Oglala Sioux Tribe

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Office the President
Frank Star Comes Out

November 2, 2026

The Honorable Senator John Thune
511 Dirksen Senate Office Building
Washington, DC 20002
Submitted via email to: Patrick_Minihan@thune.senate.gov

RE: Opposition to S. 5653's Section 106 Provisions and Call for Meaningful Tribal Consultation

Dear Senator Thune:

On behalf of the Oglala Sioux Tribe, I write to express our strong opposition to Title III of the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA), S. 5653. As currently, drafted, the bill would significantly weaken Section 106 of the National Historic Preservation Act (NHPA). While we appreciate how the proposed provisions would reduce duplicative paperwork and shorten review timelines, it does so at the expense of Tribal consultation and longstanding protections for sacred places and cultural resources. The Tribe supports efforts to make federal permitting more efficient and are open to thoughtful reforms that are developed with Tribal input, but the current version of Title III is deeply flawed and should be removed. We ask you to remove Title III of the BAAJA and oppose any permitting reform package that contains the Section 106 changes found in the BAAJA.

Section 106 allows Tribal Nations and Tribal Historic Preservation Officers (THPOs) to bring their knowledge of sacred places, burial grounds, and ancestral landscapes into federal decisions before harm occurs. This consultation is essential to the federal government's trust and treaty obligations. BAAJA would narrow which projects and effects receive review and allow agencies to decide a project's scope and adverse effects before meaningful Tribal consultation, leaving Tribes out of decisions affecting their sacred places.

The bill would also impose strict deadlines and additional oversight on already underfunded THPO programs, threaten Tribal funding and authority, and limit judicial remedies even when agencies violate the law. The risk of irreversible damage to cultural resources cannot be offset by the possibility of future preservation funding.

Additionally, our Tribe endorses the attached Great Plains Tribal Chairmen's Association resolution. The development of any permitting reform bill and the provisions in it must adhere to the requirement and parameters set forth in that resolution. It is difficult to summarize all our concerns about a 417-page bill that makes significant changes to natural resources laws that have been in existence for decades. I am also attaching an analysis by the Native American Rights

Fund (NARF) that is itself 21 pages, but its length is necessary to understand how BAAJA would impact tribes, including those in South Dakota. We are concerned with all of the issues the NARF report raises.

As you well know, Senate consideration is scheduled for November 9. We urge you not to advance S. 5653 or any measure containing that bill's Section 106 changes. We ask you to work to remove Title III in its entirety. Any future Section 106 reform should be developed separately through meaningful Tribal consultation. Protecting our cultural heritage is inseparable from respecting Tribal sovereignty. Thank you for your attention to this urgent matter.

Sincerely,



Frank Star Comes Out
President