

United States patented the Reservation Swamp Lands to the State;

(10) in 1852, Congress enacted the Act of August 26, 1852 (10 Stat. 35, chapter 92) (referred to in this section as the “Canal Land Act”), to facilitate the building of the Sault Ste. Marie Canal at the Falls of the St. Mary’s River, to connect Lake Superior to Lake Huron;

(11) pursuant to the Canal Land Act, the United States granted the State the right to select 750,000 acres of unsold public land within the State to defray the cost of construction of the Sault Ste. Marie Canal;

(12) the State identified and selected, among other land, a minimum of 1,333.25 and up to 2,720 acres within the exterior boundaries of the Reservation (referred to in this section as the “Reservation Canal Lands”);

(13) the Department of the Interior approved the land selections of the State, including the Reservation Canal Lands, after ratification of the 1854 Treaty;

(14) the Secretary noted that the approval described in paragraph (13) was “subject to any valid interfering rights”;

(15) the 1854 Treaty set apart from the public domain all unsold land within the Reservation to the Community as of September 30, 1854, which preceded the date on which the State established legally effective title to the Reservation Canal Lands;

(16) the Community made claims to the Department of the Interior with respect to the Reservation Swamp Lands and the Reservation Canal Lands, providing legal analysis and ethnohistorical support for those claims;

(17) in December 2021, the Department of the Interior stated that “We have carefully reviewed pertinent documents, including the Tribe’s expert reports, and have determined that the Tribe’s claims to the Swamp Lands and Canal Lands have merit”;

(18) the United States, through the actions of the General Land Office, deprived the Community of the exclusive use and occupancy of the Reservation Swamp Lands and the Reservation Canal Lands within the Reservation, without just compensation as required under the Takings Clause of the Fifth Amendment to the Constitution of the United States;

(19) the loss of the Reservation Swamp Lands and the Reservation Canal Lands without just compensation has—

(A) impacted the exercise by the Community of cultural, religious, and subsistence rights on the land;

(B) caused a harmful disconnect between the Community and its land;

(C) impacted the ability of the Community to fully exercise its economy within the Reservation; and

(D) had a negative economic impact on the development of the economy of the Community;

(20) certain non-Indian individuals, entities, and local governments occupy land within the boundaries of the Reservation—

(A) acquired ownership interests in the Reservation Swamp Lands and the Reservation Canal Lands in good faith; and

(B) have an interest in possessing clear title to that land;

(21) this Act allows the United States—

(A) to secure a fair and equitable settlement of past inequities suffered by the Community as a result of the actions of the United States that caused the taking of the Reservation Swamp Lands and the Reservation Canal Lands without just compensation; and

(B) to ensure protection of the ownership of the Reservation Swamp Lands and the Reservation Canal Lands by non-Indian occupants of the Reservation, through the settlement of the claims of the Community to

that land, and through that action, the relief of any clouds on title;

(22) a settlement will allow the Community to receive just compensation and the local landowners to obtain clear title to land, without long and protracted litigation that would be both costly and detrimental to all involved; and

(23) this Act achieves both justice for the Community and security for current landowners through a restorative and non-confrontational process.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to acknowledge the uncompensated taking by the Federal Government of the Reservation Swamp Lands and the Reservation Canal Lands;

(2) to provide compensation to the Community for the uncompensated taking of the Reservation Swamp Lands and the Reservation Canal Lands by the Federal Government;

(3) to extinguish all claims by the Community to the Reservation Swamp Lands and the Reservation Canal Lands and to confirm the ownership by the current landowners of the Reservation Swamp Lands and the Reservation Canal Lands, who obtained that land in good faith;

(4) to extinguish all potential claims by the Community against the United States, the State, and current landowners concerning title to, use of, or occupancy of the Reservation Swamp Lands and the Reservation Canal Lands; and

(5) to authorize the Secretary—

(A) to compensate the Community; and

(B) to take any other action necessary to carry out this Act.

SEC. 4. DEFINITIONS.

In this Act:

(1) **COMMUNITY**.—The term “Community” means the Keweenaw Bay Indian Community.

(2) **COUNTY**.—The term “County” means Baraga County, Michigan.

(3) **RESERVATION**.—The term “Reservation” means the L’Anse Indian Reservation, located in—

(A) T. 51 N., R. 33 W.;

(B) T. 51 N., R. 32 W.;

(C) T. 50 N., R. 33 W., E½;

(D) T. 50 N., R. 32 W., W½; and

(E) that portion of T. 51 N., R. 31 W. lying west of Huron Bay.

(4) **RESERVATION CANAL LANDS**.—The term “Reservation Canal Lands” means the 1,333.25 to 2,720 acres of Community land located within the exterior boundaries of the Reservation that the Federal Government conveyed to the State pursuant to the Act of August 26, 1852 (10 Stat. 35, chapter 92).

(5) **RESERVATION SWAMP LANDS**.—The term “Reservation Swamp Lands” means the 2,743 acres of land located within the exterior boundaries of the Reservation that the Federal Government conveyed to the State between 1893 and 1937 pursuant to the Act of September 28, 1850 (commonly known as the “Swamp Land Act”) (sections 2479 through 2481 of the Revised Statutes (43 U.S.C. 982 through 984)).

(6) **SECRETARY**.—The term “Secretary” means the Secretary of the Interior.

(7) **STATE**.—The term “State” means the State of Michigan.

SEC. 5. PAYMENTS.

(a) **TRANSFER OF FUNDS**.—As soon as practicable after the date on which the amount authorized to be appropriated under subsection (c) is made available to the Secretary, the Secretary shall transfer \$33,900,000 to the Community.

(b) **USE OF FUNDS**.—

(1) **IN GENERAL**.—Subject to paragraph (2), the Community may use the amount re-

ceived under subsection (a) for any lawful purpose, including—

(A) governmental services;

(B) economic development;

(C) natural resources protection; and

(D) land acquisition.

(2) **RESTRICTION ON USE OF FUNDS**.—The community may not use the amount received under subsection (a) to acquire land for gaming purposes.

(c) **AUTHORIZATION OF APPROPRIATIONS**.—There is authorized to be appropriated to the Secretary to carry out subsection (a) \$33,900,000 for fiscal year 2024, to remain available until expended.

SEC. 6. EXTINGUISHMENT OF CLAIMS.

(a) **IN GENERAL**.—Effective on the date on which the Community receives the payment under section 5(a), all claims of the Community to the Reservation Swamp Lands and the Reservation Canal Lands owned by persons or entities other than the Community are extinguished.

(b) **CLEAR TITLE**.—Effective on the date on which the Community receives the payment under section 5(a), the title of all current owners to the Reservation Swamp Lands and the Reservation Canal Lands is cleared of all preexisting rights held by the Community and any of the members of the Community.

SEC. 7. EFFECT.

Nothing in this Act authorizes—

(1) the Secretary to take land into trust for the benefit of the Community for gaming purposes; or

(2) the Community to use land acquired using amounts received under this Act for gaming purposes.

NATIONAL GUARD AND RESERVISTS DEBT RELIEF EXTENSION ACT OF 2023

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3315, which was received from the House and is at the desk.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3315) to exempt for an additional 4-year period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

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

Mr. SCHUMER. I further ask unanimous consent that the bill be considered read a third time and passed and the motion to reconsider be considered made and laid upon the table.

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

The bill (H.R. 3315) was ordered to a third reading, was read the third time, and passed.

BUILDING CHIPS IN AMERICA ACT OF 2023

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 2228 and the Senate

proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (S. 2228) to amend the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 to clarify the scope of a major Federal action under the National Environmental Policy Act of 1969 with respect to certain projects relating to the production of semiconductors, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. SCHUMER. I ask unanimous consent that the Kelly-Cruz 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 amendment (No. 1378) 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 “Building Chips in America Act of 2023”.

SEC. 2. SEMICONDUCTOR PROGRAM.

Title XCIX of division H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (15 U.S.C. 4651 et seq.) is amended—

(1) in section 9902 (15 U.S.C. 4652)—

(A) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

“(h) AUTHORITY RELATING TO ENVIRONMENTAL REVIEW.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, the provision by the Secretary of Federal financial assistance for a project described in this section that satisfies the requirements under subsection (a)(2)(C)(i) of this section shall not be considered to be a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (referred to in this subsection as ‘NEPA’) or an undertaking for the purposes of division A of subtitle III of title 54, United States Code, if—

“(A) the activity described in the application for that project has commenced not later than December 31, 2024;

“(B) the Federal financial assistance provided is in the form of a loan or loan guarantee; or

“(C) the Federal financial assistance provided, excluding any loan or loan guarantee, comprises not more than 10 percent of the total estimated cost of the project.

“(2) SAVINGS CLAUSE.—Nothing in this subsection may be construed as altering whether an activity described in subparagraph (A), (B), or (C) of paragraph (1) is considered to be a major Federal action under NEPA, or an undertaking under division A of subtitle III of title 54, United States Code, for a reason other than that the activity is eligible for Federal financial assistance provided under this section.”; and

(2) in section 9909 (15 U.S.C. 4659), by adding at the end the following:

“(c) LEAD FEDERAL AGENCY AND COOPERATING AGENCIES.—

“(1) DEFINITION.—In this subsection, the term ‘lead agency’ has the meaning given

the term in section 111 of NEPA (42 U.S.C. 4336e).

“(2) OPTION TO SERVE AS LEAD AGENCY.—With respect to a covered activity that is a major Federal action under NEPA, and with respect to which the Department of Commerce is authorized or required by law to issue an authorization or take action for or relating to that covered activity, the Department of Commerce shall have the first right to serve as the lead agency with respect to that covered activity under NEPA.

“(d) CATEGORICAL EXCLUSIONS.—

“(1) ESTABLISHMENT OF CATEGORICAL EXCLUSIONS.—Each of the following categorical exclusions is established for the National Institute of Standards and Technology with respect to a covered activity and, beginning on the date of enactment of this subsection, is available for use by the Secretary with respect to a covered activity:

“(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.).”

The bill (S. 2228), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

PROVIDING FOR THE REAPPOINTMENT OF MICHAEL GOVAN AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

PROVIDING FOR THE APPOINTMENT OF ANTOINETTE BUSH AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

PROVIDING FOR THE REAPPOINTMENT OF ROGER W. FERGUSON AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of the following joint resolutions and the Senate proceed to their immediate consideration en bloc: H.J. Res. 62, H.J. Res. 63, H.J. Res. 64.

There being no objection, the committee was discharged, and the Senate proceeded to consider the joint resolutions en bloc.

Mr. SCHUMER. I ask unanimous consent that the joint resolutions be considered read a third time en bloc.