

## Calendar No. 419

108TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
108-213

### PROVIDING FOR THE ACKNOWLEDGMENT OF THE LUMBEE TRIBE OF NORTH CAROLINA, AND FOR OTHER PURPOSES

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NOVEMBER 25, 2003.—Ordered to be printed

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Mr. CAMPBELL, from the Committee on Indian Affairs, submitted  
the following

### R E P O R T

[To accompany S. 420]

The Committee on Indian Affairs, to which was referred the bill (S. 420), to provide for the acknowledgment of the Lumbee Tribe of North Carolina, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

#### PURPOSE

S. 420 would provide Federal recognition to the Lumbee Tribe of North Carolina and make applicable to the Lumbee Tribe and its members all laws that are generally applicable to Indians and Federally-recognized Indian tribes. The substitute amendment adopted by the Committee is identical to H.R. 898 introduced by Mr. McIntyre and Mr. Hayes in the House of Representatives on February 25, 2003, and referred to the House Committee on Resources.

#### BACKGROUND

##### *Previous recognition attempts*

The issue of the status of the Lumbee Tribe of North Carolina (the “Tribe”) comes to the Committee with a voluminous congressional and administrative record. Beginning in 1899, numerous bills have been introduced in Congress to recognize the Tribe. See H.R. 4009, 56th Cong., 1st Sess.; H.R. 19036, 61st Cong., 2d Sess.; S. 3258, 62d Cong., 1st Sess.; [House companion H.R. 20728]; H.R. 8083, 68th Cong., 1st Sess.; S. 4595, 72d Cong., 2d Sess.; H.R.

5365, 73d Cong., 1st Sess. [Senate companion S. 1632]; H.R. 4656, 84th Cong., 1st Sess.; H.R. 5042, 100th Cong., 1st Sess. [Senate companion S. 2672]; H.R. 2335, 101st Cong., 1st Sess. [Senate companion S. 901]; H.R. 1426, 102d Cong., 1st Sess. [Senate companion S. 1036]; H.R. 334, 103d Cong., 1st Sess.

Hearings were held and reports filed on several of these bills. See Hearing before the Senate Committee on Indian Affairs on S. 3258, 62d Cong., 2d Sess., April 4, 1912; Hearing before the Committee on Indian Affairs, House of Representatives, on S. 3258, Feb. 14, 1913; H. Rep. No. 1752, 73d Cong., 2d Sess.; S. Rep. No. 204, 73d Cong., 2d Sess.; H. Rep. No. 1654, 84th Cong., 2d Sess.; S. Rep. No. 84-2012, 84th Cong., 2d Sess.; S. Rep. No. 100-579, 100th Cong., 2d Sess.; H. Rep. No. 102-215, 102d Cong., 1st Sess.; H. Rep. No. 103-290, 103d Cong., 1st Sess. In addition, Congress requested and obtained substantial reports from the Department of the Interior on the Tribe's history and status. See Indian School Supervisor Pierce Report, filed with Senate on April 4, 1912; Special Indian Agent McPherson report, Doc. No. 677, 53d Cong., 2d Sess., prepared in 1914; Report of J.R. Swanton, Smithsonian Institute, at request of Bureau of Indian Affairs and submitted to Congress at the 1933 hearing; and Fred A. Baker Report on the Siouan Tribe of Indians of Robeson County, July 9, 1935. These hearings and studies concluded that the Lumbees were a distinct, viable Indian community descended from Siouan speaking tribes, principally the Cheraw.

The various bills to recognize the Tribe failed generally due to the opposition of the Department of the Interior. The Department's opposition was typically based on the cost of providing services, not on questions related to the Tribe's Indian ancestry or tribal governmental status. For example, in 1890 Commissioner of Indian Affairs Moore recommended that Congress reject the Tribe's first request for recognition in 1888, made in the form of a formal petition to Congress signed by tribal leaders, on the grounds of cost, advising Congress:

While I regret exceedingly that the provisions made by the State of North Carolina are entirely inadequate, I find it quite impractical to render any assistance at this time. The government is responsible for the education of something like 36,000 Indian children and has provision for less than half that number. So long as the immediate wards of the government are so insufficiently provided for, I do not see how I can consistently render any assistance to the Croatans or any other civilized tribes.

Commissioner of Indian Affairs, as quoted in the O.M. McPherson Report on Condition and Tribal Rights of the Indians of Robeson and Adjoining Counties of North Carolina, at page 40, Doc. No. 677, 53d Cong., 2d sess. (1914).

As Commissioner Moore indicated, the Tribe was recognized by the State of North Carolina, and has been so continuously since 1885. In its recognition acts, the State of North Carolina imposed various names on the Tribe, based on the representations of local historians and members of the legislature regarding the Tribe's history. These included Croatan [1885 to 1911], Indians of Robeson County [1911 to 1913], Cherokee Indians of Robeson County [1913-

1953], and finally Lumbee Indians [1953 to present]. Because of the Department's research, the Tribe became dissatisfied with its name under state law. Under pressure from the Tribe, the state authorized the Tribe to conduct a referendum on its name. The Tribe did so in 1952 and voted overwhelmingly for the adoption of the name Lumbee, derived from the Lumber River, where the Tribe resided historically and continues to reside at present. The State of North Carolina changed its law to reflect this name change in 1953. The Tribe has ever since been recognized by the state as the Lumbee Tribe.

Congress' deliberations on the Tribe's history produced more authoritative reports by the Department of the Interior. In 1934, the Department expressed to Congress the view, based upon a report by the eminent John R. Swanton of the Bureau of Ethnology, that the Lumbees descend from the Cheraw and related Siouan speaking tribes of coastal North Carolina. This conclusion has since been corroborated by leading historians in the field, including Dr. William Sturtevant, editor in chief of the Smithsonian Institution's Handbook of North American Indians and Dr. James Merrell, professor of colonial history at Vassar College.

As it had in the past, the Tribe in 1955 sought Federal recognition based on the recently amended state law. Again, the Department opposed the bill and recommended that Congress amend the bill by including termination language, consistent with the then-prevailing Federal Indian policy of termination. This amended bill was enacted by Congress in 1956, Pub. L. 84-570, Act of June 7, 1956, 70 Stat. 254. Thus, Congress simultaneously acknowledged the Lumbee Indians and terminated the Tribe from Federal Indian services and benefits. In 1989, the Associate Solicitor for Indian Affairs concluded in a formal opinion that the 1956 Lumbee Act precludes the Tribe from participating in the Department of the Interior's acknowledgment process for Indian tribes. See Memorandum to Assistant Secretary—Indian Affairs, U.S. Department of the Interior, Office of the Solicitor [BIA.IA.0929] (1988).

The only other Indian tribe placed by Congress in precisely the same anomalous position is the Tiwa Tribe of Texas. Using the 1956 Lumbee Act as the model, in 1968 the Congress enacted a statute that acknowledged the Tiwas—a state recognized tribe—as Indians but precluded the application of general Indian statutes and the delivery of Federal services to the tribe. See H. Rep. No. 1070, 90th Cong., 2d Sess.; 82 Stat. 93. As a result, the Tiwas were ineligible for the administrative acknowledgment process, just as are the Lumbees. In 1987, Congress enacted legislation to restore the Tiwas, renamed the Ysleta del Sur Pueblo, to the Federal relationship, Pub. L. 100-89, Act of August 18, 1987, 101 Stat. 667.

#### *The Federal Acknowledgment Process criteria*

At the September 17, 2003, hearing the Committee received testimony indicating that, were the Lumbee Tribe eligible for administrative acknowledgment, the Tribe would meet all but one of the mandatory criteria set forth in the Bureau of Indian Affairs' Federal Acknowledgment Process (FAP). See 25 C.F.R. § 83.7.

First, the evidence contained in the numerous Congressional and Administrative reports establishes that the Tribe is descended from the historic Cheraw and related Siouan-speaking tribes. Histori-

cally, the Cheraw were located on Drowning Creek in North Carolina. Drowning Creek was renamed the Lumber River by the State of North Carolina in 1809. The ancestors of the modern day Lumbee Tribe have been located on and around Drowning Creek/Lumber River ever since the first contact with Europeans in the early 1700's. Modern day Lumbee Indians share the same distinctive surnames as the historic Cheraw Tribe, i.e., Locklear, Chavis, Groom and others. This evidence supports the Department's view expressed in 1934 that the Lumbee Tribe descends from the historic Cheraw Tribe and meets one of the FAP mandatory criteria. See 25 C.F.R. § 83.7(e).

Second, Dr. Jack Campisi, a recognized expert in matters of Federal recognition and on the Lumbee Tribe's history, testified at the Committee's hearing on September 17, 2003, that the Tribe meets the high evidence standard for community and political authority two ways: by geographic concentration and in-marriage. Dr. Campisi testified that approximately 65% of the approximately 53,000 tribal members reside in the core area of Robeson and adjoining counties; this exceeds the 50% requirement for conclusive proof of community and political authority under the regulations. See 25 C.F.R. § 83.7(b)(2)(i). Dr. Campisi also testified that 70% of those tribal members who are married are married to other tribal members. Again, this exceeds the 50% requirement for conclusive proof of community and political authority in the regulations. *Id.* at § 83.7(b)(2)(ii), and § 83.7(c)(3).

Key events in the history of the Tribe corroborate its separate existence as a political community. See 25 C.F.R. § 83.7(a). During the Civil War, the North Carolina Home Guard attempted to conscript ancestors of the Lumbee into confederate service. The Lumbees resisted this effort, resulting in the formation of a defensive band led by Henry Berry Lowrie. Lowrie was protected by tribal members and never captured by the Home Guard. Lowrie is a folk hero among the Lumbee and his life is commemorated today in the annual "Strike at the Wind" outdoor drama held by the Tribe.

Later, in 1887 the State of North Carolina established a separate state-funded school system for Lumbee children, one that the Tribe itself ran. In 1913, the State Attorney General opined that the county school board could override tribal decisions regarding eligibility to attend the Lumbee schools. Tribal leaders objected to this infringement on their independence and in 1921 convinced the state legislature to pass special legislation setting aside the Attorney General's opinion. The Indian Normal School established by the state in 1888 to train Lumbee teachers for the Tribe's school system has been in continuous operation and is today the University of North Carolina at Pembroke.

It appears that the Tribe can provide substantial evidence to support its claim to meet all of the mandatory criteria except one—that it is not "the subject of congressional legislation that has expressly terminated or forbidden the federal relationship." 25 C.F.R. § 83.7(g).

Finally, the Committee stresses that the Lumbee Tribe of North Carolina is different from every other non-Federally recognized tribe in several respects. First, it is the largest non-Federally recognized tribe in the country, with a tribal enrollment of 53,000. The

Committee received a letter of support for S. 420 from retired Bureau of Indian Affairs official Bud Shapard, the principal author of the acknowledgment regulations. Mr. Shapard observed that the administrative process was simply not designed to handle petitions from tribes the size of the Lumbee Tribe. Second, the Congress has an extraordinary record on the Lumbee Tribe developed in response to the Tribe's more than hundred year effort to obtain Federal recognition. This record corroborates the tribal existence of the Lumbees. Finally, the Lumbee Tribe has received substantial support from Indian tribal leaders throughout the country, and Indian tribal organizations, including the National Congress of American Indians, and from some, but not all, of the tribes within the United South and Eastern Tribes organization. For these reasons, the Committee is of the view that recognition by special legislation is the appropriate remedy to the Tribe's anomalous status.

#### SUMMARY OF MAJOR PROVISIONS

The Lumbee Recognition Act, S. 420, amends Pub. L. 84-570, to provide recognition to the Lumbee Tribe of North Carolina and to apply to the Tribe all Federal laws of general application to Indians and Indian tribes.

The Committee notes the new section 2 imposes the same trust responsibilities on the United States with respect to the Lumbee Tribe that the United States holds with respect to every other Federally recognized tribe. Under this bill, the Lumbee Tribe shall enjoy no more and no less in terms of privileges, immunities, powers, services and benefits than every other Federally recognized tribe. The Committee further notes that section 2 does not restore the Tribe, but extends Federal recognition. Thus, the bill is not deemed to be a restoration act, for purposes of the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., or otherwise.

The bill does not create an Indian reservation but merely defines a service delivery area within which the Tribe and its members will be eligible to receive Federal services. Additionally, land within that area will be eligible to be taken into trust acquisition by the United States and will be treated as on-reservation for all administrative purposes.

S. 420 also provides for verification of the tribal membership roll by the Secretary of the Interior for purposes of delivery of services. The Committee notes that this verification is not intended to authorize the Secretary to independently impose eligibility standards for membership. Rather it is simply intended to provide the Secretary, in keeping with her trust responsibilities, with oversight to insure that each enrolled member actually appears on the Tribe's membership roll with the supporting documentation required by the Tribe.

The bill provides for the State of North Carolina to continue to exercise civil and criminal jurisdiction over tribal members and any lands that may be acquired in trust for the Tribe. The Committee notes that this provision is a departure from long-established Federal Indian policy, which provides generally for exclusive Federal and tribal civil and criminal jurisdiction over tribal members and tribal lands. However, similar jurisdictional provisions have been provided by Federal statute on a case-by-case basis for specific Indian reservations or within specific states. See e.g. P.L. 83-280, 67

Stat. 589, Aug. 15, 1953. The intent of this provision is to maintain the status quo with respect to jurisdiction, since the Tribe has enjoyed a long-standing relationship with the State of North Carolina, and is well represented among elected members of local governments where tribal members are geographically concentrated. The Committee further notes that this bill makes provision for retrocession of that jurisdiction from the State of North Carolina to the United States upon agreement between the Tribe and the State of North Carolina.

#### LEGISLATIVE HISTORY

S. 420 was introduced by Senator Dole on February 14, 2003, and referred to the Committee on Indian Affairs. The Committee held a hearing on the bill on September 17, 2003.

On October 30, 2003, Senator Edwards was added as cosponsor. On November 10, 2003, Senators Akaka, Bennett, Campbell, Craig, Crapo, Hatch, Inouye, McCain, McConnell, Mikulski, Pryor, Smith, and Snowe were added as cosponsors. Senator Lott was added as an additional cosponsor on November 13, 2003.

The Committee ordered the bill to be reported favorably with an amendment in the nature of a substitute on October 29, 2003. The substitute is identical to H.R. 898, sponsored by Mr. McIntyre and Mr. Hayes, and introduced in the House of Representatives on February 25, 2003.

#### SECTION-BY-SECTION ANALYSIS OF S. 420

Section 1 titles the bill the Lumbee Recognition Act.

Section 2 amends the preamble to the Act of June 7, 1956 by incorporating Congressional findings that the Lumbee Indians of Robeson and adjoining counties in North Carolina: (1) are descendants of North Carolina Indian tribes, mainly Cheraw; (2) have been recognized by the State of North Carolina since 1885; (3) are subject to a 1956 Act of Congress that acknowledges the Lumbee Indians as an Indian tribe but withholds the benefits, privileges and immunities to which other Federally recognized tribes are entitled; and (4) are entitled to Federal recognition as a distinct Indian community.

Section 3 amends the 1956 Act by striking the last sentence of the first section and section 2 and inserting the following provisions to the Act:

A new section 2 provides for Federal recognition of the Lumbee Tribe of North Carolina and for application to such tribe of all Federal laws of general application to Indians and Indian tribes.

A new section 3 (a) that provides that all members of the Lumbee Tribe shall be eligible for services provided to Indians because of their status as Indians and defines the service area for delivery of those services as Robeson, Cumberland, Hoke, and Scotland Counties in North Carolina. Subsection (b) directs the Secretaries of the Department of the Interior and Health and Human Services to conduct a needs assessment and develop a budget for those services in consultation with the Tribe. Both secretaries are directed to submit to Congress a written statement of such needs and budget to Congress the first fiscal year following the verification of a tribal roll under subsection (c). Subsection (c) au-

thorizes the Secretary of the Department of the Interior to verify a tribal roll for the purposes of the delivery of services within one year after the date of enactment.

A new section 4 provides that any request by the tribe to the Secretary of the Interior for a trust acquisition of land in Robeson County, North Carolina, shall be treated as an on-reservation acquisition under governing Federal regulations.

A new section 5(a) provides that the State of North Carolina shall continue to exercise civil and criminal jurisdiction over tribal members and any lands that may be acquired in trust for the tribe. Subsection (b) authorizes the Secretary of the Interior, after consultation with the Attorney General of the United States, to accept a transfer of any portion of jurisdiction from the state pursuant to an agreement between the Lumbee Tribe and the state providing for such.

A new section 6 authorizes such sums as are necessary to carry out the Act.

#### COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

On October 29, 2003, the Committee in an open business session considered S. 420. During consideration of S. 420, a substitute amendment was considered by the Committee. The Committee by a voice vote favorably reported the bill, as amended by substitute amendment, and recommended that the Senate pass S. 420. Senator Thomas requested that he be recorded as opposing the legislation.

#### COST AND BUDGETARY CONSIDERATIONS

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 21, 2003.*

Hon. BEN NIGHTHORSE CAMPBELL,  
*Chairman, Committee on Indian Affairs,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 420, the Lumbee Recognition Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

ELIZABETH M. ROBINSON  
(For Douglas Holtz-Eakin, Director).

Enclosure.

#### *S. 420—Lumbee Recognition Act*

Summary: S. 420 would provide federal recognition to the Lumbee Tribe of North Carolina. CBO estimates that implementing S. 420 would cost the federal government about \$430 million over the 2004–2008 period, assuming that the tribe receives services and benefits at a level similar to other currently recognized tribes and that the necessary funds are appropriated. Enacting S. 420 would have no effect on direct spending or revenues.

S. 420 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no direct costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 420 is shown in the following table. The costs of this legislation fall within budget functions 450 (community and regional development) and 550 (health).

Basis of estimate: S. 420 would provide federal recognition to the Lumbee Tribe of North Carolina as an Indian tribe. Although the bill does not specifically authorize the appropriation of funds, it would make members of the Lumbee eligible to receive services through the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). Thus, those federal agencies would be required to include members of the tribe among those eligible for benefits and may need additional appropriated funds to provide such benefits.

|                                              | By fiscal year, in millions of dollars— |      |      |      |      |
|----------------------------------------------|-----------------------------------------|------|------|------|------|
|                                              | 2004                                    | 2005 | 2006 | 2007 | 2008 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION |                                         |      |      |      |      |
| Bureau of Indian Affairs:                    |                                         |      |      |      |      |
| Estimated authorization level .....          | 20                                      | 21   | 21   | 22   | 22   |
| Estimated outlays .....                      | 15                                      | 20   | 21   | 21   | 22   |
| Indian Health Service:                       |                                         |      |      |      |      |
| Estimated authorization level .....          | 62                                      | 64   | 66   | 67   | 69   |
| Estimated outlays .....                      | 62                                      | 64   | 66   | 67   | 69   |
| Total                                        |                                         |      |      |      |      |
| Estimated authorization level .....          | 82                                      | 85   | 87   | 89   | 91   |
| Estimated outlays .....                      | 77                                      | 84   | 87   | 88   | 91   |

#### *Bureau of Indian Affairs*

As a federally recognized tribe, the Lumbee would be eligible for various programs administered by BIA, including child welfare services, adult care, child and family services, and general assistance. Based on information from the tribe, CBO estimates that S. 420 would increase such costs by about \$15 million in 2004 and about \$100 million over the next five years to support approximately 34,000 members of the Lumbee Tribe, subject to the availability of appropriations. This estimate is based on BIA's current per capita expenditures for other tribes located in the eastern United States.

#### *Indian Health Service*

S. 420 also would make members of the Lumbee Tribe eligible to receive health benefits from the IHS. Based on information from IHS, CBO estimates that average spending per eligible individual would be about \$1,800 in 2004. As noted above, the bill would make approximately 34,000 members of the Lumbee Tribe eligible for benefits. Thus, CBO estimates that S. 420 would cost about \$60 million in 2004 and about \$330 million over the 2004–2008 period, assuming appropriation of the necessary funds.

Intergovernmental and private-sector impact: S. 420 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no direct costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Lanette J. Walker—Bureau of Indian Affairs and Eric Rollins—Indian Health Service. Impact

on State, Local, and Tribal Governments: Marjorie Miler. Impact on the Private Sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 420, as amended, will have a minimal impact on regulatory or paperwork requirements.

#### EXECUTIVE COMMUNICATIONS

There have been no executive communications received on this legislation.

#### CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:)

#### Public Law 84-570

##### AN ACT Relating to the Lumbee Indians of North Carolina

Whereas many Indians now living in Robeson and adjoining counties are descendants of that once large and prosperous tribe which occupied the lands along the Lumbee River at the time of the earliest white settlements in that section; [and]

Whereas at the time of their first contacts with the colonists, these Indians were a well-established and distinctive people, living in European-type houses in settled towns and communities, owning slaves and livestock, tilling the soil, and practicing many of the arts and crafts of European civilization; [and]

Whereas by reason of tribal legend, coupled with a distinctive appearance and manner of speech and the frequent recurrence among them of family names such as Oxendine, Locklear, Chavis, Drinkwater, Bullard, Lowery, Sampson, and other, also found on the roster of the earliest English settlements, these Indians may, with considerable show of reason, trace their origin to an admixture of colonial blood with certain coastal tribes of Indians; [and]

Whereas these people are naturally and understandably proud of their heritage, and desirous of establishing their social status and preserving their racial history[: Now, therefore,];

*Whereas the Lumbee Indians of Robeson and adjoining counties in North Carolina are descendants of coastal North Carolina Indian tribes, principally Cheraw, and have remained a distinct Indian community since the time of contact with white settlers; Whereas since 1885 the State of North Carolina has recognized the Lumbee Indians as an Indian tribe;*

*Whereas in 1956 the Congress of the United States acknowledged the Lumbee Indians as an Indian tribe, but withheld from the*

*Lumbee Tribe the benefits, privileges and immunities to which the Tribe and its members otherwise would have been entitled by virtue of the Tribe status as a federally recognized tribe; and Whereas the Congress finds that the Lumbee Indians should now be entitled to full Federal recognition of their status as an Indian tribe and that the benefits, privileges and immunities that accompany such status should be accorded to the Lumbee Tribe: Now, Therefore,*

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Indians now residing in Robeson and adjoining counties of North Carolina, originally found by the first white settlers on the Lumbee River in Robeson County, and claiming joint descent from remnants of early American colonists and certain tribes of Indians originally inhabiting the coastal regions of North Carolina, shall, from and after the ratification of this Act, be known and designated as Lumbee Indians of North Carolina and shall continue to enjoy all rights, privileges, and immunities enjoyed by them as citizens of the State of North Carolina and of the United States as they enjoyed before the enactment of this Act, and shall continue to be subject to all the obligations and duties of such citizens under the laws of the State of North Carolina and the United States. [Nothing in this Act shall make such Indians eligible for any services performed by the United States for Indians because of their status as Indians, and none of the statutes of the United States which affect Indians because of their status as Indians shall be applicable to the Lumbee Indians. Sec. 2. All laws and parts of laws in conflict with this Act are hereby repealed.]*

#### **SEC. 2. RECOGNITION.**

*(a) IN GENERAL.—Federal recognition is extended to the Lumbee Tribe of North Carolina. All laws and regulations of the United States of general application to Indians and Indian tribes shall apply to the Lumbee Tribe of North Carolina and its members.*

*(b) PETITION.—Notwithstanding the first section, any group of Indians in Robeson and adjoining counties, North Carolina, whose members are not enrolled in the Lumbee Tribe of North Carolina as determined under section 3(c), may petition under part 83 of title 25 of the Code of Federal Regulations for acknowledgment of tribal existence.*

#### **SEC. 3. ELIGIBILITY FOR SERVICES AND BENEFITS.**

*(a) IN GENERAL.—*

*(1) SERVICES AND BENEFITS.—The Lumbee Tribe of North Carolina and its members shall be eligible for all services and benefits provided to Indians because of their status as members of a federal recognized tribe.*

*(2) RESIDENCE ON OR NEAR RESERVATION.—For the purposes of the delivery of such services, those members of the tribe residing in Robeson, Cumberland, Hoke, and Scotland counties in North Carolina shall be deemed to be residing on or near an Indian reservation.*

*(b) DETERMINATION OF NEEDS AND BUDGET.—*

*(1) IN GENERAL.—On verification by the Secretary of the Interior of a tribal roll under subsection (c), the Secretary of the Interior and the Secretary of Health and Human Services shall*

*develop, in consultation with the Lumbee Tribe of North Carolina, a determination of needs and budget to provide the services to which members of the tribe are eligible.*

(2) *INCLUSION IN BUDGET REQUEST.*—*The Secretary of the Interior and Secretary of Health and Human Services shall each submit a written statement of such needs and budget with the first budget request submitted to Congress after the fiscal year in which the tribal roll is verified.*

(c) *TRIBAL ROLL.*—

(1) *IN GENERAL.*—*For purposes of the delivery of Federal services, the tribal roll in effect on the date of the enactment of this section shall, subject to verification by the Secretary of the Interior, define the service population of the tribe.*

(2) *VERIFICATION.*—*The Secretary's verification shall be limited to confirming compliance with the membership criteria set out in the tribe's constitution adopted on November 11, 2000, which verification shall be completed not less than 1 year after the date of the enactment of this section.*

#### **SEC. 4. FEE LAND.**

*Fee land that the tribe seeks to convey to the United States to be held in trust shall be treated by the Secretary of the Interior as on-reservation trust acquisitions under part 151 of title 25 Code of Federal Regulations (or any successor regulation) if the land is located within Robeson County, North Carolina.*

#### **SEC. 5. STATE JURISDICTION.**

(a) *IN GENERAL.*—*The State of North Carolina shall exercise jurisdiction over—*

*(1) all criminal offenses that are committed on; and*

*(2) all civil actions that arise on, lands located within the State of North Carolina that are owned by, or held in trust by the United States for, the Lumbee Tribe of North Carolina, or any dependent Indian community of the Lumbee Tribe of North Carolina.*

(b) *TRANSFER.*—

(1) *IN GENERAL.*—*The Secretary of the Interior may accept on behalf of the United States, after consulting with the Attorney General of the United States any transfer by the State of North Carolina to the United States of any portion of the jurisdiction of the State of North Carolina described in paragraph (1) under an agreement between the Lumbee Tribe and the State of North Carolina.*

(2) *EFFECTIVE DATE.*—*Such transfer or jurisdiction may not take effect until 2 years after the effective date of the agreement.*

(c) *EFFECT OF SECTION.*—*This section shall not affect the application of section 109 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1919).*

#### **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated such sums as are necessary to carry out this Act.*