

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2399

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29 (legislative day, SEPTEMBER 27), 1993

Received

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## AN ACT

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”.

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

8 (a) FINDINGS.—The Congress declares and finds  
9 that:

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

6           (2) There is pending before the United States  
7           District Court for the District of South Carolina a  
8           lawsuit disputing ownership of approximately  
9           140,000 acres of land in the State of South Carolina  
10          and other rights of the Catawba Indian Tribe under  
11          Federal law.

12          (3) The Catawba Indian Tribe initiated a relat-  
13          ed lawsuit against the United States in the United  
14          States Court of Federal Claims seeking monetary  
15          damages.

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

18                 (A) In treaties with the Crown in 1760  
19                 and 1763, the Tribe ceded vast portions of its  
20                 aboriginal territory in the present States of  
21                 North and South Carolina in return for guaran-  
22                 tees of being quietly settled on a 144,000-acre  
23                 reservation.

24                 (B) The Tribe's district court suit con-  
25                 tended that in 1840 the Tribe and the State en-

1           tered into an agreement without Federal ap-  
2           proval or participation whereby the Tribe ceded  
3           its treaty reservation to the State, thereby giv-  
4           ing rise to the Tribe's claim that it was dispos-  
5           sessed of its lands in violation of Federal law.

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

13          (D) In 1959, when Congress enacted the  
14          Catawba Tribe of South Carolina Division of  
15          Assets Act (25 U.S.C. 931–938), Federal  
16          agents assured the Tribe that if the Tribe  
17          would release the Government from its obliga-  
18          tion under the 1943 agreement and agree to  
19          Federal legislation terminating the Federal  
20          trust relationship and liquidating the 1943 res-  
21          ervation, the status of the Tribe's land claim  
22          would not be jeopardized by termination.

23          (E) In 1980, the Tribe initiated Federal  
24          court litigation to regain possession of its treaty  
25          lands and in 1986, the United States Supreme

1 Court ruled in South Carolina against Catawba  
2 Indian Tribe that the 1959 Act resulted in the  
3 application of State statutes of limitations to  
4 the Tribe's land claim. Two subsequent deci-  
5 sions of the United States Court of Appeals for  
6 the Fourth Circuit have held that some portion  
7 of the Tribe's claim is barred by State statutes  
8 of limitations and that some portion is not  
9 barred.

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

24 (6) The 102d Congress has enacted legislation  
25 suspending until October 1, 1993, the running of

1 any unexpired statute of limitation applicable to the  
2 Tribe's land claim in order to provide additional  
3 time to negotiate settlement of these claims.

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

14 (8) To advance the goals of the Federal policy  
15 of Indian self-determination and restoration of ter-  
16 minated Indian Tribes, and in recognition of the  
17 United States obligation to the Tribe and the Fed-  
18 eral policy of settling historical Indian claims  
19 through comprehensive settlement agreements, it is  
20 appropriate that the United States participate in the  
21 funding and implementation of the Settlement  
22 Agreement.

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

24 (1) to approve, ratify, and confirm the Settle-  
25 ment Agreement entered into by the non-Indian set-

1 tlement parties and the Tribe, except as otherwise  
2 provided by this Act;

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

5 (3) to authorize the actions and appropriations  
6 necessary to implement the provisions of the Settle-  
7 ment Agreement and this Act;

8 (4) to remove the cloud on titles in the State  
9 of South Carolina resulting from the Tribe's land  
10 claim; and

11 (5) to restore the trust relationship between the  
12 Tribe and the United States.

13 **SEC. 3. DEFINITIONS.**

14 For purposes of this Act:

15 (1) The term "Tribe" means the Catawba In-  
16 dian Tribe of South Carolina as constituted in ab-  
17 original times, which was party to the Treaty of  
18 Pine Tree Hill in 1760 as confirmed by the Treaty  
19 of Augusta in 1763, which was party also to the  
20 Treaty of Nation Ford in 1840, and which was the  
21 subject of the Termination Act, and all predecessors  
22 and successors in interest, including the Catawba In-  
23 dian Tribe of South Carolina, Inc.

24 (2) The term "claim" or "claims" means any  
25 claim which was asserted by the Tribe in either Suit,

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

10 (3) The term “Executive Committee” means  
11 the body of the Tribe composed of the Tribe’s execu-  
12 tive officers as selected by the Tribe in accordance  
13 with its constitution.

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

19 (5) The term “General Council” means the  
20 membership of the Tribe convened as the Tribe’s  
21 governing body for the purpose of conducting tribal  
22 business pursuant to the Tribe’s constitution.

23 (6) The term “Member” means individuals who  
24 are currently members of the Tribe or who are en-  
25 rolled in accordance with this Act.

1           (7) The term “Reservation” or “Expanded Res-  
2           ervation” means the Existing Reservation and the  
3           lands added to the Existing Reservation in accord-  
4           ance with section 12 of this Act, which are to be  
5           held in trust by the Secretary in accordance with  
6           this Act.

7           (8) The term “Secretary” means the Secretary  
8           of the Interior.

9           (9) The term “service area” means the area  
10          composed of the State of South Carolina and  
11          Cabarrus, Cleveland, Gaston, Mecklenburg, Ruther-  
12          ford, and Union counties in the State of North  
13          Carolina.

14          (10) The term “Settlement Agreement” means  
15          the document entitled “Agreement in Principle” be-  
16          tween the Tribe and the State of South Carolina and  
17          attached to the copy of the State Act and filed with  
18          the Secretary of State of the State of South Caro-  
19          lina, as amended to conform to this Act and printed  
20          in the Congressional Record.

21          (11) The term “State” means, except for sec-  
22          tion 6 (a) through (f), the State of South Carolina.

23          (12) The term “State Act” means the Act en-  
24          acted into law by the State of South Carolina on  
25          June 14, 1993, and codified as S.C. Code Ann., sec-

1 tions 27–16–10 through 27–16–140, to implement  
2 the Settlement Agreement.

3 (13) The term “Suit” or “Suits” means Ca-  
4 tawba Indian Tribe of South Carolina v. State of  
5 South Carolina, et al., docketed as Civil Action No.  
6 80–2050 and filed in the United States District  
7 Court for the District of South Carolina; and Ca-  
8 tawba Indian Tribe of South Carolina v. The United  
9 States of America, docketed as Civil Action No. 90–  
10 553L and filed in the United States Court of  
11 Federal Claims.

12 (14) The term “Termination Act” means the  
13 Act entitled “An Act to provide for the division of  
14 the tribal assets of the Catawba Indian Tribe of  
15 South Carolina among the members of the Tribe  
16 and for other purposes”, approved September 21,  
17 1959 (73 Stat. 592; 25 U.S.C. 931–938).

18 (15) The term “transfer” includes (but is not  
19 limited to) any voluntary or involuntary sale, grant,  
20 lease, allotment, partition, or other conveyance; any  
21 transaction the purpose of which was to effect a  
22 sale, grant, lease, allotment, partition, or convey-  
23 ance; and any act, event or circumstance that re-  
24 sulted in a change in title to, possession of, domin-

1 ion over, or control of land, water, minerals, timber,  
2 or other natural resources.

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

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

6 (a) RESTORATION OF THE FEDERAL TRUST RELA-  
7 TIONSHIP AND APPROVAL, RATIFICATION, AND CON-  
8 FIRMATION OF THE SETTLEMENT AGREEMENT.—On the  
9 effective date of this Act—

10 (1) the trust relationship between the Tribe and  
11 the United States is restored; and

12 (2) the Settlement Agreement and the State  
13 Act are approved, ratified, and confirmed by the  
14 United States to effectuate the purposes of this Act,  
15 and shall be complied with in the same manner and  
16 to the same extent as if they had been enacted into  
17 Federal law.

18 (b) ELIGIBILITY FOR FEDERAL BENEFITS AND  
19 SERVICES.—Notwithstanding any other provision of law,  
20 on the effective date of this Act, the Tribe and the Mem-  
21 bers shall be eligible for all benefits and services furnished  
22 to federally recognized Indian tribes and their members  
23 because of their status as Indians. On the effective date  
24 of this Act, the Secretary shall enter the Tribe on the list  
25 of federally recognized bands and tribes maintained by the

1 Department of the Interior; and its members shall be enti-  
2 tled to special services, educational benefits, medical care,  
3 and welfare assistance provided by the United States to  
4 Indians because of their status as Indians, and the Tribe  
5 shall be entitled to the special services performed by the  
6 United States for tribes because of their status as Indian  
7 tribes. For the purpose of eligibility for Federal services  
8 made available to members of federally recognized Indian  
9 tribes because of their status as Indian tribal members,  
10 Members of the Tribe in the Tribe's service area shall be  
11 deemed to be residing on or near a reservation.

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

14 (d) EFFECT ON PROPERTY RIGHTS AND OTHER OB-  
15 LIGATIONS.—Except as otherwise specifically provided in  
16 this Act, this Act shall not affect any property right or  
17 obligation or any contractual right or obligation in exist-  
18 ence before the effective date of this Act, or any obligation  
19 for taxes levied before that date.

20 (e) EXTENT OF JURISDICTION.—This Act shall not  
21 be construed to empower the Tribe with special jurisdic-  
22 tion or to deprive the State of jurisdiction other than as  
23 expressly provided by this Act or by the State Act. The  
24 jurisdiction and governmental powers of the Tribe shall  
25 be solely those set forth in this Act and the State Act.

1 **SEC. 5. SETTLEMENT FUNDS.**

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

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

16 (c) FEDERAL, STATE, LOCAL AND PRIVATE CON-  
17 TRIBUTIONS HELD IN TRUST BY SECRETARY.—The Sec-  
18 retary shall, on behalf of the Tribe, collect those contribu-  
19 tions toward settlement appropriated or received by the  
20 State pursuant to section 5.2 of the Settlement Agreement  
21 and shall either hold such funds totalling \$18,000,000, to-  
22 gether with the Federal funds appropriated pursuant to  
23 this Act, in trust for the Tribe pursuant to the provisions  
24 of section 11 of this Act or pay such funds pursuant to  
25 section 6(g) of this Act.

1 (d) NONPAYMENT OF STATE, LOCAL, OR PRIVATE  
2 CONTRIBUTIONS.—The Secretary shall not be accountable  
3 or incur any liability for the collection, deposit, or manage-  
4 ment of the non-Federal contributions made pursuant to  
5 section 5.2 of the Settlement Agreement, or payment of  
6 such funds pursuant to section 6(g) of this Act, until such  
7 time as such funds are received by the Secretary.

8 **SEC. 6. RATIFICATION OF PRIOR TRANSFERS; EXTINGUISH-**  
9 **MENT OF ABORIGINAL TITLE, RIGHTS AND**  
10 **CLAIMS.**

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

1 (b) ABORIGINAL TITLE.—To the extent that any  
2 transfer of land or natural resources described in sub-  
3 section (a) of this section may involve land or natural re-  
4 sources to which the Tribe, any of its Members, or anyone  
5 purporting to be a Member, or any other Indian, Indian  
6 nation, or Tribe or band of Indians had aboriginal title,  
7 subsection (a) of this section shall be regarded as an extin-  
8 guishment of aboriginal title as of the date of such  
9 transfer.

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

24 (d) EXTINGUISHMENT OF TITLE.—(1) All claims and  
25 all right, title, and interest that the Tribe, its Members,

1 or any person or group of persons purporting to be Ca-  
2 tawba Indians may have to aboriginal title, recognized  
3 title, or title by grant, patent, or treaty to the lands lo-  
4 cated anywhere in the United States are hereby extin-  
5 guished.

6 (2) This extinguishment of claims shall also extin-  
7 guish title to any hunting, fishing, or water rights or  
8 rights to any other natural resource claimed by the Tribe  
9 or a Member based on aboriginal or treaty recognized title,  
10 and all trespass damages and other damages associated  
11 with use, occupancy or possession, or entry upon such  
12 lands.

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

22 (f) NO DEROGATION OF FEE SIMPLE IN EXISTING  
23 RESERVATION, OR EFFECT ON MEMBERS' FEE INTER-  
24 ESTS.—Nothing in this Act shall be construed to diminish  
25 or derogate from the Tribe's estate in the Existing Res-

1 ervation; or to divest or disturb title in any land conveyed  
2 to any person or entity as a result of the Termination Act  
3 and the liquidation and partition of tribal lands; or to di-  
4 vest or disturb the right, title and interest of any Member  
5 in any fee simple, leasehold or remainder estate or any  
6 equitable or beneficial right or interest any such Member  
7 may own individually and not as a Member of the Tribe.

8 (g) COSTS AND ATTORNEYS' FEES.—The parties to  
9 the Suits shall bear their own costs and attorneys' fees.  
10 As provided by section 6.4 of the Settlement Agreement,  
11 the Secretary shall pay to the Tribe's attorneys in the  
12 Suits attorneys' fees and expenses from, and not to exceed  
13 10 percent of, the \$50,000,000 obligated for payment to  
14 the Tribe by Federal, State, local, and private parties pur-  
15 suant to section 5 of the Settlement Agreement.

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

22 (i) FEDERAL PAYMENT.—In the event any of the  
23 Federal payments are not paid as set forth in section 5,  
24 such failure to pay shall give rise to a cause of action by  
25 the Tribe against the United States for money damages

1 for the amount authorized to be paid to the Tribe in sec-  
2 tion 5(a) in settlement of the Tribe's claim, and the Tribe  
3 is authorized to bring an action in the United States Court  
4 of Claims for such funds plus applicable interest. The  
5 United States hereby waives any affirmative defense to  
6 such action.

7 (j) STATE PAYMENT.—In the event any of the State  
8 payments are not paid as set forth in section 5 of this  
9 Act, such failure to pay shall give rise to a cause of action  
10 in the United States District Court for the District of  
11 South Carolina by the Tribe against the State of South  
12 Carolina for money damages for the amount authorized  
13 to be paid to the Tribe by the State in §27–16–50 (A)  
14 of the State Act in settlement of the Tribe's claim. Pursu-  
15 ant to §27–16–50 (E) of the State Act, the State of South  
16 Carolina waives any Eleventh Amendment immunity to  
17 such action.

18 **SEC. 7. BASE MEMBERSHIP ROLL.**

19 (a) BASE MEMBERSHIP ROLL CRITERIA.—Within  
20 one year after enactment of this section, the Tribe shall  
21 submit to the Secretary, for approval, its base membership  
22 roll. An individual is eligible for inclusion on the base  
23 membership roll if that individual is living on the date of  
24 enactment of this Act and—

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

6           (2) the Executive Committee determines, based  
7           on the criteria used to compile the roll referred to  
8           in paragraph (1), that the individual should have  
9           been included on the membership roll at that time,  
10          but was not; or

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

14          (b) BASE MEMBERSHIP ROLL NOTICE.—Within 90  
15          days after the enactment of this Act, the Secretary shall  
16          publish in the Federal Register, and in three newspapers  
17          of general circulation in the Tribe’s service area, a notice  
18          stating—

19                (1) that a base membership roll is being pre-  
20                pared by the Tribe and that the current membership  
21                roll is open and will remain open for a period of 90  
22                days;

23                (2) the requirements for inclusion on the base  
24                membership roll;

1           (3) the final membership roll published by the  
2       Secretary in the Federal Register on February 25,  
3       1961;

4           (4) the current membership roll as prepared by  
5       the Executive Committee and approved by the Gen-  
6       eral Council; and

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

9       (c) COMPLETION OF BASE MEMBERSHIP ROLL.—  
10    Within 120 days after publication of notice under sub-  
11    section (b), the Secretary, after consultation with the  
12    Tribe, shall prepare and publish in the Federal Register,  
13    and in three newspapers of general circulation in the  
14    Tribe's service area, a proposed final base membership roll  
15    of the Tribe. Within 60 days from the date of publication  
16    of the proposed final base membership roll, an appeal may  
17    be filed with the Executive Committee under rules made  
18    by the Executive Committee in consultation with the Sec-  
19    retary. Such an appeal may be filed by a Member with  
20    respect to the inclusion of any name on the proposed final  
21    base membership roll and by any person with respect to  
22    the exclusion of his or her name from the final base mem-  
23    bership roll. The Executive Committee shall review such  
24    appeals and render a decision, subject to the Secretary's  
25    approval. If the Executive Committee and the Secretary

1 disagree, the Secretary's decision will be final. All such  
2 appeals shall be resolved within 90 days following publica-  
3 tion of the proposed roll. The final base membership roll  
4 of the Tribe shall then be published in the Federal Reg-  
5 ister, and in three newspapers of general circulation in the  
6 Tribe's service area, and shall be final for purposes of the  
7 distribution of funds from the Per Capita Trust Fund es-  
8 tablished under section 11(h).

9 (d) FUTURE MEMBERSHIP IN THE TRIBE.—The  
10 Tribe shall have the right to determine future membership  
11 in the Tribe; however, in no event may an individual be  
12 enrolled as a tribal member unless the individual is a lineal  
13 descendant of a person on the final base membership roll  
14 and has continued to maintain political relations with the  
15 Tribe.

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

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

20 (b) EXECUTIVE COMMITTEE AS TRANSITIONAL  
21 BODY.—(1) Until the Tribe has adopted a constitution,  
22 the existing tribal constitution shall remain in effect and  
23 the Executive Committee is recognized as the provisional  
24 and transitional governing body of the Tribe. Until an

1 election of tribal officers under the new constitution, the  
2 Executive Committee shall—

3 (A) represent the Tribe and its Members in the  
4 implementation of this Act; and

5 (B) during such period—

6 (i) have full authority to enter into con-  
7 tracts, grant agreements and other arrange-  
8 ments with any Federal department or agency;  
9 and

10 (ii) have full authority to administer or op-  
11 erate any program under such contracts or  
12 agreements.

13 (2) Until the initial election of tribal officers under  
14 a new constitution and by-laws, the Executive Committee  
15 shall—

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

18 (B) oversee and implement the revision and  
19 proposal to the Tribe of a new constitution and con-  
20 duct such tribal meetings and elections as are re-  
21 quired by this Act.

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

23 (a) INDIAN REORGANIZATION ACT.—If the Tribe so  
24 elects, it may organize under the Act of June 18, 1934  
25 (25 U.S.C. 461 et seq.; commonly referred to as the “In-

1 dian Reorganization Act’). The Tribe shall be subject to  
2 such Act except to the extent such sections are inconsis-  
3 ent with this Act.

4 (b) ADOPTION OF NEW TRIBAL CONSTITUTION.—  
5 Within 180 days after the effective date of this Act, the  
6 Executive Committee shall draft and distribute to each  
7 Member eligible to vote under the tribal constitution in  
8 effect on the effective date of this Act, a proposed con-  
9 stitution and bylaws for the Tribe together with a brief,  
10 impartial description of the proposed constitution and by-  
11 laws and a notice of the date, time and location of the  
12 election under this subsection. Not sooner than 30 days  
13 or later than 90 days after the distribution of the proposed  
14 constitution, the Executive Committee shall conduct a se-  
15 cret-ballot election to adopt a new constitution and bylaws.

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

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

22 (B) approved by a majority of those actually  
23 voting.

24 (2) If in any such election such majority does not ap-  
25 prove the adoption of the proposed constitution and by-

1 laws, the Executive Committee shall prepare another pro-  
2 posed constitution and bylaws and present it to the Tribe  
3 in the same manner provided in this section for the first  
4 constitution and bylaws. Such new proposed constitution  
5 and bylaws shall be distributed to the eligible voters of  
6 the Tribe no later than 180 days after the date of the  
7 election in which the first proposed constitution and by-  
8 laws failed of adoption. An election on the question of the  
9 adoption of the new proposal of the Executive Committee  
10 shall be conducted in the same manner provided in sub-  
11 section (b) for the election on the first proposed constitu-  
12 tion and bylaws.

13 (d) ELECTION OF TRIBAL OFFICERS.—Within 120  
14 days after the Tribe ratifies and adopts a constitution and  
15 bylaws, the Executive Committee shall conduct an election  
16 by secret ballot for the purpose of electing tribal officials  
17 as provided in the constitution and bylaws. Subsequent  
18 elections shall be held in accordance with the Tribe's con-  
19 stitution and bylaws.

20 (e) EXTENSION OF TIME.—Any time periods pre-  
21 scribed in subsections (b) and (c) may be altered by writ-  
22 ten agreement between the Executive Committee and the  
23 Secretary.

1 **SEC. 10. ADMINISTRATIVE PROVISIONS RELATING TO JU-**  
2 **RISDICTION, TAXATION, AND OTHER MAT-**  
3 **TERS.**

4 In the administration of this Act:

5 (1) All matters involving tribal powers, immuni-  
6 ties, and jurisdiction, whether criminal, civil, or reg-  
7 ulatory, shall be governed by the terms and provi-  
8 sions of the Settlement Agreement and the State  
9 Act, unless otherwise provided in this Act.

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

18 (3) The Indian Child Welfare Act of 1978 (25  
19 U.S.C. 1901 et seq.) shall apply to Catawba Indian  
20 children except as provided in the Settlement Agree-  
21 ment.

22 (4) Whether or not the Tribe, under section  
23 9(a), elects to organize under the Act of June 18,  
24 1934, the Tribe, in any constitution adopted by the  
25 Tribe, may be authorized to exercise such authority

1 as is consistent with the Settlement Agreement and  
2 the State Act.

3 (5) In no event may the Tribe pledge or hy-  
4 pothecate the income or principal of the Catawba  
5 Education or Social Services and Elderly Trust  
6 Funds or otherwise use them as security or a source  
7 of payment for bonds the Tribe may issue.

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

13 **SEC. 11. TRIBAL TRUST FUNDS.**

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

1 istering each, specifically including provisions for periodic  
2 distribution of current and accumulated income, and for  
3 invasion and restoration of principal.

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

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

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

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

1 Secretarial disapproval of an investment management firm  
2 shall be accompanied by a detailed explanation setting  
3 forth the Secretary's reasons for such disapproval.

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

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

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

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

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

24 (D)(i) The Tribe's investment management plan shall  
25 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' 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 may 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 Act.

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 Act.

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

22           (2) Notwithstanding any other provision of this sec-  
23 tion and the provisions of the first section of the Act of  
24 August 1, 1888 (ch. 728, 25 Stat. 357; 40 U.S.C. 257),  
25 and the first section of the Act of February 26, 1931 (ch.

1 307, 46 Stat. 1421; 40 U.S.C. 258a), the Secretary or  
2 the Tribe may acquire a fractional interest in land other-  
3 wise qualifying under section 14 of the Settlement Agree-  
4 ment for treatment as Reservation land for the benefit of  
5 the Tribe from the ostensible owner of the land if the Sec-  
6 retary or the Tribe and the ostensible owner have agreed  
7 upon the identity of the land to be sold and upon the pur-  
8 chase price and other terms of sale. If the ostensible owner  
9 agrees to the sale, the Secretary may use condemnation  
10 proceedings to perfect or clear title and to acquire any  
11 interests of putative co-tenants whose address is unknown  
12 or the interests of unknown or unborn heirs or persons  
13 subject to mental disability.

14 (f) TERMS AND CONDITIONS OF ACQUISITION.—All  
15 properties acquired by the Tribe shall be acquired subject  
16 to the terms and conditions set forth in the Settlement  
17 Agreement. The Tribe and the Secretary, acting on behalf  
18 of the Tribe and with its consent, are also authorized to  
19 acquire Reservation and non-Reservation lands using the  
20 methods of financing described in the Settlement Agree-  
21 ment.

22 (g) AUTHORITY TO ERECT PERMANENT IMPROVE-  
23 MENTS ON EXISTING AND EXPANDED RESERVATION  
24 LAND AND NON-RESERVATION LAND HELD IN TRUST.—  
25 Notwithstanding any other provision of law or regulation,

1 the Attorney General of the United States shall approve  
2 any deed or other instrument which conveys to the United  
3 States lands purchased pursuant to the provisions of this  
4 section and the Settlement Agreement. The Secretary or  
5 the Tribe may erect permanent improvements of a sub-  
6 stantial value, or any other improvements authorized by  
7 law on such land after such land is conveyed to the United  
8 States.

9 (h) EASEMENTS OVER RESERVATION.—(1) The ac-  
10 quisition of lands for the Expanded Reservation shall not  
11 extinguish any easements or rights-of-way then encumber-  
12 ing such lands unless the Secretary or the Tribe enters  
13 into a written agreement with the owners terminating such  
14 easements or rights-of-way.

15 (2)(A) The Tribe, with the approval of the Secretary,  
16 shall have the power to grant or convey easements and  
17 rights-of-way, in a manner consistent with the Settlement  
18 Agreement.

19 (B) Unless the Tribe and the State agree upon a  
20 valuation formula for pricing easements over the Reserva-  
21 tion, the Secretary shall be subject to proceedings for con-  
22 demnation and eminent domain to acquire easements and  
23 rights of way for public purposes through the Reservation  
24 under the laws of the State in circumstances where no  
25 other reasonable access is available.

1 (C) With the approval of the Tribe, the Secretary  
2 may grant easements or rights-of-way over the Reserva-  
3 tion for private purposes, and implied easements of neces-  
4 sity shall apply to all lands acquired by the Tribe, unless  
5 expressly excluded by the parties.

6 (i) JURISDICTIONAL STATUS.—Only land made part  
7 of the Reservation shall be governed by the special juris-  
8 dictional provisions set forth in the Settlement Agreement  
9 and the State Act.

10 (j) SALE AND TRANSFER OF RESERVATION  
11 LANDS.—With the approval of the Secretary, the Tribe  
12 may sell, exchange, or lease lands within the Reservation,  
13 and sell timber or other natural resources on the Reserva-  
14 tion under circumstances and in the manner prescribed  
15 by the Settlement Agreement and the State Act.

16 (k) TIME LIMIT ON ACQUISITIONS.—All acquisitions  
17 of contiguous land to expand the Reservation or of non-  
18 contiguous lands to be placed in Reservation status shall  
19 be completed or under contract of purchase within 10  
20 years from the date the last payment is made into the  
21 Land Acquisition Trust; except that for a period of 20  
22 years after the date the last payment is made into the  
23 Catawba Land Acquisition Trust Fund, the Tribe may,  
24 subject to the limitation on the total size of the Reserva-  
25 tion, continue to add parcels to up to two Reservation

1 areas so long as the parcels acquired are contiguous to  
2 one of those two Reservation areas.

3 (l) LEASES OF RESERVATION LANDS.—The provi-  
4 sions of the first section of the Act of August 9, 1955  
5 (ch. 615, 69 Stat. 539; 25 U.S.C. 415) shall not apply  
6 to the Tribe and its Reservation. The Tribe is authorized  
7 to lease its Reservation lands for terms up to but not ex-  
8 ceeding 99 years, with or without the approval of the Sec-  
9 retary. With regard to any lease of Reservation lands not  
10 approved by the Secretary, the Secretary shall be excul-  
11 pated by the Tribe from any liability arising out of any  
12 loss incurred by the Tribe as a result of the unapproved  
13 lease.

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

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

20 (a) ACQUISITION OF NON-RESERVATION PROP-  
21 erties.—The Tribe may draw upon the corpus or accu-  
22 mulated income of the Catawba Land Acquisition Trust  
23 Fund or the Catawba Economic Development Trust Fund  
24 to acquire and hold parcels of real estate outside the Res-  
25 ervation for the purposes and in the manner delineated

1 in the Settlement Agreement. Jurisdiction and status of  
2 all non-Reservation lands shall be governed by section 15  
3 of the Settlement Agreement.

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

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

18 **SEC. 14. GAMES OF CHANCE.**

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

22 (b) **GAMES OF CHANCE GENERALLY.**—The Tribe  
23 shall have the rights and responsibilities set forth in the  
24 Settlement Agreement and the State Act with respect to  
25 the conduct of games of chance. Except as specifically set

1 forth in the Settlement Agreement and the State Act, all  
2 laws, ordinances, and regulations of the State, and its po-  
3 litical subdivisions, shall govern the regulation of gambling  
4 devices and the conduct of gambling or wagering by the  
5 Tribe on and off the Reservation.

6 **SEC. 15. GENERAL PROVISIONS.**

7 (a) SEVERABILITY.—If any provision of section 4(a),  
8 5, or 6 of this Act is rendered invalid by the final action  
9 of a court, then all of this Act is invalid. Should any other  
10 section of this Act be rendered invalid by the final action  
11 of a court, the remaining sections of this Act shall remain  
12 in full force and effect.

13 (b) INTERPRETATION CONSISTENT WITH SETTLE-  
14 MENT AGREEMENT.—To the extent possible, this Act shall  
15 be construed in a manner consistent with the Settlement  
16 Agreement and the State Act. In the event of a conflict  
17 between the provisions of this Act and the Settlement  
18 Agreement or the State Act, the terms of this Act shall  
19 govern. In the event of a conflict between the State Act  
20 and the Settlement Agreement, the terms of the State Act  
21 shall govern. The Settlement Agreement and the State Act  
22 shall be maintained on file and available for public inspec-  
23 tion at the Department of the Interior.

24 (c) IMPACT OF SUBSEQUENTLY ENACTED LAWS.—  
25 No law or regulation of the United States (1) which ac-

1 cords or relates to a special status or right of or to any  
2 Indian, Indian nation, tribe or band of Indians, Indian  
3 lands, Indian reservations, Indian country, Indian terri-  
4 tory or land held in trust for Indians, and also (2) affects  
5 or preempts the civil, criminal, or regulatory jurisdiction  
6 of the State, including without limitation, laws of the  
7 State relating to land use or environmental matters, shall  
8 apply within the State.

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

21 (e) GENERAL APPLICABILITY OF STATE LAW.—Con-  
22 sistent with the provisions of section 4(a)(2), the provi-  
23 sions of South Carolina Code Annotated, section 27–16–  
24 40, and section 19.1 of the Settlement Agreement are ap-  
25 proved, ratified, and confirmed by the United States, and

1 shall be complied with in the same manner and to the  
2 same extent as if they had been enacted into Federal law.

3 (f) SUBSEQUENT AMENDMENTS TO THE SETTLE-  
4 MENT AGREEMENT OR STATE ACT.—Consent is hereby  
5 given to the Tribe and the State to amend the Settlement  
6 Agreement and the State Act if consent to such amend-  
7 ment is given by both the State and the Tribe, and if such  
8 amendment relates to—

9 (1) the jurisdiction, enforcement, or application  
10 of civil, criminal, regulatory, or tax laws of the Tribe  
11 and the State;

12 (2) the allocation or determination of govern-  
13 mental responsibility of the State and the Tribe over  
14 specified subject matters or specified geographical  
15 areas, or both, including provision for concurrent ju-  
16 risdiction between the State and the Tribe;

17 (3) the allocation of jurisdiction between the  
18 tribal courts and the State courts; or

19 (4) technical and other corrections and revisions  
20 to conform the State Act and the Agreement in  
21 Principle attached to the State Act to the Settlement  
22 Agreement.

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

24 Notwithstanding any provision of the State Act, the  
25 Settlement Agreement, or this Act (including any amend-

1 ment made under section 15(f)), nothing in this Act, the  
 2 State Act, or the Settlement Agreement—

3 (1) shall amend or alter the Internal Revenue  
 4 Code of 1986, as amended, or any rules or regula-  
 5 tions promulgated thereunder, or

6 (2) shall affect the treatment under such Code  
 7 of any person or transaction other than by reason of  
 8 the restoration of the trust relationship between the  
 9 United States and the Tribe.

10 **SEC. 17. EFFECTIVE DATE.**

11 Except for sections 7, 8, and 12, the provisions of  
 12 this Act shall become effective upon the transfer of the  
 13 Existing Reservation under section 12 to the Secretary.

Passed the House of Representatives September 27,  
 1993.

Attest: DONNALD K. ANDERSON,  
*Clerk.*

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