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OMAHA TRIBE OF NEBRASKA

OPPOSITION TO TITLE III OF S. 5653 – BIPARTISAN AMERICAN AFFORDABILITY AND JOBS ACT OF 2026

October 14, 2026

The Honorable Deb Fischer
United States Senate
448 Russell Senate Office Building
Washington, D.C. 20510

RE: Opposition to Title III of S. 5653 – Proposed Amendments to Section 106 of the National Historic Preservation Act

Dear Senator Fischer:

On behalf of the Omaha Tribe of Nebraska, we write to express our strong opposition to **Title III of S. 5653, the Bipartisan American Affordability and Jobs Act of 2026**, which proposes substantial changes to the Section 106 review process under the National Historic Preservation Act (NHPA). We respectfully urge you to oppose these provisions and work with Tribal Nations to ensure that federal permitting reform respects Tribal sovereignty, protects sacred sites and cultural resources, preserves Nebraska's historic landscapes, and upholds the federal government's trust and treaty obligations.

The Omaha Tribe is a sovereign Tribal Nation with a longstanding government-to-government relationship with the United States. Our ancestral homelands extend throughout portions of present-day Nebraska, Iowa, and surrounding areas. These lands contain sacred places, burial sites, cultural landscapes, and historic properties that are inseparable from our identity, ceremonies, traditions, and responsibilities to future generations.

For the Omaha people, protecting these places is not simply a matter of historic preservation. It is a fundamental responsibility to our ancestors and future generations and an essential exercise of our inherent sovereignty and religious freedom. These landscapes also represent an irreplaceable part of Nebraska's history, cultural identity, and heritage.

Section 106 of the NHPA provides an important mechanism through which the Omaha Tribe can participate in federal decisions affecting historic properties and places of religious and cultural significance. Although the current process is not without challenges, it establishes meaningful opportunities for Tribal consultation and helps prevent irreversible harm before federal undertakings proceed.

Title III of S. 5653 threatens to substantially weaken these protections. While we acknowledge certain positive provisions, including the proposed codification of Tribal consultation and increased funding for historic preservation, these measures do not outweigh the significant harm that other provisions would impose on Tribal Nations.

Importance of Nebraska's Historic Landscapes, Cultural Heritage, and Tourism

Nebraska's historic landscapes tell the story of the people who have lived on and cared for these lands for generations. The history of Nebraska cannot be separated from the history of the Omaha Tribe and other Tribal Nations whose ancestral homelands, traditional places, and cultural resources are found throughout the state.

These landscapes include ancestral village sites, burial grounds, traditional gathering areas, ceremonial places, historic trails, waterways, and other locations that hold deep cultural, spiritual, and historical significance. Many of these places exist beyond present-day reservation boundaries and may not be readily identifiable through conventional archaeological surveys alone. Their identification and protection require the direct participation and traditional knowledge of the Tribal Nations connected to them.

The preservation of these places is also important to Nebraska's broader cultural heritage and tourism economy. Historic sites, cultural landscapes, museums, heritage destinations, and educational tourism contribute to local economies, support small businesses, and provide opportunities for visitors to learn about the state's history.

Nebraska's ability to preserve and share its unique history depends on maintaining the integrity of these resources. Once a sacred site, burial ground, or historic landscape is destroyed, it cannot be replaced. The loss is not only experienced by Tribal Nations but also by the State of Nebraska, its communities, and future generations who deserve the opportunity to understand the full history of the region.

Responsible heritage tourism can create economic opportunities for rural Nebraska communities while supporting historic preservation, cultural education, and partnerships between Tribal Nations, local governments, and tourism organizations. However, these opportunities depend on the protection of historic resources and respect for Tribal authority over culturally sensitive information and sacred places.

Weakening Section 106 protections could place Nebraska's historic landscapes at greater risk while undermining opportunities for heritage tourism, cultural education, and long-term economic development.

We urge you to recognize that historic preservation is not an obstacle to economic development. It is an investment in Nebraska's cultural identity, tourism economy, and the preservation of resources that cannot be recreated once lost.

The Omaha Tribe's Concerns with Title III of S. 5653

Narrowing the Scope of Section 106 Review

Proposed changes to the definitions of "undertaking," "effect," and "area of potential effects," together with additional exemptions, would significantly reduce the circumstances in which Section 106 review is required. These changes could allow federal projects to proceed without adequate identification or consideration of sacred sites, burial grounds, cultural landscapes, and other historic properties of importance to the Omaha people.

Reducing Meaningful Tribal Participation

Title III would diminish Tribal participation during critical stages of the review process, including the identification of historic properties, determination of areas of potential effects, and assessment of adverse effects. Consultation conducted only after federal agencies have reached preliminary conclusions does not constitute meaningful government-to-government engagement.

The Omaha Tribe maintains that Tribal Nations and their designated cultural experts must be directly involved in identifying and evaluating properties of religious and cultural significance. Federal agencies cannot independently determine the cultural importance of these places without the knowledge and participation of the Tribal Nations to whom they belong.

Undermining Tribal Historic Preservation Officers

The proposed provisions allowing federal intervention in Tribal Historic Preservation Officer (THPO) responsibilities, including potential loss of status and funding for missed deadlines, are inconsistent with Tribal self-determination and self-governance.

Many Tribal historic preservation programs operate with limited resources because of longstanding federal underfunding. Rather than imposing punitive measures, Congress should strengthen THPO capacity through adequate funding, technical assistance, and respect for Tribal governmental authority.

Restricting Judicial Review and Tribal Remedies

The Omaha Tribe is deeply concerned by provisions that would impose shortened deadlines, restrict standing, and limit judicial remedies when federal agencies fail to comply with Section 106.

The proposed 150-day statute of limitations, 30-day objection period, and presumption of remand without vacatur could substantially weaken the ability of Tribal Nations to prevent irreversible damage to sacred sites and historic properties.

Judicial review is often the final mechanism available to Tribal Nations when consultation fails or federal agencies do not fulfill their statutory obligations. Weakening these remedies would place Tribal cultural and religious resources at increased risk.

The Omaha Tribe Supports Responsible Infrastructure Development

The Omaha Tribe recognizes the importance of modern infrastructure, economic development, energy reliability, transportation improvements, and federal investment in Tribal and rural communities.

Our Tribe is actively working to advance critical infrastructure and community development initiatives that improve public safety, healthcare, and essential governmental services for our citizens.

We understand firsthand the need for efficient federal permitting and timely project approvals. However, infrastructure development and the protection of Tribal cultural resources are not competing objectives.

Early and meaningful Tribal consultation can identify potential conflicts before project designs are finalized, reduce delays, prevent litigation, and produce more effective and durable federal decisions.

Excluding Tribal Nations from meaningful participation does not create efficiency. It increases the likelihood of cultural harm, project disputes, and costly delays.

Request for Congressional Action

The Omaha Tribe respectfully requests that you:

- **Oppose Title III of S. 5653 as currently drafted** and support removing the proposed Section 106 amendments from the legislation.
- Require formal government-to-government Tribal consultation before Congress advances legislation that would alter Tribal consultation rights or historic preservation protections.
- Preserve the meaningful participation of Tribal Nations throughout all stages of the Section 106 review process.
- Protect the authority and responsibilities of Tribal Historic Preservation Officers and increase federal resources supporting Tribal historic preservation programs.
- Maintain meaningful judicial review and legal remedies when federal agencies fail to comply with their historic preservation obligations.
- Recognize the importance of Nebraska's historic landscapes, cultural heritage, and heritage tourism in federal permitting and infrastructure decisions.
- Ensure that any permitting reform respects the federal trust responsibility, treaty obligations, Tribal sovereignty, and the protection of sacred and culturally significant places.

Senator Fischer, as one of Nebraska's representatives in the United States Senate, your leadership on this matter is especially important to the Omaha Tribe and other Tribal Nations whose ancestral homelands and cultural resources extend throughout Nebraska.

The protection of these places is not solely a Tribal concern. It is a matter of preserving Nebraska's history, strengthening opportunities for cultural education and tourism, and ensuring that future generations inherit a landscape that reflects the full history of our state.

We ask that you stand with the Omaha Tribe in opposing provisions that would weaken the protection of our sacred sites, diminish our role in federal decision-making, or undermine the government-to-government relationship between Tribal Nations and the United States.

The Omaha Tribe strongly opposes Title III of S. 5653, the Bipartisan American Affordability and Jobs Act of 2026, as currently written and urges Congress to remove these provisions from the legislation and pursue meaningful consultation with Tribal Nations on an alternative approach to permitting reform.

We welcome the opportunity to meet with you and your staff to discuss these concerns and identify constructive approaches that support infrastructure development, Nebraska's historic preservation and tourism interests, Tribal sovereignty, religious freedom, and cultural heritage.

Thank you for your consideration and continued attention to matters affecting the Omaha Tribe of Nebraska.

Respectfully,

Omaha Tribal Council
Omaha Tribe of Nebraska
Macy, Nebraska

Legislative References

- S. 5653 – Bipartisan American Affordability and Jobs Act of 2026: https://www.congress.gov/bill/119th-congress/senate-bill/5653
- Official Introduced Bill Text: https://www.govinfo.gov/content/pkg/BILLS-119s5653is/html/BILLS-119s5653is.htm
- National Historic Preservation Act, Section 106 (54 U.S.C. § 306108): https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title54-section306108