by the Governor.

14 (d) ELIGIBILITY FOR CONSIDERATION TO BECOME
15 AN ENTERPRISE ZONE OR GENERAL PURPOSE FOREIGN
16 TRADE ZONE.—Notwithstanding the provisions of any
17 other law or regulation, the Tribe shall be eligible to be-
18 come, sponsor and operate (1) an “enterprise zone” pursu-
19 ant to title VII of the Housing and Community Develop-
20 ment Act of 1987 (42 U.S.C. 11501–11505) or any other
21 applicable Federal (or State) laws or regulations; or (2)
22 a “foreign-trade zone” or “subzone” pursuant to the For-
23 eign Trade Zones Act of 1934, as amended (19 U.S.C.
24 81a–81u) and the regulations thereunder, to the same ex-
25 tent as other federally recognized Indian Tribes.

1 (e) GENERAL APPLICABILITY OF STATE LAW.—Con-
2 sistent with the provisions of section 4(a)(2), the provi-
3 sions of South Carolina Code Annotated, section 27–16–
4 40, and section 19.1 of the Settlement Agreement are ap-
5 proved, ratified, and confirmed by the United States, and
6 shall be complied with in the same manner and to the
7 same extent as if they had been enacted into Federal law.

8 (f) SUBSEQUENT AMENDMENTS TO THE SETTLE-
9 MENT AGREEMENT OR STATE ACT.—Consent is hereby
10 given to the Tribe and the State to amend the Settlement
11 Agreement and the State Act if consent to such amend-
12 ment is given by both the State and the Tribe, and if such
13 amendment relates to—

14 (1) the jurisdiction, enforcement, or application
15 of civil, criminal, regulatory, or tax laws of the Tribe
16 and the State;

17 (2) the allocation or determination of govern-
18 mental responsibility of the State and the Tribe over
19 specified subject matters or specified geographical
20 areas, or both, including provision for concurrent ju-
21 risdiction between the State and the Tribe;

22 (3) the allocation of jurisdiction between the
23 tribal courts and the State courts; or

24 (4) technical and other corrections and revisions
25 to conform the State Act and the Agreement in

1 Principle attached to the State Act to the Settlement
2 Agreement.

3 **SEC. 16. TAX TREATMENT OF INCOME AND TRANSACTIONS.**

4 Notwithstanding any provision of the State Act, Set-
5 tlement Agreement or this Act (including any amendment
6 made under section 15(f)) any income or transaction oth-
7 erwise taxable shall remain taxable under the general prin-
8 ciples of the Internal Revenue Code of 1986.

9 **SEC. 17. EFFECTIVE DATE.**

10 Except for section 12, the provisions of this Act shall
11 become effective upon the transfer of the Existing Res-
12 ervation under section 12 to the Secretary.

Passed the Senate August 6 (legislative day, June
30), 1993.

Attest:

Secretary.

S 1156 ES—2

S 1156 ES—3

S 1156 ES—4

S 1156 ES—5