

PERMITTING REFORM MUST WORK FOR STATES

Protecting state input.
Preserving historic places.
Delivering better project outcomes.

Individual states have a stake in how federal infrastructure decisions affect them.

As Congress considers the Bipartisan American Affordability and Jobs Act of 2026 ([S. 5653](#)), states have an opportunity to support permitting reform that improves efficiency without sidelining state expertise or creating new uncertainty.

SECTION 106: A STATE PERSPECTIVE

Enacted in 1966, the National Historic Preservation Act established a federal framework for considering historic properties in federal decision-making. Section 106 requires federal agencies to consider the effects of their undertakings, on historic properties and give the Advisory Council on Historic Preservation an opportunity to comment.

State Historic Preservation Officers (SHPOs) are key partners in this process. They bring knowledge of local history, historic resources, and state priorities to federal decisions. Consultation helps identify potential conflicts early, evaluate alternatives, and find practical solutions before projects reach costly or difficult-to-reverse stages.

Section 106 is not a veto on development.
It is a process for making better-informed federal decisions.

WHAT IS AT STAKE?

S. 5653 seeks to streamline federal permitting, but several proposed changes could undermine the consultation that makes Section 106 effective.

Objective	Concern with the bill as drafted
Set timelines and coordination to create efficiency	Arbitrary deadlines favor federal agencies and limit state, Tribal, & community knowledge and input
Fewer projects require Section 106	Thousands of federally funded projects w/significant impacts will not trigger Section 106
More flexibility for federal agencies	Broad statutory exclusions could bypass previously negotiated agreements that cover thousands of undertakings
Accountability for review delays	States and Tribes could face penalties or federal takeover for delays caused by federal agencies

SECTION 106 IN ACTION: OKLAHOMA'S HONEY SPRINGS BATTLEFIELD

When a proposed pipeline route crossed Oklahoma's nationally significant Honey Springs Battlefield, Section 106 consultation brought the potential conflict to light. The Oklahoma State Historic Preservation Office, federal agency, and project sponsor worked together to identify a better route.

Result: The pipeline moved forward, and the battlefield's historic landscape was protected. This is Section 106 working as intended - early identification of historic resources and meaningful consultation helped the project sponsor address a conflict while options remained available.



THREE ACTIONS STATES CAN TAKE

1

Urge the Senate to get the bill right.

Send a letter to S. 5653 Senate sponsors, copying your state's U.S. Senators, urging revisions that preserve meaningful Section 106 consultation and state participation while advancing practical permitting improvements.

Shelley Moore Capito (R-WV) • Sheldon Whitehouse (D-RI) • Mike Lee (R-UT) • Martin Heinrich (D-NM)

2

Elevate the state perspective.

Raise these concerns with the National Governors Association & other stakeholders to ensure States have a voice in shaping federal permitting policies that affect their infrastructure, communities, and historic resources.

3

Champion solutions that improve performance.

Support early coordination, clear and workable timelines, lead-agency coordination, programmatic agreements, and adequate resources for federal agencies, SHPOs, and Tribal partners.

Permitting reform and historic preservation are not competing goals.
Congress can make federal review faster and more predictable while preserving the state expertise and meaningful consultation that help projects succeed.