November 8, 2026

Dear Members of the United States Senate,

On behalf of the undersigned Tribal organizations, we write to express our sustained opposition to the Bipartisan American Affordability and Jobs Act (BAAJA). As written, the Manager's Amendment does not alleviate our concerns with respect to Tribal sovereignty, consultation, sacred sites, or public health. Rather, BAAJA continues to wrest from us our ability to protect our lands, people, and cultural resources in favor of industrial exploitation. It cannot be overstated that the bill's erosion of Tribal sovereignty, federal trust obligations, and treaty rights do nothing to address or improve affordability for the American people. Instead, as we have for centuries, Tribal Nations will pay the price.

Regrettably, the Manager's Amendment maintains many of BAAJA's most egregious and regressive efforts to suppress Tribal sovereignty under laws governing the federal permitting process, including, but not limited to, those under the National Historic Preservation Act. Title III of BAJAA, even after the Manager's Amendment, continues to do the following:

- Narrows which projects get reviewed as "undertakings" and which harms count as "effects," including excluding visual, atmospheric, or audible elements;
- Fails to require Tribal consultation when the federal agency initially identifies the geographic area of potential effects (APE) for review, historic properties worthy of protection, and effects that may harm those historic properties;
- Punishes Tribal Nations and our Tribal Historic Preservation Officers (THPOs) for timeliness issues caused by chronic federal underfunding, procedural failures over which THPOs have no influence, and by BAAJA's unrealistic deadlines;
- Maintains limitations on judicial review and relief, including denying us the ability to seek a preliminary injunction to halt harm as our cultural resources and Ancestors are bulldozed;
- Provides extreme deference to federal agencies, including permission to unilaterally determine that a project would not affect historic properties or that other concerns outweigh such harm; and
- Does not provide adequate data sovereignty protections for Tribal Nations participating in a newly established database program.

It doesn't have to be this way. The U.S. Senate is being asked to make a false choice between the sacrifice of Tribal sovereign rights and authorities and the pursuit of improved infrastructure. Indian Country has spoken loudly and clearly in favor of a good faith Congressional permitting reform process that brings Tribal Nations to the table rather than pushing us away. While we strongly support robust

and strengthened national infrastructure, any infrastructure build-out, in Indian Country and beyond, must not occur at our expense.

We refuse to accept the harms that BAAJA would cause to current and future generations of Indian Country. It is with this in mind that we urge you, in the strongest possible terms, to <u>VOTE NO</u> on cloture.

Sincerely,

Affiliated Tribes of Northwest Indians
All Pueblo Council of Governors
Association on American Indian Affairs
Great Plains Tribal Chairmen's Association
Midwest Alliance of Sovereign Tribes
National Association of Tribal Historic Preservation Officers
National Congress of American Indians
National Indian Child Welfare Association
Native American Rights Fund
Rocky Mountain Tribal Leaders Council
United South and Eastern Tribes Sovereignty Protection Fund