Appalachian Trail Conservancy

*Via electronic mail*

November 6, 2026

United States Senators,

On behalf of the Appalachian Trail Conservancy (ATC), I write to share our perspectives on S. 5653, the Bipartisan American Affordability and Jobs Act (BAAJA) of 2026. We commend the bill sponsors for diligently working together to address significant topics of interest relating to energy and transmission infrastructure and markets. The siting and operation of energy infrastructure is hugely important to ATC, as they impact the Congressionally identified values of the 2,197 mile-long and 400,000 acre-wide Appalachian National Scenic Trail (ANST, A.T., or Trail) as well as the people and communities intended to benefit from the protections Congress provided them through the Trail. While we support the collaborative, bipartisan nature of S. 5653, we urge the Senate to continue working on the bill through regular order to better balance it to support conservation interests as well as development interests.

Founded in 1925 to bring into existence a footpath spanning the ridgelines of the Appalachian Mountains, ATC is the 501(c)(3) organization that coordinates the Cooperative Management System of the ANST. We work with the USDA Forest Service, the National Park Service, 14 states, and 30 local A.T. Clubs to provide the care and direction needed to sustain the ANST. More than 4,712 volunteers contributed over $5.9 million in labor to the A.T. in 2026. The A.T. welcomed 16.9 million recreational visits in 2025—more than any other federal public land unit—and traverses eight national forests, six other national park units, and two national wildlife refuges in addition to over 78 areas conserved under state law. Our role within the CMS demands that we be the intermediary for our volunteers, government partners, and communities along the Trail, which includes engaging in proposed and extant energy infrastructure projects. It is with this deep expertise with the Congressionally identified natural, scenic, cultural, and historic qualities of the Appalachian Mountains and permitting processes that we offer our perspective.

## National Environmental Policy Act (NEPA)

The BAAJA would update NEPA in some significant ways. Requiring concurrent reviews across permitting authorities, allowing for stacking of categorical exclusions, limiting some opportunities for suit (while reserving exceptions for judicial review), and requiring a complete application to begin consideration are things that ATC could support. ATC is concerned about provisions that affirm the fragmented NEPA implementation across federal agencies, restrict cooperating agencies' ability to propose alternatives, provide preferential procedural opportunities to project applicants, and limit consideration of relevant scientific information that becomes available during the review process. We support consistent, government-wide NEPA implementation and meaningful opportunities for agencies and the public to inform decisions. ATC would support a government-wide master database of environmental reviews reflecting timeline, submissions, status, etc., required consideration of ecosystem services, as well as a permitting improvement fund to support agency employee professional development on permitting-related topics (but only if the fund were also available to support professional development that favors resource management, and not simply on

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how to better issue a permit). ATC would like to see requirements for programmatic environmental analyses that consider projects purposes in the context of other proposed and actual projects.

State and Tribal Authority

The BAAJA would make significant changes to state and tribal authority, particularly when it comes to the National Historic Preservation Act (NHPA) and the Clean Water Act (CWA), two statutes that give/reserve for states and tribes important power on federal permitting. Regarding the CWA, the bill would amend and severely limit the applicability of §401, which regards state and tribal ability to insert their own conditions on federal permits (most relevant for the A.T. vis à vis natural gas pipelines) by constraining states to conditioning only the direct impacts of a structure, ignoring aggregate impacts or overall desired conditions for waterways. Proposed changes to the NHPA raise concerns about the continued role of state historic preservation authorities and the consideration of historic landscapes and visual effects during federal project reviews. For a National Scenic Trail, protecting the historic and scenic setting is essential, as is supporting state resource management. ATC urges Congress to preserve meaningful consultation and review of potential impacts to these resources.

Project Certainty

Regarding "project certainty," the locking in of permits currently in existence from review, alteration, or revocation except in limited situations, does not seem to benefit to the environment or resource health. It would also protect authorizations offered subsequent to the bill's adoption except under limited situations. This portion of the bill would also allow for project proponents to receive damages for a suspended permit—even one suspended in good faith—up to 100% of the construction costs of the project. ATC understands the value of project certainty, but preventing the re-visiting of decisions on the basis of changed conditions could have significant deleterious effects on A.T. values and the A.T. Experience.

Transmission Infrastructure

The transmission portion of the BAAJA is a largely positive inclusion. As climate change is the most significant external threat to the ANST, advancing electrification of the grid is highly relevant to ATC. Transmission lines also present a generally negative impact to the scenic values of the A.T., so while we would like improved transmission and interconnection infrastructure, we want them to be limited in location to as few east-west cross points on the A.T and as outside of the viewshed from a north-south perspective as possible. Advanced transmission technologies, including reconductoring existing lines, may offer opportunities to increase capacity while reducing the need for new infrastructure corridors. However, these projects must still be evaluated for potential impacts to scenic, natural, historic, and cultural resources. ATC supports thoughtful planning and appropriate environmental review to identify and minimize these impacts.

What's Missing

The BAAJA lacks several things that could improve resource health while allowing improved infrastructure development. Beyond improving transmission infrastructure, there is little "for" the environment in the bill. Particularly, the framing of judicial access and review, hard timelines and deadlines for trust resource managers, and project "certainty" all benefit development. Mitigation, either as a concept or as a means to design a better project, is absent, either through bonding or in payments to independent (even governmental) funds. Furthermore, the legislation—with the potential

exception of the fund for employees to learn how to review permit applications better—does not address the staffing and funding challenges of the federal (let alone state) governments, something that, against the backdrop of a forced attrition in the federal government of somewhere around 30% of staffing of the ANST's federal agency partners, cannot go unaddressed. There should also be a discussion on potential tax code alterations and the ability of the public to benefit from the profits derived from the use of public trust resources to create private profits (in addition to public services).

Conservation and infrastructure development both contribute to the nation's economic, personal, and environmental well-being. The Appalachian Trail and its surrounding landscape provide significant recreational, ecological, health, and economic benefits that deserve meaningful consideration in federal permitting decisions. Effective permitting reform should recognize these values while providing a predictable and efficient process for evaluating infrastructure proposals.

ATC values the complexity of legislating and the commitment to solving problems together that the sponsors of the Bipartisan American Affordability and Jobs Act of 2026 brought to the process. We believe that as currently written, the bill is not appropriately balanced. Safeguarding the natural, scenic, historic, and cultural qualities of the Appalachian Mountains, electrifying the grid and decreasing the use of fossil fuels, and creating and sustaining jobs that provide livable wages and opportunity for leisure are all of critical importance to ATC. The A.T. has never been meant to be a bar on all infrastructure development and likewise today we acknowledge that negative externalities exist and can be acceptable, as long as we work to avoid, minimize, and mitigate those harms as possible.

Openly discussing and agreeing to necessary tradeoffs is essential and we believe that regular order, including hearings on the bill titles, would benefit not just the bill, but the public's trust in the significant shift in policy that may be needed to build infrastructure that benefits us all. We therefore urge the sponsors to continue working on the bill and do not support final passage at this time.

Sincerely,



Brendan Mysliwiec
Director of Federal Policy
Appalachian Trail Conservancy