CROW CREEK SIOUX TRIBE

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Statement on BAAJA S 5653 Managers Amendments

The Crow Creek Sioux Tribe opposes the manager's amendment to the Bipartisan American Affordability and Jobs Act of 2026 (BAAJA), introduced as S. 5653. We call on the Senate to vote NO on cloture, remove Title III of Division B in its entirety, and work directly with Tribal Nations on a responsible permitting bill.

The manager's amendment makes limited changes to Title III, but it leaves the Tribe's fundamental concerns unresolved.

- **Federal agencies could override Tribal objections.** Agencies would retain discretion to proceed when they decide other considerations outweigh historic preservation. The amendment also provides another way for an agency to proceed if it determines that the harm would leave a site eligible for the National Register of Historic Places. A place can remain eligible for the Register and still suffer irreversible harm.
- **Sacred landscapes could fall outside Section 106 review.** Narrower definitions would limit review of impacts on non-federal lands and indirect harms, and exclude most federal grants and loans as triggers for review. The sacred places and cultural landscapes our people have cared for across generations extend beyond today's jurisdictional boundaries.
- **A written reply could end consultation.** The amendment retains strict 30- and 45-day deadlines and would allow an agency to treat consultation on its Section 106 report as complete once it responds in writing to Tribal objections. Meaningful consultation requires time for Tribal governments to assess the risks and a genuine opportunity to influence the decision while the agency can still change course.
- **Tribal preservation offices could lose funding.** Tribal Historic Preservation Offices would face mandatory evaluations and possible grant suspensions after a corrective period, while deposits into the Historic Preservation Fund would remain subject to annual appropriations. Congress would impose new demands on the very offices it relies on to identify and protect sacred places without ensuring the resources to carry out that work.
- **Courts could be unable to stop construction while violations are corrected.** For covered violations of Section 106 and the National Environmental Policy Act, the bill would limit courts to sending decisions back to agencies for correction while leaving approvals in place and barring injunctions. A ruling can come too late to protect a burial

ground or ceremonial site if construction continues while the agency reconsiders its decision.

The Crow Creek Sioux Tribe supports responsible energy and infrastructure development. Congress can improve permitting while honoring treaty commitments, protecting sacred places, and preserving meaningful judicial remedies. That work must begin with Tribal Nations at the table while there is still time to shape the legislation.

We urge Senators to vote **NO on cloture on November 9** and remove Title III of Division B in full. We ask Tribal Nations and organizations across Indian Country to withhold support until Congress engages directly with Tribal governments and addresses these concerns. There is time to do this right. Once a sacred place is destroyed, no later vote or court ruling can bring it back. Our treaty commitments and our responsibility to protect these places are nonnegotiable.

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Chairman
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