Rocky Mountain Tribal Leaders Council

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JOINT STATEMENT FROM ROCKY MOUNTAIN TRIBAL LEADERS COUNCIL

The Honorable John Barasso
United States Senate
307 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Cynthia Lummis
United States Senate
127A Russell Senate Office Building
Washington, DC 20510

The Honorable Tim Sheehy
United States Senate
124 Russell Senate Office Building
Washington, DC 20510

The Honorable Steve Daines
United States Senate
320 Hart Senate Office Building
Washington, DC 20510

November 6, 2026

RE: Opposition to Division B, Title III (Historic Preservation), S. 5653

Dear Senators Barasso, Lummis, Sheehy, and Daines:

We, the undersigned leaders of Tribal Nations represented on the Rocky Mountain Tribal Leaders Council, write to express our strong opposition to Division B, Title III of S. 5653, the Bipartisan American Affordability and Jobs Act of 2026, as introduced. The proposed changes to the National Historic Preservation Act would diminish meaningful government-to-government consultation, subordinate Tribal historic preservation responsibilities to expanded federal administrative control, and jeopardize the protection of sacred places, cultural landscapes, and ancestral sites.

Section 2301 would recast Section 106 review around compressed procedural deadlines and federal agency determinations. It permits an agency to proceed after a 30-day nonresponse, limits reconsideration when a Tribe subsequently participates, and permits consultation with the Advisory Council on Historic Preservation in place of a Tribe or Tribal Historic Preservation Officer in specified circumstances. It also treats an agency response to timely substantive objections as fulfillment of its consultation obligation concerning a report. Consultation is not simply a deadline or a notice-and-response exercise. It must allow Tribal governments a meaningful opportunity to identify impacts, share knowledge subject to appropriate confidentiality, and work toward protection of places that carry continuing religious and cultural significance.

We are particularly concerned by the proposed new 54 U.S.C. § 302707. Section 2301 would subject Tribal historic preservation programs to federal evaluations at least every two years, permit suspension

of agreements and Historic Preservation Fund grants following disapproval and authorize the Secretary of the Interior to assume all or part of a Tribal Historic Preservation Officer's functions if specified compliance concerns remain unresolved. These provisions would place federal administrative judgments and permitting timelines above the governmental authority of Tribal Nations. THPO offices carry out responsibilities assumed by Tribes under federal law; they must remain accountable to their own Tribal governments, not be displaced by federal administrators.

The legislation also narrows the proposed definition of adverse effects, allows federal officials substantial discretion to conclude that other considerations outweigh historic preservation, and limits opportunities to revisit earlier findings. These changes risk excluding harm to the setting, use, and living cultural significance of places that are inseparable from Tribal histories and ceremonies. We also urge caution regarding Section 2302's proposed cultural-property databases and access arrangements: sensitive knowledge and location information must remain under Tribal control, even where the bill includes certain public-disclosure protections.

We recognize the importance of timely infrastructure permitting and adequate funding for historic preservation. However, efficiency cannot be achieved by replacing Tribal sovereignty with federal bureaucracy or treating Tribal consultation as an obstacle to overcome. Early tribal consultation has been shown to allow for mitigation, which results in saving both time and resources for the project. Additional funding or reporting mechanisms do not remedy the loss of Tribal decision-making authority.

We respectfully request that you oppose Division B, Title III of S. 5653 in its current form; seek removal or substantial revision of Sections 2301 and 2302; reject any authority for federal assumption of THPO functions based on federal performance metrics; preserve robust, early, and continuing government-to-government consultation; and require direct consultation with affected Tribal Nations before any historic preservation amendments advance. We welcome the opportunity to meet with your office to discuss reforms that protect both responsible development and Tribal sovereignty.

The undersigned Tribal Leaders of the Rocky Mountain Tribal Leaders Council:

Harlan Baker
Chairman
Chippewa Cree Tribe

Donna Thompson
Chairwoman
Shoshone-Bannock Tribes

Keenan Groesbeck
Chairman
Northern Arapaho Tribe

Clinton Glick
Chairman
Eastern Shoshone Tribe

Reference: S. 5653 (introduced September 30, 2026), Division B, Title III, §§ 2301–2302.
https://www.congress.gov/bill/119th-congress/senate-bill/5653/text