

“(A) Categorical exclusion 17.04.d (relating to the acquisition of machinery and equipment) in the document entitled ‘EDA Program to Implement the National Environmental Policy Act of 1969 and Other Federal Environmental Mandates As Required’ (Directive No. 17.02-2; effective date October 14, 1992).

“(B) Categorical exclusion A9 in Appendix A to subpart D of part 1021 of title 10, Code of Federal Regulations, or any successor regulation.

“(C) Categorical exclusions B1.24, B1.31, B2.5, and B5.1 in Appendix B to subpart D of part 1021 of title 10, Code of Federal Regulations, or any successor regulation.

“(D) The categorical exclusions described in paragraphs (4) and (13) of section 50.19(b) of title 24, Code of Federal Regulations, or any successor regulation.

“(E) Categorical exclusion (c)(1) in Appendix B to part 651 of title 32, Code of Federal Regulations, or any successor regulation.

“(F) Categorical exclusions A2.3.8 and A2.3.14 in Appendix B to part 989 of title 32, Code of Federal Regulations, or any successor regulation.

“(2) ADDITIONAL CATEGORICAL EXCLUSIONS.—Notwithstanding any other provision of law, each of the following shall be treated as a category of action categorically excluded from the requirements relating to environmental assessments and environmental impact statements under section 1501.4 of title 40, Code of Federal Regulations, or any successor regulation:

“(A) The provision by the Secretary of any Federal financial assistance for a project described in section 9902, if the facility that is the subject of the project is on or adjacent to a site—

“(i) that is owned or leased by the covered entity to which Federal financial assistance is provided for that project; and

“(ii) on which, as of the date on which the Secretary provides that Federal financial assistance, substantially similar construction, expansion, or modernization is being or has been carried out, such that the facility would not more than double existing developed acreage or on-site supporting infrastructure.

“(B) The provision by the Secretary of Defense of any Federal financial assistance relating to—

“(i) the creation, expansion, or modernization of one or more facilities described in the second sentence of section 9903(a)(1); or

“(ii) carrying out section 9903(b), as in effect on the date of enactment of this subsection.

“(C) Any activity undertaken by the Secretary relating to carrying out section 9906, as in effect on the date of enactment of this subsection.

“(e) INCORPORATION OF PRIOR PLANNING DECISIONS.—

“(1) DEFINITION.—In this subsection, the term ‘prior studies and decisions’ means baseline data, planning documents, studies, analyses, decisions, and documentation that a Federal agency has completed for a project (or that have been completed under the laws and procedures of a State or Indian Tribe), including for determining the reasonable range of alternatives for that project.

“(2) RELIANCE ON PRIOR STUDIES AND DECISIONS.—In completing an environmental review under NEPA for a covered activity, the Secretary may consider and, as appropriate, rely on or adopt prior studies and decisions, if the Secretary determines that—

“(A) those prior studies and decisions meet the standards for an adequate statement, assessment, or determination under applicable procedures of the Department of Commerce implementing the requirements of NEPA;

“(B) in the case of prior studies and decisions completed under the laws and procedures of a State or Indian Tribe, those laws and procedures are of equal or greater rigor than those of each applicable Federal law, including NEPA, implementing procedures of the Department of Commerce; or

“(C) if applicable, the prior studies and decisions are informed by other analysis or documentation that would have been prepared if the prior studies and decisions were prepared by the Secretary under NEPA.

“(f) DEFINITIONS.—In this section:

“(1) COVERED ACTIVITY.—The term ‘covered activity’ means any activity relating to the construction, expansion, or modernization of a facility, the investment in which is eligible for Federal financial assistance under section 9902 or 9906.

“(2) NEPA.—The term ‘NEPA’ means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”

AUTHORITY FOR COMMITTEES TO MEET

Mr. SCHUMER. Madam President, I have four requests for committees to meet during today’s session of the Senate. They have the approval of the Majority and Minority Leaders.

Pursuant to rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today’s session of the Senate:

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

The Committee on Health, Education, Labor, and Pensions is authorized to meet during the session of the Senate on Thursday, December 14, 2023, at 10 a.m., to conduct a hearing.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

The Committee on Energy and Natural Resources is authorized to meet during the session of the Senate on Thursday, December 14, 2023, at 9 a.m., to conduct a business meeting.

COMMITTEE ON THE JUDICIARY

The Committee on the Judiciary is authorized to meet during the session of the Senate on Thursday, December 14, 2023, at 1 p.m., to conduct a hearing.

SPECIAL COMMITTEE ON AGING

The Special Committee on Aging is authorized to meet during the session of the Senate on Thursday, December 14, 2023, at 9:30 a.m., to conduct a hearing.

MEASURE READ THE FIRST TIME—H.R. 1147

Mr. SCHUMER. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 1147) to amend the Richard B. Russell National School Lunch Act to allow schools that participate in the school lunch program under such Act to serve whole milk.

Mr. SCHUMER. Mr. President, I now ask for a second reading, and in order to place the bill on the calendar under

the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

APPOINTMENTS

The PRESIDING OFFICER. The Chair announces, on behalf of the Republican Leader, pursuant to the provisions of Public Law 106-398, as amended by Public Law 108-7, and in consultation with the Ranking Members of the Senate Committee on Armed Services and the Senate Committee on Finance, the re-appointment of the following individuals to serve as members of the United States—China Economic and Security Review Commission: Honorable Randall Schriver of Virginia; and Aaron Friedberg of New Jersey.

REVISING EXISTING PROCEDURES ON REPORTING VIA TECHNOLOGY ACT

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 85, S. 474.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 474) to amend title 18, United States Code, to strengthen reporting to the CyberTipline related to online sexual exploitation of children, to modernize liabilities for such reports, to preserve the contents of such reports for 1 year, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Revising Existing Procedures On Reporting via Technology Act” or the “REPORT Act”.

SEC. 2. LIMITED LIABILITY MODERNIZATION.

(a) AMENDMENTS.—Section 2258B of title 18, United States Code, is amended—

(1) in the section heading, by striking “**providers or domain name registrars**” and inserting “**the reporting, storage, and handling of certain visual depictions of apparent child pornography to the National Center for Missing & Exploited Children**”;

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting “or charge” after “a claim”; and

(B) in paragraph (2)(C), by striking “this section.”; and

(3) by adding at the end the following:

“(d) LIMITED LIABILITY FOR NCMEC-CONTRACTED VENDORS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a civil claim or criminal charge may not be brought in any Federal or State court against a vendor contractually retained and designated by NCMEC to support the duties of NCMEC under section 404(b)(1)(K) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)).

“(2) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Paragraph (1) shall not apply to a claim or charge if the vendor—

“(A) engaged in—

“(i) intentional misconduct; or

“(ii) negligent conduct; or

“(B) acted, or failed to act—
 “(i) with actual malice;
 “(ii) with reckless disregard to a substantial risk of causing injury without legal justification; or
 “(iii) for a purpose unrelated to the performance of any responsibility or function—
 “(I) set forth in paragraph (1); or
 “(II) pursuant to sections 2258A, 2258C, 2702, or 2703.

“(3) **MINIMIZING ACCESS BY VENDOR.**—With respect to any visual depiction provided pursuant to the duties of NCMEC under section 404(b)(1)(K) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)) that is stored or transferred by a vendor contractually retained and designated by NCMEC to support such duties of NCMEC, a vendor shall—

“(A) minimize the number of employees that may be able to obtain access to such visual depiction; and

“(B) employ end-to-end encryption for data storage and transfer functions, or an equivalent technological standard.

“(e) **LIMITED LIABILITY FOR REPORTING APPARENT CHILD PORNOGRAPHY BY AN INDIVIDUAL DEPICTED IN THE CHILD PORNOGRAPHY AS A MINOR, OR A REPRESENTATIVE OF SUCH INDIVIDUAL.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), a civil claim or criminal charge may not be brought in any Federal or State court against an individual depicted in child pornography as a minor, or a representative of such individual, arising from a report to the NCMEC CyberTipline by the individual, or the representative of such individual, of information that relates to the child pornography in which the individual is depicted as a minor, including a copy of the child pornography.

“(2) **INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.**—Paragraph (1) shall not apply to a claim or charge if the individual, or the representative of such individual—

“(A) engaged in—
 “(i) intentional misconduct;
 “(ii) negligent conduct; or
 “(iii) any activity which constitutes a violation of section 2251; or

“(B) acted, or failed to act—
 “(i) with actual malice; or
 “(ii) with reckless disregard to a substantial risk of causing injury without legal justification.

“(3) **MINIMIZING ACCESS.**—With respect to any child pornography reported to the NCMEC CyberTipline by an individual depicted in the child pornography as a minor, or a representative of such individual, NCMEC shall minimize access to the child pornography and ensure the appropriate deletion of the child pornography, as set forth in section 2258D.

“(4) **DEFINITION.**—For purposes of this subsection, the term ‘representative’, with respect to an individual depicted in child pornography—

“(A) means—
 “(i) the parent or legal guardian of the individual, if the individual is under 18 years of age;

“(ii) the legal guardian or other person appointed by a court to represent the individual;

“(iii) a legal representative retained by the individual;

“(iv) a representative of the estate of the individual; or

“(v) a person who is a mandated reporter under section 226(a)(1) of the Victims of Child Abuse Act of 1990 (34 U.S.C. 20341(a)(1)); and

“(B) does not include a person who engaged in any activity which constitutes a violation of section 2251.”

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall apply with respect to a civil claim or criminal charge that is filed on or after the date of enactment of this Act.

(c) **TABLE OF SECTIONS AMENDMENT.**—The table of sections for chapter 110 of title 18,

United States Code, is amended by striking the item relating to section 2258B and inserting the following:

“2258B. Limited liability for the reporting, storage, and handling of certain visual depictions of apparent child pornography to the National Center for Missing & Exploited Children.”

SEC. 3. PRESERVATION OF REPORTS TO CYBERTIPLINE RELATED TO ONLINE SEXUAL EXPLOITATION OF CHILDREN.

Section 2258A(h) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “90 days” and inserting “1 year”; and

(2) by adding at the end the following:

“(5) **EXTENSION OF PRESERVATION.**—A provider of a report to the CyberTipline under subsection (a)(1) may voluntarily preserve the contents provided in the report (including any co-mingled content described in paragraph (2)) for longer than 1 year after the submission to the CyberTipline for the purpose of reducing the proliferation of online child sexual exploitation or preventing the online sexual exploitation of children.

“(6) **METHOD OF PRESERVATION.**—Not later than 1 year after the date of enactment of this paragraph, a provider of a report to the CyberTipline under subsection (a)(1) shall preserve materials under this subsection in a manner that is consistent with the most recent version of the Cybersecurity Framework developed by the National Institute of Standards and Technology, or any successor thereto.”

SEC. 4. STRENGTHENING OF DUTY TO REPORT APPARENT VIOLATIONS TO CYBERTIPLINE RELATED TO ONLINE EXPLOITATION OF CHILDREN.

(a) **AMENDMENTS.**—Section 2258A of title 18, United States Code, is amended—

(1) in subsection (a)(2)(A), by inserting “, of section 1591 (if the violation involves a minor), or of 2422(b)” after “child pornography”; and

(2) in subsection (e)—

(A) in paragraph (1), by striking “\$150,000” and inserting “\$850,000 in the case of a provider with not less than 100,000,000 monthly active users or \$600,000 in the case of a provider with less than 100,000,000 monthly active users”; and

(B) in paragraph (2), by striking “\$300,000” and inserting “\$1,000,000 in the case of a provider with not less than 100,000,000 monthly active users or \$850,000 in the case of a provider with less than 100,000,000 monthly active users”.

(b) **GUIDELINES.**—Not later than 180 days after the date of enactment of this Act, the National Center for Missing & Exploited Children may issue guidelines, as appropriate, to providers required or permitted to take actions described in section 2258A(a)(1)(B) of title 18, United States Code, on the relevant identifiers for content that may indicate sex trafficking of children, as described in section 1591 of that title, or enticement, as described in section 2422(b) of that title.

Mr. WYDEN. Mr. President, I expect that the Senate will soon pass by unanimous consent the Blackburn-Ossoff REPORT Act. This bill will strengthen the Nation’s centralized reporting system for the online exploitation of children, operated by the National Center for Missing and Exploited Children, to better protect children from online sexual abuse and exploitation. Senators BLACKBURN and OSSOFF worked closely with me to make important changes to this bill to require that the upgraded CyberTipline be secured consistent with Federal cybersecurity best practices, so that hackers are not able to steal and then distribute the ex-

tremely sensitive images and videos documenting abuse that are stored in this system. I sincerely appreciate their partnership on this important issue.

Mr. SCHUMER. I ask unanimous consent that the committee-reported amendment be withdrawn; that the Blackburn substitute amendment at the desk be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendment in the nature of a substitute was withdrawn.

The amendment (No. 1377) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Revising Existing Procedures On Reporting via Technology Act” or the “REPORT Act”.

SEC. 2. LIMITED LIABILITY MODERNIZATION.

(a) **AMENDMENTS.**—Section 2258B of title 18, United States Code, is amended—

(1) in the section heading, by striking “providers or domain name registrars” and inserting “the reporting, storage, and handling of certain visual depictions of apparent child pornography to the National Center for Missing & Exploited Children”;
 (2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting “or charge” after “a claim”; and

(B) in paragraph (2)(C), by striking “this section,”; and

(3) by adding at the end the following:

“(d) **LIMITED LIABILITY FOR NCMEC-CONTRACTED VENDORS.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), a civil claim or criminal charge may not be brought in any Federal or State court against a vendor contractually retained and designated by NCMEC to support the duties of NCMEC under section 404(b)(1)(K) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)).

“(2) **INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.**—Paragraph (1) shall not apply to a claim or charge if the vendor—

“(A) engaged in—
 “(i) intentional misconduct; or
 “(ii) negligent conduct; or
 “(B) acted, or failed to act—
 “(i) with actual malice;

“(ii) with reckless disregard to a substantial risk of causing injury without legal justification; or

“(iii) for a purpose unrelated to the performance of any responsibility or function—

“(I) set forth in paragraph (1); or

“(II) pursuant to sections 2258A, 2258C, 2702, or 2703.

“(3) **VENDOR CYBERSECURITY REQUIREMENTS.**—With respect to any visual depiction provided pursuant to the duties of NCMEC under section 404(b)(1)(K) of the Juvenile Justice and Delinquency Prevention Act of 1974 (34 U.S.C. 11293(b)(1)(K)) that is stored or transferred by a vendor contractually retained and designated by NCMEC to support such duties of NCMEC, a vendor shall—

“(A) secure such visual depiction in a manner that is consistent with the most recent

version of the Cybersecurity Framework developed by the National Institute of Standards and Technology, or any successor thereto;

“(B) minimize the number of employees that may be able to obtain access to such visual depiction;

“(C) employ end-to-end encryption for data storage and transfer functions, or an equivalent technological standard;

“(D) undergo an independent annual cybersecurity audit to determine whether such visual depiction is secured as required under subparagraph (A); and

“(E) promptly address all issues identified by an audit described in subparagraph (D).

“(e) LIMITED LIABILITY FOR REPORTING APPARENT CHILD PORNOGRAPHY BY AN INDIVIDUAL DEPICTED IN THE CHILD PORNOGRAPHY AS A MINOR, OR A REPRESENTATIVE OF SUCH INDIVIDUAL.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a civil claim or criminal charge may not be brought in any Federal or State court against an individual depicted in child pornography as a minor, or a representative of such individual, arising from a report to the NCMEC CyberTipline by the individual, or the representative of such individual, of information that relates to the child pornography in which the individual is depicted as a minor, including a copy of the child pornography.

“(2) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Paragraph (1) shall not apply to a claim or charge if the individual, or the representative of such individual—

“(A) engaged in—

- “(i) intentional misconduct;
- “(ii) negligent conduct; or
- “(iii) any activity which constitutes a violation of section 2251; or

“(B) acted, or failed to act—

- “(i) with actual malice; or
- “(ii) with reckless disregard to a substantial risk of causing injury without legal justification.

“(3) MINIMIZING ACCESS.—With respect to any child pornography reported to the NCMEC CyberTipline by an individual depicted in the child pornography as a minor, or a representative of such individual, NCMEC shall minimize access to the child pornography and ensure the appropriate deletion of the child pornography, as set forth in section 2258D.

“(4) DEFINITION.—For purposes of this subsection, the term ‘representative’, with respect to an individual depicted in child pornography—

“(A) means—

“(i) the parent or legal guardian of the individual, if the individual is under 18 years of age;

“(ii) the legal guardian or other person appointed by a court to represent the individual;

“(iii) a legal representative retained by the individual;

“(iv) a representative of the estate of the individual; or

“(v) a person who is a mandated reporter under section 226(a)(1) of the Victims of Child Abuse Act of 1990 (34 U.S.C. 20341(a)(1)); and

“(B) does not include a person who engaged in any activity which constitutes a violation of section 2251.”.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to a civil claim or criminal charge that is filed on or after the date of enactment of this Act.

(c) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 110 of title 18, United States Code, is amended by striking the item relating to section 2258B and inserting the following:

“2258B. Limited liability for the reporting, storage, and handling of certain visual depictions of apparent child pornography to the National Center for Missing & Exploited Children.”.

SEC. 3. PRESERVATION OF REPORTS TO CYBERTIPLINE RELATED TO ONLINE SEXUAL EXPLOITATION OF CHILDREN.

Section 2258A(h) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “90 days” and inserting “1 year”; and

(2) by adding at the end the following:

“(5) EXTENSION OF PRESERVATION.—A provider of a report to the CyberTipline under subsection (a)(1) may voluntarily preserve the contents provided in the report (including any comingled content described in paragraph (2)) for longer than 1 year after the submission to the CyberTipline for the purpose of reducing the proliferation of online child sexual exploitation or preventing the online sexual exploitation of children.

“(6) METHOD OF PRESERVATION.—Not later than 1 year after the date of enactment of this paragraph, a provider of a report to the CyberTipline under subsection (a)(1) shall preserve materials under this subsection in a manner that is consistent with the most recent version of the Cybersecurity Framework developed by the National Institute of Standards and Technology, or any successor thereto.”.

SEC. 4. STRENGTHENING OF DUTY TO REPORT APPARENT VIOLATIONS TO CYBERTIPLINE RELATED TO ONLINE EXPLOITATION OF CHILDREN.

(a) AMENDMENTS.—Section 2258A of title 18, United States Code, is amended—

(1) in subsection (a)(2)(A), by inserting “, of section 1591 (if the violation involves a minor), or of 2422(b)” after “child pornography”; and

(2) in subsection (e)—

- (A) in paragraph (1), by striking “\$150,000” and inserting “\$850,000 in the case of a provider with not less than 100,000,000 monthly active users or \$600,000 in the case of a provider with less than 100,000,000 monthly active users”; and
- (B) in paragraph (2), by striking “\$300,000” and inserting “\$1,000,000 in the case of a provider with not less than 100,000,000 monthly active users or \$850,000 in the case of a provider with less than 100,000,000 monthly active users”.

(b) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the National Center for Missing & Exploited Children may issue guidelines, as appropriate, to providers required or permitted to take actions described in section 2258A(a)(1)(B) of title 18, United States Code, on the relevant identifiers for content that may indicate sex trafficking of children, as described in section 1591 of that title, or enticement, as described in section 2422(b) of that title.

The bill (S. 474), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

KEWEENAW BAY INDIAN COMMUNITY LAND CLAIM SETTLEMENT ACT OF 2023

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 272, S. 195.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 195) to provide compensation to the Keweenaw Bay Indian Community for the taking without just compensation of land by the United States inside the exterior boundaries of the L'Anse Indian Reservation that were guaranteed to the Community under a treaty signed in 1854, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SCHUMER. I further ask consent that the bill be considered read a third time and passed, and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 195) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Keweenaw Bay Indian Community Land Claim Settlement Act of 2023”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Keweenaw Bay Indian Community is a federally recognized Indian Tribe residing on the L'Anse Indian Reservation in Baraga County in the Upper Peninsula of the State of Michigan;

(2) the Community is a successor in interest to the Treaty with the Chippewa Indians of the Mississippi and Lake Superior, made and concluded at La Pointe of Lake Superior October 4, 1842 (7 Stat. 591) (referred to in this section as the “1842 Treaty”), which, among other things, guaranteed the usufructuary rights of the Community over a large area of land that was ceded to the United States, until such time that those usufructuary rights were properly and legally extinguished;

(3) the Community is also a successor in interest to the Treaty with the Chippewa Indians of Lake Superior and the Mississippi, made and concluded at La Pointe September 30, 1854 (10 Stat. 1109) (referred to in this section as the “1854 Treaty”);

(4) article 2, paragraph 1 of the 1854 Treaty created the L'Anse Indian Reservation as a permanent reservation;

(5) pursuant to article 13 of the 1854 Treaty, the 1854 Treaty became “obligatory on the contracting parties” when ratified by the President and the Senate on January 10, 1855;

(6) in 1850, Congress enacted the Act of September 28, 1850 (commonly known and referred to in this section as the “Swamp Land Act”) (9 Stat. 519, chapter 84), which authorized the State of Arkansas and other States, including the State of Michigan, to “construct the necessary levees and drains to reclaim” certain unsold “swamp and overflowed lands, made unfit thereby for cultivation” and stating that those lands “shall remain unsold at the passage of this act . . .”;

(7) following enactment of the Swamp Land Act, the State claimed thousands of acres of swamp land in the State pursuant to that Act;

(8) between 1893 and 1937, the General Land Office patented 2,743 acres of land to the State that were located within the exterior boundaries of the Reservation (referred to in this section as “Reservation Swamp Lands”);

(9) the right of the Community to use and occupy the unsold land within the Reservation had not been extinguished when the