SPIRIT LAKE TRIBE

Lonna J. Street, Chairwoman

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Majority Leader John Thune
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

Minority Leader Chuck Schumer
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

Chairman Shelley Moore Capito
Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510

Chairman Mike Lee
Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Sheldon Whitehouse
Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510

Ranking Member Martin Heinrich
Energy and Natural Resources Committee
304 Dirksen Senate Office Building
Washington, DC 20510

Senator John Hoeven
United States Senate
338 Russell Senate Office Building
Washington, DC 20510

Senator Kevin Cramer
United States Senate
313 Hart Senate Office Building
Washington, DC 20510

November 3, 2026

Re: Request to Remove Division B, Title III, Section 2301, of S. 5653

Dear Majority Leader Thune, Minority Leader Schumer, Chairmen Capito and Lee, Ranking Members Whitehouse and Heinrich, and Senators Hoeven and Cramer:

On behalf of the Spirit Lake Tribe, I write to express our strong opposition to Division B, Title III, Section 2301, of S. 5653, the Bipartisan American Affordability and Jobs Act of 2026, as currently drafted. We recognize the importance of efficient federal permitting. However, efficiency must not come at the expense of Tribal sovereignty, meaningful government-to-government consultation, or the protection of our sacred places, ancestral sites, and cultural heritage.

Title III would fundamentally weaken the Section 106 process under the National Historic Preservation Act. Its proposed deadlines and provisions allowing federal agencies to proceed following nonresponse, to treat consultation obligations as fulfilled after responding to objections, and in some circumstances to consult the Advisory Council on Historic Preservation in place of a Tribe or Tribal Historic Preservation Officer (THPO), risk reducing consultation to a procedural

exercise. Consultation is not simply an opportunity to submit comments within an arbitrary window. It requires early, informed, and meaningful engagement with sovereign Tribal governments, including consideration of Tribal knowledge and the practical realities of limited staffing and resources.

We are particularly concerned about the proposed new 54 U.S.C. § 302707. It would authorize the Secretary of the Interior to evaluate Tribal historic preservation programs, suspend agreements or Historic Preservation Fund grants for specified deficiencies, and ultimately assume all or part of THPO functions if the statutory conditions are met. This framework risks substituting federal administrative judgment for the authority of Tribal governments over programs that protect their own histories, cultural places, and traditional knowledge. THPO offices must remain accountable to and governed by their respective Tribal Nations. Federal technical assistance and appropriate fiscal accountability should support—not displace—Tribal decision-making.

These concerns are compounded by provisions that place federal officials in a position to determine whether preservation concerns are outweighed by other considerations, and that constrain judicial remedies. Together, these changes could accelerate federal approvals while narrowing meaningful opportunities for Tribal Nations to protect places that cannot be replaced once damaged or destroyed.

We respectfully request that you amend S. 5653 by eliminating Division B, Title III, including Section 2301. Congress should preserve Tribal control of THPO functions, meaningful government-to-government consultation, and access to judicial review. Any future changes to historic preservation law must be developed through direct consultation with affected Tribal Nations.

For the Spirit Lake Tribe, protecting our sacred places, burial grounds, and ancestral landscapes is a responsibility to our ancestors and future generations. Our cultural and religious connections extend beyond present-day reservation boundaries. Federal review must respect Tribal knowledge and provide a meaningful opportunity to identify and protect these places before project decisions are made, without requiring public disclosure of sensitive cultural information.

Our Nation stands ready to work with your office on improvements that respect Tribal sovereignty and the federal trust responsibility while supporting responsible project review. We ask that you protect the government-to-government relationship and ensure that federal bureaucracy does not replace Tribal authority in historic preservation.

The Spirit Lake Tribe supports responsible permitting reform that upholds Tribal sovereignty and the federal trust and treaty responsibilities.

Sincerely,

Lonna J Street

Lonna Street
Chairwoman
Spirit Lake Tribe

Reference: S. 5653, Division B, Title III, Section 2301
https://www.govinfo.gov/content/pkg/BILLS-119s5653is/html/BILLS-119s5653is.htm