

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

# S. 1156

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.

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## IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 22), 1993

Mr. HOLLINGS (for himself and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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## A BILL

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 has also initiated  
17 a related lawsuit against the United States in the  
18 United States Court of Federal Claims seeking mon-  
19 etary 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, Congress enacted the Ca-  
18          tawba Tribe of South Carolina Division of As-  
19          sets Act, 25 U.S.C. 931-938. Federal agents  
20          assured the Tribe that if the Tribe would re-  
21          lease the Government from its obligation under  
22          the 1943 agreement and agree to Federal legis-  
23          lation terminating the Federal trust relation-  
24          ship and liquidating the 1943 reservation, the

1 status of the Tribe's land claim would not be  
2 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 nomically 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 terms "internal matters" or "internal  
4 tribal matters" mean matters which include (but are  
5 not limited to) the relationship between the Tribe  
6 and one or more of its Members, the conduct of trib-  
7 al government over Members, and the Tribe's exer-  
8 cise of the power to exclude individuals from the  
9 Reservation.

10 (7) The term "Member" means individuals who  
11 are members of the Tribe as determined in accord-  
12 ance with this Act.

13 (8) The term "Reservation" or "Expanded Res-  
14 ervation" means the Existing Reservation and the  
15 lands added to the Existing Reservation in accord-  
16 ance with section 14 of this Act, which are to be  
17 held in trust by the Secretary in accordance with  
18 this Act.

19 (9) The term "Secretary" means the Secretary  
20 of the Interior.

21 (10) The term "Settlement Agreement" means  
22 the document entitled "Agreement in Principle " be-  
23 tween the Tribe and the State of South Carolina and  
24 attached to the copy of the State implementing legis-

1 lation and filed with the Secretary of State of the  
2 State of South Carolina.

3 (11) The term “State” means, except for sec-  
4 tions 6 (a) through (f) and subsections (d)(2) and  
5 (h) of section 18 of this Act, the State of South  
6 Carolina.

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

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

22 (14) The term “transfer” includes (but is not  
23 limited to) any voluntary or involuntary sale, grant,  
24 lease, allotment, partition, or other conveyance; any  
25 transaction the purpose of which was to effect a

1 sale, grant, lease, allotment, partition, or convey-  
2 ance; and any act, event or circumstance that re-  
3 sulted in a change in title to, possession of, domin-  
4 ion over, or control of land, water, minerals, timber,  
5 or other natural resources.

6 (15) The term “Trust Funds” means the trust  
7 funds established by section 13 of this Act.

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

9 (a) RESTORATION OF THE FEDERAL TRUST RELA-  
10 TIONSHIP.—On the effective date of this Act, the trust re-  
11 lationship between the Tribe and the United States shall  
12 be restored.

13 (b) ELIGIBILITY FOR FEDERAL BENEFITS AND  
14 SERVICES.—Notwithstanding any other provision of law,  
15 on the same date as the trust relationship is restored, the  
16 Tribe and the Members shall be eligible for all benefits  
17 and services furnished to federally recognized Indian  
18 tribes and their members because of their status as Indi-  
19 ans. On the effective date of this Act, the Secretary shall  
20 enter the Tribe on the list of federally recognized bands  
21 and tribes maintained by the Department of the Interior;  
22 and its members shall be entitled to special services, edu-  
23 cational benefits, medical care, and welfare assistance pro-  
24 vided by the United States to Indians because of their sta-  
25 tus as Indians, and the Tribe shall be entitled to the spe-

1 cial services performed by the United States for tribes be-  
2 cause of their status as Indian tribes.

3 (c) HEALTH CARDS.—In addition to any other enti-  
4 tlement or eligibility the Tribe or Members may have be-  
5 cause of their status as Indians, the Indian Health Service  
6 shall issue health cards for use by any Member in a health  
7 care facility of their choosing approved by the Indian  
8 Health Service as to quality of care. Such health card shall  
9 entitle the Member to the same level of care as is available  
10 at any Indian health care facility or through contract  
11 health care for Indians.

12 (d) REPEAL OF TERMINATION ACT.—The Termi-  
13 nation Act is repealed, and the provisions of the Termi-  
14 nation Act shall not apply to the Tribe or Members after  
15 the effective date of this Act.

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

22 (f) EXTENT OF JURISDICTION.—This Act shall not  
23 be construed to empower the Tribe with special jurisdic-  
24 tion or to deprive the State of jurisdiction other than as  
25 expressly provided by this Act or by the State implement-

1 ing legislation. The jurisdiction and governmental powers  
2 of the Tribe shall be solely those set forth in this Act and  
3 the State implementing legislation.

4 (g) IMPACT AID.—For purposes of the Act of Sep-  
5 tember 30, 1950 (Public Law 874, 81st Congress; 20  
6 U.S.C. 236 et seq.), if any property within the school dis-  
7 trict of any local educational agency is occupied by any  
8 part of the Expanded Reservation, such local educational  
9 agency shall be considered to have fulfilled the require-  
10 ments of section 2 of such Act and shall be eligible for  
11 payments under section 3 of such Act.

12 **SEC. 5. SETTLEMENT FUNDS.**

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

18 (b) DISBURSEMENT IN ACCORDANCE WITH SETTLE-  
19 MENT AGREEMENT.—The Federal Funds appropriated  
20 pursuant to this Act shall be disbursed in five equal an-  
21 nual installments of \$6,400,000 beginning in the fiscal  
22 year following enactment of this Act. Funds transferred  
23 to the Secretary from other sources shall be deposited in  
24 the trust funds established pursuant to section 13 of this

1 Act or paid pursuant to section 6(g) within 30 days of  
2 receipt by the Secretary.

3 (c) PRIVATE FUNDS.—Any private payments made to  
4 settle the claims may be treated, at the election of the  
5 taxpayer, as either a payment in settlement of litigation  
6 or a charitable contribution for Federal income tax pur-  
7 poses.

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

18 **SEC. 6. RATIFICATION OF PRIOR TRANSFERS; EXTINGUISH-**  
19 **MENT OF ABORIGINAL TITLE, RIGHTS AND**  
20 **CLAIMS.**

21 (a) RATIFICATION OF TRANSFERS.—Any transfer of  
22 land or natural resources located anywhere within the  
23 United States from, by, or on behalf of the Tribe, any  
24 one or more of its Members, or anyone purporting to be  
25 a Member, including but without limitation any transfer

1 pursuant to any treaty, compact, or statute of any State,  
2 shall be deemed to have been made in accordance with  
3 the Constitution and all laws of the United States, and  
4 Congress hereby does approve and ratify any such transfer  
5 effective as of the date of said transfer. Nothing in this  
6 section shall be construed to affect or eliminate the per-  
7 sonal claim of any individual Member (except for any Fed-  
8 eral common law fraud claim) which is pursued under any  
9 law of general applicability that protects non-Indians as  
10 well as Indians.

11 (b) ABORIGINAL TITLE.—To the extent that any  
12 transfer of land or natural resources described in sub-  
13 section (a) of this section may involve land or natural re-  
14 sources to which the Tribe, any of its Members, or anyone  
15 purporting to be a Member, or any other Indian, Indian  
16 nation, or tribe or band of Indians had aboriginal title,  
17 subsection (a) of this section shall be regarded as an extin-  
18 guishment of aboriginal title as of the date of such  
19 transfer.

20 (c) EXTINGUISHMENT OF CLAIMS.—By virtue of the  
21 approval and ratification of any transfer of land or natural  
22 resources effected by this section, or the extinguishment  
23 of aboriginal title effected thereby, all claims against the  
24 United States, any State or subdivision thereof, or any  
25 other person or entity, by the Tribe, any of its Members,

1 or anyone purporting to be a Member, or any predecessors  
2 or successors in interest thereof or any other Indian, In-  
3 dian Nation, or tribe or band of Indians, arising at the  
4 time of or subsequent to the transfer and based on any  
5 interest in or right involving such land or natural re-  
6 sources, including without limitation claims for trespass  
7 damages or claims for use and occupancy, shall be deemed  
8 extinguished as of the date of the transfer.

9 (d) EXTINGUISHMENT OF TITLE.—(1) All claims and  
10 all right, title, and interest that the Tribe, its Members,  
11 or any person or group of persons purporting to be Ca-  
12 tawba Indians may have to aboriginal title, recognized  
13 title, or title by grant, patent, or treaty to the lands lo-  
14 cated anywhere in the United States are hereby extin-  
15 guished.

16 (2) This extinguishment of claims shall also extin-  
17 guish title to any hunting, fishing, or water rights or  
18 rights to any other natural resource claimed by the Tribe  
19 or a Member based on aboriginal or treaty recognized title,  
20 and all trespass damages and other damages associated  
21 with use, occupancy or possession, or entry upon such  
22 lands.

23 (e) BAR TO FUTURE CLAIMS.—The United States is  
24 hereby barred from asserting by or on behalf of the Tribe  
25 or any of its Members, or anyone purporting to be a Mem-

1 ber, any claim arising before the date of enactment of this  
2 Act from the transfer of any land or natural resources  
3 by deed or other grant, or by treaty, compact, or act of  
4 law, on the grounds that such transfer was not made in  
5 accordance with the laws of South Carolina or the  
6 Constitution or laws of the United States.

7 (f) NO DEROGATION OF FEE SIMPLE IN EXISTING  
8 RESERVATION.—Nothing in this section shall be con-  
9 strued to diminish or derogate from the fee simple estate  
10 in the Existing Reservation or fee simple owned by mem-  
11 bers.

12 (g) COSTS AND ATTORNEYS' FEES.—The parties to  
13 the Suits shall bear their own costs and attorneys' fees  
14 except that the Secretary shall approve and pay to the  
15 Tribe's attorneys in the Suits reasonable attorneys' fees  
16 and expenses not to exceed 10 percent of the \$50,000,000  
17 obligated for payment to the Tribe by Federal, State,  
18 local, and private parties pursuant to section 5 of the Set-  
19 tlement Agreement.

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

1 **SEC. 7. TRIBAL MEMBERSHIP.**

2 (a) MEMBERSHIP CRITERIA.—A person shall be con-  
3 sidered a member of the Tribe and his or her name shall  
4 be carried on the membership roll if the person is living  
5 on the date of enactment of this Act and—

6 (1) his or her name was listed on the member-  
7 ship roll published by the Secretary in the Federal  
8 Register on February 25, 1961 (26 Federal Register  
9 1680–1688, “Notice of Final Membership Roll”),  
10 and he or she is not excluded under the provisions  
11 of subsection (b); or

12 (2) The Executive Committee determines, based  
13 on the criteria used to compile the roll referred to  
14 in paragraph (1), that his or her name should have  
15 been included on the membership roll at that time,  
16 but was not; or

17 (3) he or she is a lineal descendant of a Mem-  
18 ber whose name appeared or should have appeared  
19 on the membership roll referred to in paragraph (1).

20 (b) REVISION OF MEMBERSHIP ROLL.—The Tribe  
21 shall revise and update its membership roll to include  
22 those persons eligible for membership under subsection (a)  
23 and excluding any persons found to have been erroneously  
24 listed.

1 (c) FEDERAL REGISTER NOTICE.—As soon as prac-  
2 ticable after the enactment of this Act, the Secretary shall  
3 publish in the Federal Register a notice stating:

4 (1) That the rolls of the Tribe are open and will  
5 remain open for a period of 90 days.

6 (2) The requirements for membership.

7 (3) The final membership roll as of September  
8 21, 1959.

9 (4) The updated membership roll as prepared  
10 by the Executive Committee and approved by the  
11 General Council.

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

14 (d) FINALIZING MEMBERSHIP ROLL.—Within 120  
15 days after publication of notice under subsection (c), the  
16 Secretary, after consultation with the Tribe, shall prepare  
17 and publish in the Federal Register a proposed final roll  
18 of the Tribe's membership. Within 60 days from the date  
19 of publication of the proposed final roll, an appeal may  
20 be filed with the Executive Committee under rules made  
21 by the Executive Committee in consultation with the Sec-  
22 retary. Such an appeal may be filed by a Member with  
23 respect to the inclusion of any name on the proposed mem-  
24 bership roll and by any person with respect to the exclu-  
25 sion of his or her name from the membership roll. The

1 Executive Committee shall review such appeals and render  
2 a decision, subject to the Secretary's approval. If the Ex-  
3 ecutive Committee and the Secretary disagree, the Sec-  
4 retary's decision will be final. All such appeals shall be  
5 resolved within 90 days following publication of the pro-  
6 posed roll. The final membership roll of the Tribe shall  
7 then be published in the Federal Register and shall be  
8 final for purposes of the distribution of funds from the  
9 Per Capita Trust Fund.

10 (e) FUTURE MEMBERSHIP IN THE TRIBE.—The  
11 Tribe shall have the right to determine future membership  
12 in the Tribe; however, in no event may an individual be  
13 added to the final membership roll which is compiled in  
14 accordance with subsection (d) unless an individual is a  
15 lineal descendent of a person on such final membership  
16 roll.

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

18 (a) FUTURE TRIBAL GOVERNMENT.—The Tribe  
19 shall adopt a new constitution within 24 months after en-  
20 actment of this Act.

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

1 not to exceed 24 months from the date of enactment of  
2 this Act, the 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 required  
21 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 enactment of this Act, the Exec-  
6 utive Committee shall draft and distribute to each Member  
7 eligible to vote under the Tribal constitution in effect on  
8 the date of enactment of this Act, a proposed constitution  
9 and bylaws for the Tribe together with a brief, impartial  
10 description of the proposed constitution and bylaws and  
11 a notice of the date, time and location of the election under  
12 this subsection. Not sooner than 30 days or later than 90  
13 days after the distribution of the proposed constitution,  
14 the Executive Committee shall conduct a secret-ballot elec-  
15 tion 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. JURISDICTION AND GOVERNANCE OF THE RES-**  
2 **ERVATION.**

3 (a) POWERS OF TRIBE.—(1) Regardless of whether  
4 the Tribe elects to organize under the Act of June 18,  
5 1934, under section 9(a), in any constitution adopted by  
6 the Tribe, the Tribe may be authorized to exercise author-  
7 ity as consistent with the Settlement Agreement and this  
8 Act—

9 (A) to regulate the use and disposition of tribal  
10 property;

11 (B) to define laws, petty crimes, and rules of  
12 conduct applicable to Members while on the Reserva-  
13 tion, supplementing but not supplanting the criminal  
14 laws of the State;

15 (C) to regulate the conduct of businesses lo-  
16 cated on the Reservation and individuals residing on  
17 the Reservation;

18 (D) to levy taxes on Members and levy other  
19 taxes as provided by this Act and by the Settlement  
20 Agreement;

21 (E) to grant exemptions, abatements, or waiv-  
22 ers from any tribal laws, tribal regulations, or tribal  
23 taxes, except the Tribal Sales and Use Taxes, other-  
24 wise applicable on the Reservation, including waivers  
25 of the jurisdiction of any tribal court;

26 (F) to adopt its own form of government;

1 (G) to determine membership as provided by  
2 this Act;

3 (H) to exclude non-members from its member-  
4 ship rolls and from the Reservation, except for—

5 (i) any public roads traversing the Res-  
6 ervation;

7 (ii) passage on and use of the Catawba  
8 River;

9 (iii) public or private easements encumber-  
10 ing the Reservation properly used by those with  
11 authority to use such easements;

12 (iv) Federal, State and local governmental  
13 officials and employees duly performing official  
14 governmental functions on the Reservation; and

15 (v) any other access to the Reservation al-  
16 lowed by Federal law; and

17 (I) to charter tribally-owned economic develop-  
18 ment corporations and enterprises provided the cor-  
19 porations or enterprises register with the Secretary  
20 of State for South Carolina as a domestic or foreign  
21 corporation when doing business off the Reservation.

22 (2) Except as otherwise provided in this Act and in  
23 the Settlement Agreement, the Tribe shall exercise full au-  
24 thority over internal matters.

1 (b) INDIAN CIVIL RIGHTS ACT.—The Tribe shall be  
2 subject to titles II through VII of Public Law 90–284,  
3 as amended (25 U.S.C. 1301 et seq.; commonly referred  
4 to as the “Indian Civil Rights Act”) which shall apply to  
5 the Reservation, any tribal court, and anyone subject to  
6 the jurisdiction of the Tribe.

7 **SEC. 11. CRIMINAL JURISDICTION.**

8 (a) CRIMINAL JURISDICTION GENERALLY.—Except  
9 as provided in subsection (b), the State shall exercise ex-  
10 clusive jurisdiction over all crimes under the statutory or  
11 common law of the State of South Carolina.

12 (b) CRIMINAL JURISDICTION OF TRIBAL COURT.—  
13 (1) Any constitution adopted by the Tribe may provide  
14 for a tribal court with original and appellate criminal  
15 jurisdiction, subject to the following limitations:

16 (A) The territorial jurisdiction of the court shall  
17 be limited to the Reservation.

18 (B) The jurisdiction of the court over persons  
19 shall be limited to Members.

20 (C) The subject matter jurisdiction of the court  
21 shall be limited to crimes within the jurisdiction of  
22 the State’s Magistrates’ Courts and to any addi-  
23 tional misdemeanors and petty offenses specified in  
24 the ordinances or laws adopted by the Tribe.

1           (D) The fines and penalties for such mis-  
2           demeanors and offenses shall not exceed the maxi-  
3           mum fines and penalties that a State magistrate's  
4           court may impose.

5           (2) In all cases in which the tribal court has jurisdic-  
6           tion over State law—

7           (A) its jurisdiction shall be concurrent with the  
8           jurisdiction of the Magistrates' Court of the State;  
9           and

10          (B) defendants shall have the right to remove  
11          such cases to the Magistrates' Court or appeal their  
12          convictions in tribal court cases to the General Ses-  
13          sions Court, in the same manner that Magistrates'  
14          Court's decisions may be appealed, or in accordance  
15          with such procedures as the South Carolina General  
16          Assembly may provide.

17          (3) In cases where the tribal court is applying those  
18          additional ordinances or laws adopted by the Tribe in ac-  
19          cordance with this subsection, it shall have exclusive juris-  
20          diction.

21          (c) PEACE OFFICERS.—For the purpose of enforcing  
22          the Tribe's powers under sections 10(a), 11, and 17 of  
23          this Act, the Tribe may employ peace officers. The employ-  
24          ment and authority of peace officers shall be in the man-

1 ner prescribed in the Settlement Agreement and the State  
2 implementing legislation.

3 **SEC. 12. CIVIL JURISDICTION OF TRIBAL COURT.**

4 (a) JURISDICTION AS PRESCRIBED BY THIS ACT.—

5 (1) The Tribe may provide in its constitution for a Tribal  
6 Court having civil jurisdiction which may extend up to,  
7 but not exceed, the extent provided by this Act. The Tribe  
8 may have a court of original jurisdiction, as well as an  
9 appellate court.

10 (2)(A) With respect to actions on contracts, the Trib-  
11 al Court may be vested with jurisdiction over the following:

12 (i) An action on a contract to which the Tribe  
13 or a Member is a party, which expressly provides in  
14 writing that the Tribal Court has concurrent or ex-  
15 clusive jurisdiction.

16 (ii) An action on a contract between the Tribe  
17 or a Member and other parties or agents thereof  
18 who are physically present on the Reservation when  
19 the contract is made, which is to be performed in  
20 part on the Reservation so long as the contract does  
21 not expressly exclude jurisdiction of the Tribal  
22 Court.

23 (iii) An action on a contract to which the Tribe  
24 or a Member of the Tribe is a party where more  
25 than 50 percent of the services to be rendered are

1 performed on the Reservation so long as the contract  
2 does not expressly exclude jurisdiction of the Tribal  
3 Court.

4 (B) For purposes of this paragraph, the delivery of  
5 goods or the solicitation of business on the Reservation  
6 shall not constitute part performance sufficient to confer  
7 jurisdiction.

8 (3) With respect to actions in tort, the Tribal Court  
9 may be vested with jurisdiction over the following:

10 (A) An action arising out of an intentional tort,  
11 as defined by South Carolina law, committed on the  
12 Reservation in which recovery is sought for bodily  
13 injuries and/or damages to tangible property located  
14 on the Reservation.

15 (B) An action arising out of negligent tortious  
16 conduct occurring on the Reservation or conduct oc-  
17 ccurring on the Reservation for which strict liability  
18 may be imposed, excluding, however, accidents oc-  
19 ccurring within the right-of-way limits of any high-  
20 way, road, or other public easement owned or main-  
21 tained by the State or any of its subdivisions, or by  
22 the United States, which abuts or crosses the Res-  
23 ervation. Any such action in tort involving a non-  
24 Member of the Tribe as defendant may be removed  
25 to a State or Federal court of appropriate jurisdic-

1       tion if the amount in controversy exceeds the juris-  
2       dictional limits then applicable to Magistrate's  
3       Courts in the State of South Carolina.

4       (4) The Tribal Court may be vested with exclusive  
5       jurisdiction over internal matters of the Tribe.

6       (5) The Tribal Court may be vested with jurisdiction  
7       over domestic relations where both spouses to the mar-  
8       riage are Members and both reside on the Reservation or  
9       last resided together on the Reservation before the separa-  
10      tion leading to their divorce.

11      (6) The Tribal Court may be vested with jurisdiction  
12      to enforce against any business located on the Reserva-  
13      tion, and any Member or non-Member residing on the Res-  
14      ervation, any tribal civil regulation regulating conduct on  
15      the Reservation enacted pursuant to section 10(a) or 17  
16      of this Act. Such persons or entities are charged with no-  
17      tice of the Tribe's regulations governing conduct on the  
18      Reservation and are subject to the enforcement of such  
19      regulations in the tribal court unless the Tribe has specifi-  
20      cally exempted the entity or person from any or all regula-  
21      tion and enforcement in tribal court.

22      (b) CONCURRENT JURISDICTION.—(1) The original  
23      jurisdiction of the Tribal Court over matters set forth in  
24      paragraphs (2) (if concurrent), (3), and (5) of subsection  
25      (a) shall be concurrent with the jurisdiction of the Court

1 of Common Pleas of South Carolina, the Family Court,  
2 and United States District Court for South Carolina  
3 where permitted by title 28 of the United States Code.

4 (2) The original jurisdiction of the Tribal Court over  
5 the matters set forth in paragraph (2)(A) of subsection  
6 (a) shall be concurrent or exclusive depending upon the  
7 agreement of the parties.

8 (3) The original jurisdiction of the Tribal Court over  
9 matters set forth in paragraph (4) of subsection (a) shall  
10 be exclusive.

11 (4) The original jurisdiction of the Tribal Court over  
12 matters set forth in paragraph (6) of subsection (a) shall  
13 be exclusive unless the Tribe has waived such exclusive  
14 jurisdiction as to any person or entity.

15 (5) As to all paragraphs in subsection (a) referred  
16 to in this subsection, jurisdiction over appeals, if any, is  
17 governed by subsection (d).

18 (c) WAIVER OF JURISDICTION.—The Tribe may  
19 waive Tribal Court jurisdiction or the application of tribal  
20 laws with respect to any person or firm residing, doing  
21 business, or otherwise entering upon the Reservation or  
22 contracting with the Tribe. Any Member may also waive  
23 Tribal Court jurisdiction or specify in a written contract  
24 the law of any appropriate jurisdiction to govern any com-

1 merical transaction or the interpretation of a contract to  
2 which the Member is a party.

3 (d) APPEALS TO STATE OR FEDERAL COURT.—(1)

4 All final judgments entered in actions tried in Tribal  
5 Court shall be subject to an appeal to the Family Court,  
6 the Court of Common Pleas, or the United States District  
7 Court depending upon whether that court would have had  
8 jurisdiction over the appealed matter had it been com-  
9 menced in that court if—

10 (A) a party to the suit is not a member of the  
11 Tribe;

12 (B) the amount in controversy or the cost of  
13 complying with any equitable order or decree exceeds  
14 the jurisdictional limits then applicable in the Mag-  
15 istrate’s Court of South Carolina; and

16 (C) the subject matter of the suit does not fall  
17 within the provisions of subsection (a)(2)(A)(i) if ju-  
18 risdiction is exclusive, or subsection (a)(4) or (6).

19 (2) The Tribe may enlarge the right of appeal to in-  
20 clude other subject matters and Members, subject to such  
21 rules and procedures as the applicable court and relevant  
22 State and Federal laws may provide.

23 (3) In any appeal under this subsection, the court,  
24 as appropriate, may—

25 (A) enter judgment affirming the Tribal Court;

1 (B) dismiss the case for lack of jurisdiction of  
2 the Tribal Court, but only in those cases where the  
3 Tribal Court has first addressed the issue of its  
4 jurisdiction;

5 (C) reverse or remand the case for retrial or re-  
6 consideration in Tribal Court; or

7 (D) grant a trial de novo in its court.

8 (4) In any appeal, trial, or trial de novo pursuant  
9 to this subsection, the reviewing court shall apply any reg-  
10 ulation enacted pursuant to tribal authority.

11 (e) FULL FAITH AND CREDIT.—(1) In cases subject  
12 to the provisions of subsection (a)(3) or (d), all final judg-  
13 ments of the Tribal Court shall be given full faith and  
14 credit in the State or Federal court with appropriate juris-  
15 diction, and the Tribal Court shall give full faith and cred-  
16 it to final judgments of the State and Federal courts.

17 (2) If a Member seeks to enforce against a non-Mem-  
18 ber in Federal court a final judgment of the Tribal Court  
19 in a case not subject to the provisions of subsection (a)(3)  
20 or (d), the judgment shall be reviewed by the Federal  
21 court in the manner provided in title 9, United States  
22 Code.

23 (f) SOVEREIGN IMMUNITY.—(1) The Tribe may sue,  
24 or be sued, in any court of competent jurisdiction; except,  
25 however, that the Tribe shall enjoy sovereign immunity,

1 including damage limits and except as provided in this  
2 subsection, immunity from seizure, execution, or encum-  
3 brance of properties, to the same extent as the political  
4 subdivisions of the State as provided in the South Carolina  
5 Tort Claims Act (Section 15-78-10, et seq., S.C. Code  
6 Annotated, 1976 as amended), and amendments of gen-  
7 eral applicability thereto adopted after the date of enact-  
8 ment of this Act. With respect to non-consumer liability  
9 based on contract, however, the Tribe may, in a written  
10 contract, provide that it is immune from suit on that con-  
11 tract as if there had been no waiver of sovereign immunity.

12 (2) Notwithstanding the provisions of this section,  
13 the Tribe shall be subject to suit as provided in section  
14 17(a) of this Act.

15 (3) The nature and extent of this sovereign immunity  
16 shall be construed consistent with the Settlement Agree-  
17 ment and with applicable State and Federal law.

18 (4)(A) The Tribe shall procure and maintain liability  
19 insurance with the same coverage and limits as required  
20 of political subdivisions of the State.

21 (B) In the event that the Tribe's insurance coverage  
22 is inadequate or unavailable to satisfy a judgment within  
23 the limits of the South Carolina Tort Claims Act, neither  
24 the judgment nor any other process may be levied upon  
25 the corpus or principal of the Tribal Trust Funds or upon

1 any property held in trust for the Tribe by the United  
2 States; however, the Tribe or the Secretary shall honor  
3 valid orders of a Federal or State court which enters  
4 money judgments for causes of action against the Tribe  
5 arising after the consummation of the Settlement Agree-  
6 ment by making an assignment to the judgment creditor  
7 of the right to receive income out of the next quarterly  
8 payment or payments of income from the Tribal Trust  
9 Funds.

10 (g) INDIAN CHILD WELFARE ACT.—(1) The Indian  
11 Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.) shall  
12 apply to Catawba Indian children except as provided in  
13 this section.

14 (2) Before the Tribe may assume jurisdiction over In-  
15 dian child custody proceedings under the Indian Child  
16 Welfare Act of 1978, the Tribe shall present to the Sec-  
17 retary for approval a petition to assume such jurisdiction,  
18 and the Secretary shall approve the petition in the manner  
19 prescribed in such Act. Any petition to assume jurisdiction  
20 over Indian child custody proceedings by the Tribe shall  
21 be considered and determined by the Secretary in accord-  
22 ance with the relevant provisions of such Act. The Sec-  
23 retary's determination that the Tribe may assume juris-  
24 diction under such Act shall not affect any action or pro-  
25 ceeding over which a court has assumed jurisdiction.

1           (3) Until the Tribe has assumed jurisdiction over In-  
2 dian child custody proceedings, the State shall retain ex-  
3 clusive jurisdiction over Indian custody proceedings; how-  
4 ever, the State Court shall apply the Indian Child Welfare  
5 Act of 1978 in such proceedings.

6           (4)(A) The Indian Child Welfare Act of 1978 shall  
7 not apply to private adoptions of Indian children under  
8 the jurisdiction of the Tribe under such Act where—

9                   (i) both parents consent to the adoption; or

10                   (ii) in the case of an unwed mother—

11                           (I) where the mother consents to the adop-  
12 tion when the father's consent is not necessary  
13 for the adoption under South Carolina Law  
14 Section 20-7-1690 and any amendments there-  
15 to, and

16                           (II) the parents or mother help choose  
17 adoptive parents, regardless of whether or not  
18 the adoptive parents are outside the preferences  
19 of the Indian Child Welfare Act of 1978.

20           (B) The court may consider any benefits, material  
21 and cultural, the child may lose in determining whether  
22 the proposed adoption is in the best interests of the child.  
23 Failure of the courts to make this consideration shall not  
24 be subsequently held to invalidate the adoption.

1 (5) In all cases of adoption, regardless of whether the  
2 Indian Child Welfare Act of 1978 applies, section 107 of  
3 such Act (25 U.S.C. 1917) shall apply.

4 (h) JURISDICTION OF STATE COURTS.—If no Tribal  
5 Court is established by the Tribe, the State shall exercise  
6 jurisdiction over all civil and criminal cases arising out of  
7 acts and transactions occurring on the Reservation or in-  
8 volving Members. If the Tribe establishes a Tribal Court,  
9 the provisions of subsection (b) and section 11(b) shall  
10 govern whether such jurisdiction is exclusive or concur-  
11 rent.

12 **SEC. 13. TRIBAL TRUST FUNDS.**

13 (a) PURPOSES OF TRUST FUNDS.—All funds paid  
14 pursuant to section 5 of this Act shall be deposited with  
15 the Secretary in trust for the benefit of the Tribe. Sepa-  
16 rate trust funds shall be established for the following pur-  
17 poses: Economic Development, Land Acquisition, Edu-  
18 cation, Social Services and Elderly Assistance, and Per-  
19 Capita Payments. Except as provided in this section, the  
20 Tribe, in consultation with the Secretary, shall determine  
21 the share of settlement payments to be deposited in each  
22 Trust Fund, and define, consistently with the provisions  
23 of this section, the purposes of each Trust Fund and pro-  
24 visions for administering each, specifically including provi-

1 sions for periodic distribution of current and accumulated  
2 income, and for 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, is authorized to place any of the Trust  
6 Funds under professional management, outside the De-  
7 partment 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 enactment of this Act and before the  
14 final annual disbursement is made as provided in section  
15 5 of this Act, the Tribe may pledge or hypothecate up to  
16 50 percent of the unpaid annual installments required to  
17 be paid to this Trust Fund, the Economic Development  
18 Trust Fund and the Social Services and Elderly Assist-  
19 ance Trust Fund by section 5 of this Act and by section  
20 5 of the Settlement Agreement, to secure loans to finance  
21 the acquisition of Reservation or non-Reservation land or  
22 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 enactment 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 whose name appears on the final roll  
7 of the Tribe published by the Secretary pursuant to sec-  
8 tion 7(c) of this Act will receive a one-time, non-recurring  
9 payment from this Trust Fund.

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

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

23 (B) The pro rata share of adult Members who elect  
24 not to withdraw their payment from this Trust Fund shall  
25 be managed, invested and administered, together with the

1 funds of Members who have not attained the age of 21  
2 years on the date the final roll is published, until such  
3 Member requests in writing that their pro rata share be  
4 distributed, at which time such Member's pro rata share  
5 shall be paid, together with the net income of the Trust  
6 Fund allocable to such Member's share as of the date of  
7 distribution.

8 (C) No member may elect to have their pro rata share  
9 managed by this Trust Fund for a period of more than  
10 21 years after the date of publication of the final roll.

11 (5)(A) Subject to the provisions of this paragraph,  
12 the pro rata share of any Member who has not attained  
13 the age of 21 years on the date the final roll is published  
14 shall be managed, invested and administered pursuant to  
15 the provisions of this section until such Member has at-  
16 tained the age of 21 years, at which time such Member's  
17 pro rata share shall be paid, together with the net income  
18 of the Trust Fund allocable to such Member's share as  
19 of the date of payment. Such Members shall be paid their  
20 pro rata share of this Trust Fund on the date they attain  
21 21 years of age unless they elect in writing to leave their  
22 pro rata share in the Trust Fund, in which case such  
23 share shall not be distributed.

24 (B) The pro rata share of such Members who elect  
25 not to withdraw their payment from this trust fund shall

1 be managed, invested and administered, together with the  
2 funds of members who have not attained the age of 21  
3 years on the date the final roll is published, until such  
4 Member requests in writing that their pro rata share be  
5 distributed, at which time such Member's pro rata share  
6 shall be paid, together with the net income of the Trust  
7 Fund allocable to such Member's share as of the date of  
8 distribution.

9 (C) No Member may elect to have their pro rata  
10 share retained and managed by this Trust Fund beyond  
11 the expiration of the period of 21 years after the date of  
12 publication of the final roll.

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

19 (i) DURATION OF TRUST FUNDS.—Subject to the  
20 provisions of this section and with the exception of the  
21 Catawba Per Capita Payment Trust Fund, the Trust  
22 Funds established in accordance with this section shall  
23 continue in existence so long as the Tribe exists and is  
24 recognized by the United States. The principal of these  
25 Trust Funds shall not be invaded or distributed except

1 as expressly authorized in this Act or in the Settlement  
2 Agreement.

3 (j) TRANSFER OF MONEY AMONG TRUST FUNDS.—

4 The Tribe, in consultation with the Secretary, shall have  
5 the authority to transfer principal and accumulated in-  
6 come between Trust Funds only as follows:

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

17 (2) Any Trust Fund, except for the Catawba  
18 Education Trust Fund, may be dissolved by a vote  
19 of two-thirds of those Members eligible to vote, and  
20 the assets in such Trust Fund shall be transferred  
21 to the remaining Trust Funds; except, that (A) no  
22 assets shall be transferred from any of the Trust  
23 Funds into the Catawba Per Capita Payment Trust  
24 Fund, and (B) the mandatory share of State, local  
25 and private funds invested in the original corpus of

1 the Catawba Education Trust Fund may not be  
2 transferred or used for any non-educational pur-  
3 poses.

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

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

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

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

16 (C) indicate dates and amounts of distributions  
17 to the Tribe, separately distinguishing current in-  
18 come, accumulated income, and distributions of prin-  
19 cipal; and

20 (D) identify any invasions or repayments of  
21 principal during the relevant period and record pro-  
22 visions the Tribe has made for repayment or restora-  
23 tion of principal.

24 (2)(A) Any outside investment management firm en-  
25 gaged by the Tribe shall account to the Tribe and sepa-

1 rately to the Secretary at periodic intervals, at least quar-  
2 terly. Its accounting shall—

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

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

7 (iii) indicate dates and amounts of distributions  
8 to the Tribe, distinguishing current income, accumu-  
9 lated income, and distributions of principal; and

10 (iv) identify any invasions or repayments of  
11 principal during the relevant period and record pro-  
12 visions the Tribe has made for repayment or restora-  
13 tion of principal.

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

23 (C) All Trust Funds held and managed by any invest-  
24 ment management firm shall be audited annually by a cer-  
25 tified public accounting firm approved by the Secretary,

1 and a copy of the annual audit shall be submitted to the  
2 Tribe and to the Secretary within four months following  
3 the close of the Trust Funds's fiscal year.

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

20 (m) TRUST FUNDS NOT COUNTED FOR CERTAIN  
21 PURPOSES; USE AS MATCHING FUNDS.—None of the  
22 funds, assets, income, payments, or distributions from the  
23 trust funds established pursuant to this section (except  
24 funds distributed from the Catawba Per Capita Trust  
25 Fund) shall at any time affect the eligibility of the Tribe

1 or its Members for, or be used as a basis for denying or  
2 reducing funds to the Tribe or its Members under any  
3 Federal, State, or local program. Distributions from these  
4 Trust Funds may be used as matching funds, where ap-  
5 propriate, for Federal grants or loans.

6 **SEC. 14. ESTABLISHMENT OF EXPANDED RESERVATION.**

7 (a) EXISTING RESERVATION.—The State, after ob-  
8 taining any necessary judicial approval, shall convey the  
9 Existing Reservation to the United States as trustee for  
10 the Tribe, and the obligation of the State as trustee for  
11 the Tribe with respect to this land shall cease.

12 (b) EXPANDED RESERVATION.—(1) The Secretary,  
13 in consultation with the Tribe, shall develop an Expanded  
14 Reservation in the manner prescribed by the Settlement  
15 Agreement.

16 (2) The Secretary, after consulting with the Tribe,  
17 shall engage a professional land planning firm and a reg-  
18 istered land surveyor as provided in the Settlement Agree-  
19 ment. The Secretary will bear the cost of all services ren-  
20 dered by the surveyor and the planning firm.

21 (3) After the effective date of this Act, the Secretary,  
22 in consultation with the Tribe, may identify, purchase, and  
23 place in Reservation status tracts of lands in the manner  
24 prescribed by the Settlement Agreement.

1           (4) The Secretary shall bear the cost of all title ex-  
2     aminations, preliminary subsurface soil investigations, and  
3     level one environmental audits to be performed on each  
4     parcel contemplated for purchase for the Expanded Res-  
5     ervation, and shall report the results to the Tribe. Pay-  
6     ment of any option fee and the purchase price shall be  
7     drawn from the Catawba Land Acquisition Trust Fund.

8           (5) The total area of the Expanded Reservation shall  
9     be limited to 3,000 acres, including the Existing Reserva-  
10    tion, but the Tribe may exclude from this limit up to 600  
11    acres of additional land under the conditions set forth in  
12    the Settlement Agreement. The Tribe may seek to have  
13    the permissible area of the Expanded Reservation en-  
14    larged by an additional 600 acres as set forth in the  
15    Settlement Agreement.

16          (6) All lands acquired by the Secretary for the Ex-  
17    panded Reservation will be held in trust together with the  
18    Existing Reservation which the State is to convey to the  
19    United States.

20          (c) EXPANSION ZONES.—(1) Subject to the condi-  
21    tions, criteria, and procedures set forth in the Settlement  
22    Agreement, the Secretary and the Tribe shall endeavor at  
23    the outset to acquire contiguous tracts for the Expanded  
24    Reservation in the “Catawba Reservation Primary Expan-  
25    sion Zone”, as defined in the Settlement Agreement.

1           (2) Subject to the conditions, criteria, and procedures  
2 set forth in the Settlement Agreement, the Secretary, in  
3 consultation with the Tribe, may elect to purchase contig-  
4 uous tracts in an alternative area, the “Catawba Reserva-  
5 tion Secondary Expansion Zone”, as defined in the Settle-  
6 ment Agreement.

7           (3) The Tribe may propose different or additional ex-  
8 pansion zones subject to the approval of the Secretary and  
9 to the additional authorizations required in the Settlement  
10 Agreement and the State implementing legislation.

11           (d) NON-CONTIGUOUS TRACTS.—The Secretary, act-  
12 ing on behalf of the Tribe, shall take such actions as are  
13 reasonable to expand the Existing Reservation by assem-  
14 bling a composite tract of contiguous parcels that border  
15 and surround the Existing Reservation. Before placing  
16 any non-contiguous tract in Reservation status, the Tribe,  
17 in consultation with the Secretary, shall submit to the  
18 county council in any county where it proposes to purchase  
19 such non-contiguous tracts a Non-Contiguous Develop-  
20 ment Plan Application, as provided by the Settlement  
21 Agreement and the State implementing legislation. Upon  
22 the approval of any such application by each affected  
23 county council, the Secretary, in consultation with the  
24 Tribe, may proceed to place non-contiguous tracts in Res-  
25 ervation status. No purchases of non-contiguous tracts

1 shall be made for the Reservation except as set forth in  
2 the Settlement Agreement and the State implementing  
3 legislation.

4 (e) VOLUNTARY LAND PURCHASES.—(1) The power  
5 of eminent domain shall not be used by the Secretary or  
6 any governmental authority in acquiring parcels of land  
7 for the benefit of the Tribe, whether or not the parcels  
8 are to be part of the Reservation. All such purchases shall  
9 be made only from willing sellers by voluntary conveyances  
10 subject to the terms of the Settlement Agreement.

11 (2) Conveyances by private land owners to the Sec-  
12 retary for the Expanded Reservation will be deemed, how-  
13 ever, to be involuntary conversions within the meaning of  
14 section 1033 of the Internal Revenue Code of 1986.

15 (3) Notwithstanding any other provision of this sec-  
16 tion and the provisions of the first section of the Act of  
17 August 1, 1888 (ch. 728, 25 Stat. 357; 40 U.S.C. 257),  
18 and the first section of the Act of February 26, 1931 (ch.  
19 307, 46 Stat. 1421; 40 U.S.C. 258a), the Secretary may  
20 acquire Reservation land for the benefit of the Tribe from  
21 the ostensible owner of the land if the Secretary and the  
22 ostensible owner have agreed upon the identity of the land  
23 to be sold and upon the purchase price and other terms  
24 of sale. If the ostensible owner agrees to the sale, the Sec-  
25 retary may use condemnation proceedings to perfect or

1 clear title and to acquire any interests of putative co-ten-  
2 ants whose address is unknown or the interests of un-  
3 known or unborn heirs or persons subject to mental dis-  
4 ability.

5 (f) TERMS AND CONDITIONS OF ACQUISITION.—All  
6 properties acquired by the Secretary for the Tribe shall  
7 be acquired in fee simple subject to the terms and condi-  
8 tions set forth in the Settlement Agreement. The Sec-  
9 retary, acting on behalf of the Tribe and with its consent,  
10 is also authorized to acquire Reservation and non-Reserva-  
11 tion lands using the methods of financing described in the  
12 Settlement Agreement.

13 (g) AUTHORITY TO ERECT PERMANENT IMPROVE-  
14 MENTS ON EXISTING AND EXPANDED RESERVATION LAND  
15 AND NON-RESERVATION LAND HELD IN TRUST.—Notwith-  
16 standing any other provision of law or regulation, the At-  
17 torney General of the United States shall approve any  
18 deed or other instrument which conveys to the United  
19 States lands purchased pursuant to the provisions of this  
20 section and the Settlement Agreement. The Secretary or  
21 the Tribe may erect permanent improvements of a sub-  
22 stantial value, or any other improvements authorized by  
23 law on such land after such land is conveyed to the United  
24 States.

1 (h) EASEMENTS OVER RESERVATION.—(1) The ac-  
2 quisition of lands for the Expanded Reservation shall not  
3 extinguish any easements or rights-of-way then encumber-  
4 ing such lands unless the Secretary or the Tribe enters  
5 into a written agreement with the owners terminating such  
6 easements or rights-of-way.

7 (2)(A) The Secretary, with the approval of the Tribe,  
8 shall have the power to grant or convey easements and  
9 rights-of-way, in a manner consistent with the Settlement  
10 Agreement.

11 (B) Unless the Tribe and the State agree upon a  
12 valuation formula for pricing easements over the Reserva-  
13 tion, the Secretary shall be subject to proceedings for con-  
14 demnation and eminent domain to acquire easements and  
15 rights of way for public purposes through the Reservation  
16 under the laws of the State in circumstances where no  
17 other reasonable access is available.

18 (C) With the approval of the Tribe, the Secretary  
19 may also grant easements or rights-of-way over the Res-  
20 ervation for private purposes, and implied easements of  
21 necessity shall apply to all lands acquired by the Tribe,  
22 unless expressly excluded by the parties.

23 (i) JURISDICTIONAL STATUS.—Only land made part  
24 of the Reservation shall be governed by the special juris-

1 dictional provisions set forth in this Act and the Settle-  
2 ment Agreement.

3 (j) SALE AND TRANSFER OF RESERVATION  
4 LANDS.—At the request of the Tribe, and with approval  
5 of the Secretary, the Secretary may sell, exchange, or lease  
6 lands within the Reservation, and sell timber or other nat-  
7 ural resources on the Reservation under circumstances  
8 and in the manner prescribed by the Settlement Agree-  
9 ment.

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

22 (l) LEASES OF RESERVATION LANDS.—The provi-  
23 sions of the first section of the Act of August 9, 1955  
24 (ch. 615, 69 Stat. 539; 25 U.S.C. 415) shall not apply  
25 to the Tribe and its Reservation. The Tribe shall be au-

1 thORIZED to lease its Reservation lands for terms up to but  
2 not exceeding 99 years.

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

8 **SEC. 15. NON-RESERVATION PROPERTIES.**

9 (a) ACQUISITION OF NON-RESERVATION PROP-  
10 erties.—(1) The Tribe may draw upon the corpus or ac-  
11 cumulated income of the Catawba Land Acquisition Trust  
12 Fund or the Catawba Economic Development Trust Fund  
13 to acquire and hold parcels of real estate outside the Res-  
14 ervation for the purposes and in the manner delineated  
15 in the Settlement Agreement.

16 (2) If the ownership of any such properties by the  
17 Secretary or the Tribe, or any sub-entity of the Tribe, re-  
18 sults in the removal of the property from ad valorem tax-  
19 ation, then payments shall be made by the Tribe in lieu  
20 of taxation that are equivalent to the taxes that would oth-  
21 erwise be paid if the property were subject to levy.

22 (3) Notwithstanding any other provision of law, the  
23 Tribe may lease, sell, mortgage, restrict, encumber, or oth-  
24 erwise dispose of such non-Reservation lands in the same  
25 manner as other persons and entities under State law, and

1 the Tribe as land owner shall be subject to the same obli-  
2 gations and responsibilities as other persons and entities  
3 under State, Federal, and local law.

4 (4) Ownership and transfer of non-Reservation par-  
5 cels shall not be subject to Federal law restrictions on  
6 alienation, including (but not limited to) the restrictions  
7 imposed by Federal common law and the provisions of the  
8 section 2116 of the Revised Statutes (25 U.S.C. 177).

9 (b) JURISDICTION ON NON-RESERVATION PROP-  
10 erties.—(1) All non-Reservation properties, including  
11 such properties held by the Tribe as a corporate entity  
12 and such properties held in trust by the United States,  
13 and all activities conducted on such properties, shall be  
14 subject to the laws, ordinances, taxes, and regulations of  
15 the State and its political subdivisions in the same manner  
16 as such laws, ordinances, taxes, and regulations would  
17 apply to any other properties held by non-Indians in the  
18 same jurisdiction, except as provided in section 16 of this  
19 Act.

20 (2) Activities on non-Reservation land shall be eligible  
21 for Federal grants and other Federal services for the bene-  
22 fit of Indians.

1 **SEC. 16. GAMES OF CHANCE.**

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

5 (b) GAMES OF CHANCE GENERALLY.—The Tribe  
6 shall have the rights and responsibilities set forth in the  
7 Settlement Agreement and the State implementing legisla-  
8 tion with respect to the conduct of games of chance. Ex-  
9 cept as specifically set forth in the Settlement Agreement,  
10 the State implementing legislation, and this Act, all laws,  
11 ordinances, and regulations of the State, and its political  
12 subdivisions, shall govern the regulation of gambling de-  
13 vices and the conduct of gambling or wagering by the  
14 Tribe on and off the Reservation.

15 **SEC. 17. GOVERNANCE AND REGULATION OF RESERVA-**  
16 **TION.**

17 (a) ENVIRONMENTAL LAWS.—(1) All Federal, State,  
18 and local environmental laws and regulations shall apply  
19 to the Tribe and to the Reservation, and shall be fully  
20 enforceable by all Federal, State, and local agencies and  
21 authorities. Similarly, all requirements that a license, per-  
22 mit, or certificate be obtained from any Federal, State,  
23 or local agency shall also apply to the Tribe and to the  
24 Reservation. This provision shall extend without limitation  
25 to all environmental laws and regulations adopted after  
26 the date of enactment of this Act.

1           (2) The Tribe, the Executive Committee, and all  
2 Members shall have the same—and no special or pref-  
3 erential—status under all such laws as other individuals  
4 or groups of individuals to contest, object to, or intervene  
5 in any proceeding or action in which environmental regula-  
6 tions are being made, adjudicated, or enforced, or in which  
7 licenses, permits, or certificates of convenience and neces-  
8 sity are being issued by any agency of Federal, State, or  
9 local government.

10           (3) The Tribe shall have the authority to impose reg-  
11 ulations applying higher environmental standards to the  
12 Reservation than those imposed by Federal or State law  
13 or by local governing bodies; but such tribal regulations  
14 shall apply only to the Reservation, and not to property  
15 surrounding the Reservation or non-Reservation property,  
16 or to the use of the Catawba River. Such tribal regulations  
17 shall not apply to activities or uses off the Reservation,  
18 even if those activities affect air quality on the Reserva-  
19 tion.

20           (4) The Tribe shall not be authorized to invoke sov-  
21 ereign immunity against any suit, proceeding, or environ-  
22 mental enforcement action involving any Federal, State,  
23 or local environmental laws or regulations, and shall be  
24 subject to all enforcement orders, restraining orders, fees,

1 fines, injunctions, judgments, and other corrective or re-  
2 medial measures imposed by such laws.

3 (5) This section shall not impose different standards  
4 or requirements on the Tribe or the Secretary, when act-  
5 ing on the Tribe's behalf, than would be applied to a  
6 private corporation.

7 (b) BUILDING CODE.—The Tribe shall incorporate by  
8 reference and adopt the York County Building Code, and  
9 any amendments thereto adopted after the date of enact-  
10 ment of this Act, and may contract with York County,  
11 South Carolina, for the services necessary to enforce, in-  
12 spect, and regulate compliance with its Building Code.  
13 Such services shall be provided by York County as pro-  
14 vided in the Settlement Agreement. In addition, those  
15 local jurisdictions which exact any fee, permit, or inspec-  
16 tion services shall waive the fees otherwise charged for  
17 building permit or inspection services on the Reservation.  
18 The Tribe may adopt building code provisions to be ap-  
19 plied on the Reservation in addition to, but not in deroga-  
20 tion of, the York County Building Code, as amended from  
21 time to time.

22 (c) PLANNING AND ZONING.—With respect to any  
23 land use regulation within the Reservation, the Tribe shall  
24 have the power to adopt and enforce a land use plan after  
25 consultation with York County and Lancaster County, for

1 those parts of the Reservation located in those respective  
2 jurisdictions. The Tribe and the affected governing bodies  
3 shall follow the consultative procedures created for settle-  
4 ment of the claim of the Puyallup Tribe in the State of  
5 Washington, as set out in House Report 101–57, pages  
6 161–64, of the 101st Congress. In determining whether  
7 to permit the construction of any buildings or improve-  
8 ments on the Reservation, the Tribe shall consider—

9           (1) the protection of established or planned res-  
10          idential areas from any use or development that  
11          would adversely affect residential living off the Res-  
12          ervation;

13           (2) protection of the health, safety, and welfare  
14          of the surrounding community;

15           (3) preservation of open spaces, rivers, and  
16          streams; and

17           (4) provision of public facilities to support de-  
18          velopment.

19          (d) HEALTH CODES.—All public health codes of the  
20 State and any county in which the Reservation is located  
21 shall be applicable on the Reservation.

22          (e) HUNTING AND FISHING.—Subject to the provi-  
23 sions of section 17.5 of the Settlement Agreement con-  
24 cerning the acquisition of hunting and fishing licenses,  
25 hunting and fishing, on or off the Reservation, shall be

1 conducted by members in compliance with the laws and  
2 regulations of the State.

3 (f) RIPARIAN RIGHTS.—(1) The littoral and riparian  
4 rights of the Tribe in the Catawba River, or in any other  
5 streams or waters crossing their lands, shall not differ in  
6 any respect from the rights of other owners whose land  
7 abuts non-tidal bodies of water or non-tidal water courses  
8 in South Carolina. The rights and obligations covered by  
9 this provision shall include, but not be limited to—

10 (A) the title to the river bed;

11 (B) the right to flood, pond, dam, and divert  
12 waters to the river or its tributaries;

13 (C) the right to build docks and piers in the  
14 river;

15 (D) the right to fish in the river or its tribu-  
16 taries; and

17 (E) the right to discharge waste or withdraw  
18 water from the river or its tributaries.

19 (2) The Tribe shall have the same rights and stand-  
20 ing as all other riparian owners and users of the Catawba  
21 River to intervene in any proceeding or otherwise to con-  
22 test or object to proposed actions or determinations of the  
23 Federal Energy Regulatory Commission or of any other  
24 governmental agency, commission, or court, whether Fed-  
25 eral, State, or local, with respect to the use of the Catawba

1 River and its basin, including (without limitation) with-  
2 drawal of water from the river; navigability on the river;  
3 and water power and hydroelectric usage of the river.

4 (3) Notwithstanding any other provision of law effec-  
5 tive now or adopted after the date of enactment of this  
6 Act, the Tribe shall have no special right or preferential  
7 standing greater than other riparian owners and users of  
8 the Catawba River to intervene in or contest any such  
9 agency action, determination, or proceeding, including  
10 specifically any actions or determinations by the Federal  
11 Energy Regulatory Commission regarding the licensing,  
12 use, or operation of the waters impounded by the existing  
13 reservoirs above and below the Reservation. These quali-  
14 fications shall apply to the Existing Reservation, to lands  
15 acquired for the Expanded Reservation, to other lands ac-  
16 quired by or for the benefit of the Tribe, and to non-Res-  
17 ervation lands.

18 (g) ALCOHOLIC BEVERAGES.—Alcohol shall be pro-  
19 hibited on the Reservation unless the Tribe adopts laws  
20 permitting the sale, possession, or consumption of alcohol  
21 on the Reservation consistent with the terms of the Settle-  
22 ment Agreement.

23 **SEC. 18. GENERAL PROVISIONS.**

24 (a) GENERAL APPLICABILITY OF STATE LAW.—The  
25 Tribe, its Members, and any lands, natural resources, or

1 other property owned by the Tribe or its Members (includ-  
2 ing any land or natural resources or other property held  
3 in trust by the United States or by any other person or  
4 entity for the Tribe) shall be subject to the civil, criminal,  
5 and regulatory jurisdiction of the State, its agencies and  
6 political subdivisions other than municipalities, and the  
7 civil and criminal jurisdiction of the courts of the State,  
8 to the same extent as any other person, citizen or land  
9 in the State except as otherwise expressly provided in this  
10 Act and by the State implementing legislation.

11 (b) IMPACT OF SUBSEQUENTLY ENACTED LAWS.—  
12 The provisions of any Federal law enacted after the date  
13 of enactment of this Act shall not apply in the State if  
14 such provision would materially affect or preempt the ap-  
15 plication of the laws of the State, including application  
16 of the laws of the State applicable to lands owned by or  
17 held in trust for Indians, or Indian Nations, tribes or  
18 bands of Indians. However, such Federal law shall apply  
19 within the State if the State grants its approval by a law  
20 or joint resolution enacted by the General Assembly of  
21 South Carolina and signed by the Governor.

22 (c) SEVERABILITY.—If any of the provisions of sec-  
23 tions 4(a), 5 or 6 of this Act are held invalid by a court,  
24 then all of this Act is invalid. Should any other section

1 of this Act be held invalid by a court, the remaining sec-  
 2 tions of this Act shall remain in full force and effect.

3 (d) INTERPRETATION CONSISTENT WITH SETTLE-  
 4 MENT AGREEMENT.—Wherever possible, this Act shall be  
 5 construed in a manner consistent with the Settlement  
 6 Agreement. In the event of a conflict between the provi-  
 7 sions of this Act and the Settlement Agreement, the terms  
 8 of this Act shall govern. The Settlement Agreement shall  
 9 be maintained on file and available for public inspection  
 10 at the Department of the Interior.

11 **SEC. 19. EFFECTIVE DATE.**

12 The provisions of this Act shall become effective upon  
 13 the transfer of the Existing Reservation to the Secretary.

S 1156 IS—2

S 1156 IS—3

S 1156 IS—4

S 1156 IS—5