Eastern Shoshone Business Council
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November 5, 2026

Honorable Senator John Barrasso
307 Dirksen Senate Office Building
Washington, DC 20510

Honorable Senator Cynthia Lummis
127A Russell Senate Building
Washington, DC 20510-5004

RE: Opposition to Title III, Section 2301, of S. 5653 — Protection of Tribal Consultation and Tribal Historic Preservation Authority

Dear Senator Barrasso and Senator Lummis,

On behalf of the Eastern Shoshone Tribe, I write to express our strong opposition to Title III, Section 2301, of S. 5653, the Bipartisan American Affordability and Jobs Act of 2026, as currently drafted. We recognize the importance of efficient federal permitting. However, efficiency must not come at the expense of Tribal sovereignty, meaningful government-to-government consultation, or the protection of our sacred places, ancestral sites, and cultural heritage.

Title III would fundamentally weaken the Section 106 process under the National Historic Preservation Act. Its proposed deadlines and provisions allowing federal agencies to proceed following nonresponse, to treat consultation obligations as fulfilled after responding to objections, and in some circumstances to consult the Advisory Council on Historic Preservation in place of a Tribe or Tribal Historic Preservation Officer (THPO), risk reducing consultation to a procedural exercise. Consultation is not simply an opportunity to submit comments within an arbitrary window. It requires early, informed, and meaningful engagement with sovereign Tribal governments, including consideration of Tribal knowledge and the practical realities of limited staffing and resources.

We are particularly concerned about the proposed new 54 U.S.C. § 302707. It would authorize the Secretary of the Interior to evaluate Tribal historic preservation programs, suspend agreements or Historic Preservation Fund grants for specified deficiencies, and ultimately assume all or part of THPO functions if the statutory conditions are met. This framework risks substituting federal administrative judgment for the authority of Tribal governments over programs that protect their own histories, cultural places, and traditional knowledge. THPO offices must remain accountable to and governed by their respective Tribal Nations. Federal technical assistance and appropriate fiscal accountability should support—not displace—Tribal decision-making.

These concerns are compounded by provisions that place federal officials in a position to determine whether preservation concerns are outweighed by other considerations, and that constrain judicial remedies. Together, these changes could accelerate federal approvals while narrowing meaningful opportunities for Tribal Nations to protect places that cannot be replaced once damaged or destroyed.

We respectfully request that you: (1) oppose Title III, Section 2301, in its current form; (2) seek removal or substantial revision of provisions that weaken Section 106 consultation or permit federal assumption of THPO responsibilities; (3) preserve THPO authority under Tribal governments, with federal support that respects self-determination; and (4) insist on direct, timely government-to-government consultation with affected Tribal Nations before any historic-preservation legislation moves forward.

For the Eastern Shoshone Tribe, our ancestral homelands extend across Wyoming and vast regions of the Rocky Mountains and Great Basin. The Eastern Shoshone Tribal Historic Preservation Office (ESTHPO) reviews hundreds of federal Section 106 undertakings annually—spanning energy pipelines, transportation infrastructure, agricultural conservation programs, and telecommunications development. Arbitrary, compressed consultation deadlines fail to accommodate the practical reality of limited Tribal staff and resources. Sacred landscapes, traditional migratory routes, and ancestral burial sites cannot be evaluated through a rushed, perfunctory notice exercise without risking irreversible destruction. Meaningful consultation requires sufficient time for field assessments, archival review, and engagement with Elders and traditional knowledge keepers to ensure that non-renewable cultural resources are safeguarded in accordance with our sovereign responsibility and treaty rights.

Our Nation stands ready to work with your office on improvements that respect Tribal sovereignty and the federal trust responsibility while supporting responsible project review. We ask that you protect the government-to-government relationship and ensure that federal bureaucracy does not replace Tribal authority in historic preservation.

Sincerely,



Clinton Glick, Chairman
Eastern Shoshone Business Council
Eastern Shoshone Tribe
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Reference: S. 5653, Title III, § 2301

https://www.govinfo.gov/content/pkg/BILLS-119s5653is/html/BILLS-119s5653is.htm