Lower Sioux Indian Community in the State of Minnesota

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Cansayapi Otunwe

November 6, 2026

Senator Amy Klobuchar
United States Senate
720 Hart Senate Office Building
Washington, DC 20510

Senator Tina Smith
United States Senate
720 Hart Senate Office Building
Washington, DC 20510

Re: Comments of the Lower Sioux Indian Community in the State of Minnesota in Opposition to Title III, Section 2301, of S. 5653 Protection of Tribal Consultation and Tribal Historic Preservation Authority

Hau Senators Klobuchar and Smith:

Lower Sioux Indian Community in the State of Minnesota (the "Community" or "Cansayayapi") is a federally recognized tribe with inherent sovereign authority and recognized by the laws of the United States of America. On behalf of Cansayaypi, I submit this letter in opposition to the Title III, Section 2301, of S. 5653, the Bipartisan American Affordability and Jobs Act of 2026, as currently drafted.

Cansayaypi relies on the National Historic Preservation Act ("NHPA"), 54 U.S.C. § 300101 *et seq.*, to learn of proposals for federal projects that would affect our sacred places and ensure that it has a meaningful seat at the table, as a sovereign government, to identify and resolve adverse effects of federal projects under Section 106 of the NHPA, 54 U.S.C. § 306108.

Congress, by amending NHPA in 1192, expressly provided that properties of traditional religious and cultural importance to Indian tribes may be eligible for the National Register of Historic Places and required that federal agencies must consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to such a property, 54 U.S.C. § 302706. Now, S. 5653 would amend the NHPA to the detriment of Tribal Nations by : exempting many federal projects from review altogether; making consultation with Tribal Nations optional or impermissible at critical steps in the review process; narrowing, without Tribal input, the definitions of what constitutes a property with religious and cultural significance and harm to that property; imposing unrealistic timelines on Tribal Nations and federal control of Tribal Historic Preservation Offices in an affront to sovereignty; conditioning funding on Tribal Nations compiling comprehensive lists of sensitive sacred places in government-accessible databases; and allowing federal agencies to unilaterally decide that other considerations outweigh the protection of Tribal religious and cultural

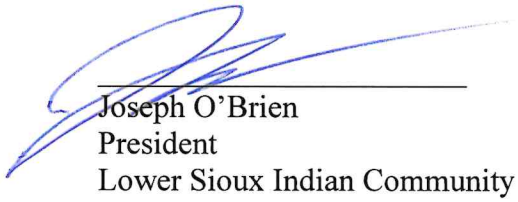
resources instead of seeking to mitigate or avoid those irreparable harms.

As introduced in S. 5653, Title III would severely restrict meaningful judicial review of federal permitting decisions under the NHPA by imposing a 150-day statute of limitations, vesting original jurisdiction in the United States Courts of Appeals, and preventing courts from vacating unlawful NHPA decisions or issuing remedies that would pause projects for NHPA violations, meaning projects could go forward to completion despite NHPA violations.

Title III would drastically weaken protection of sacred places and resources identified by Tribes and undermines Cansayapi's sovereignty and the sovereignty of other Tribes – it threatens our cultural landscapes, lands and waters that it cannot be adequately amended without necessary Tribal input, for inclusion in S. 5653.

Cansayapi respectfully request that you: 1) oppose Title III, Section 2301, in its current form; 2) seek removal or substantial revision of provisions that weaken Section 106 consultation or permit federal assumption of THPO responsibilities; 3) preserve THPO authority under Tribal governments, with federal support that respects self-determination; and 4) insist on direct, timely government-to-government consultation with affected Tribal Nations before any historic preservation legislation moves forward.

Pidamaya-do,



Joseph O'Brien
President
Lower Sioux Indian Community in the State of Minnesota