

**Full Committee Hearing to Examine the Section 106 Consultation Process Under the National  
Historic Preservation Act**

**Statement of Russ Carnahan  
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**Senate Committee on Energy and Natural Resources**

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Chairman Lee, Ranking Member Heinrich, and members of the Committee:

Preservation Action appreciates the opportunity to present written testimony about the Section 106 consultation process and the National Historic Preservation Act (NHPA).

**Preservation Action members and supporters include thousands of preservation advocates, professionals, developers, and community leaders across the country**, including members in nearly every state who work directly with federal, state, and local partners to protect and revitalize historic places. Since our founding in 1974, we have served as the national voice for preservation advocacy—mobilizing citizens to engage with Congress and federal agencies on the policies that shape America’s preservation system.

**NHPA: A Proven, Bipartisan Framework**

The NHPA was enacted nearly 60 years ago in response to a collective realization that too many of our historic places that help tell the story of America were being destroyed, in many cases due to federally funded infrastructure projects.

The NHPA created a national framework that allows us to identify, protect, and celebrate the historic places that tell our shared history. The Act established State Historic Preservation Offices and later Tribal Historic Preservation Offices (SHPOs & THPOs), and the Advisory Council on Historic Preservation (ACHP) — building a partnership that connects local voices to federal decision-making. **Section 106 reviews ensure that federal agencies consider the impact of federal undertakings on historic and cultural resources before decisions are made.** When implemented properly, it brings community input, Tribal Nations, and preservation expertise to the table early and often to help projects move forward.

This framework has succeeded because it **balances preservation with progress.**

**Efficient, Collaborative and Flexible**

**Section 106 does *not* stop or block projects.** Instead, it puts forth a consultation process that ensures federal agencies *consider* historic properties early in project planning and seek ways to avoid, minimize, or mitigate adverse effects. The process does not dictate or require a certain outcome and ultimately, even when there are disagreements between stakeholders, the final decision on a project proceeding rests entirely with the federal agency.

**Section 106 reviews are largely an efficient and predictable process.** SHPOs and THPOs review tens of thousands of federal undertakings annually, **the vast majority of those reviews find no adverse impacts** and are completed within a matter of days. SHPOs are required to respond to Section 106 requests within 30 days and many are completed much quicker. In Washington state, for example, out of more than 5,000 Section 106 reviews performed by the SHPO in FY25, only 8% found adverse effects and the average review response time for undertakings was 3.7 days. In Kentucky, out of nearly 3,000 reviews in FY24, only 2.2% found adverse effects, and the average turnaround was 11 days.

In addition to the roles of SHPOs and THPOs, the Advisory Council on Historic Preservation (ACHP) plays a vital role in Section 106 reviews by administering regulations that help guide the process and developing programmatic agreements. Every year, ACHP staff participate and assist in some of the most important and complicated cases by helping to resolve disputes. The ACHP also provides a very well-regarded training program to educate federal officials and other stakeholders on the Section 106 process. These ACHP functions are critical to ensure consistency in the assessment and resolution of adverse effects on historic resources, which allows federal projects to move efficiently throughout the process.

Section 106 actually helps avoid delays by finding and addressing potential adverse impacts early in the process. By ensuring that the public is consulted at the outset, costly project redesigns and delays from litigation are avoided.

**Section 106 regulations have built-in flexibility that can improve effectiveness and efficiency.**

Section 106 provides multiple ways for federal agencies to comply. Program alternatives, like Programmatic Agreements, allow agencies to expedite review for routine or recurring project types, which can accelerate federal project delivery while ensuring preservation values are upheld. For instance in Utah, the SHPO signed a Programmatic Agreement with the Federal Emergency Management Agency to navigate cultural resource effects during a declared emergency.

**Section 106 has a proven track record of success** with countless successful federal projects completed — highways, energy infrastructure, housing, and more — while protecting historic places of national and community importance.

### **Improvements to Section 106**

While the NHPA and the Section 106 consultation process have been hugely successful, we recognize that no process is perfect and there are opportunities for the federal permitting process to be improved and made even more efficient. However, **changes that weaken the NHPA, call for arbitrary timelines, or exempt certain project types from review don't lead to a more efficient process** — in fact they often lead to more project delays and higher costs. Bypassing Section 106 and avoiding public engagement often causes more controversy later on, leading to more costs, delays, and litigation.

Consistent with what we heard from witnesses during the hearing, Preservation Action agrees that some of the primary causes of inefficiencies in the process and for project delays are not starting Section 106 reviews early enough in the process; a lack of consistency in how Section

106 reviews are administered across federal agencies; a need to digitize historic records; and insufficient funding and staffing for SHPOs and THPOs. Preservation Action recommends:

### **1. Increased investment in State and Tribal Historic Preservation Offices and the Advisory Council on Historic Preservation**

The Section 106 process relies on the capacity of SHPOs and THPOs, who perform the bulk of review work and consultation in addition to myriad of other duties including evaluating nominations to the National Register of Historic Places, administering the Historic Tax Credit Program, and much more.

SHPOs and THPOs are funded through the Historic Preservation Fund (HPF), which derives its funding from Outer Continental Shelf royalties, not tax-payer dollars. The HPF is currently authorized at \$150 million annually, which has not been increased since the HPF was established over 50 years ago.

In recent years, the demand on HPF funds has increased dramatically. Demand on SHPOs and THPOs continues to grow with increased federal investments, yet funding for SHPOs and THPOs has not kept pace with this increased workload. This is especially pronounced for THPOs as more and more THPO offices are established every year. Increased federal support for SHPOs and THPOs would allow these offices to hire and retain qualified staff to review projects in a timely manner and expand the use of digital tools and mapping systems to further streamline the review process.

Additionally, the ACHP plays a critical role in the efficiency of Section 106 by administering regulations that guide the process, developing programmatic agreements, offering important training programs, and assisting federal agencies in some of the most complicated Section 106 cases. Unfortunately, recent dramatic budget cuts to the ACHP threatens to cause more uncertainty for federal agencies in the review process. **Restoring and providing robust funding for the ACHP would further promote an effective and efficient Section 106 process.**

Simply put, adequate funding is essential to maintaining the efficiency and effectiveness of Section 106 and ensures that preservation continues to be a partner in federal project delivery.

### **2. Encourage Agencies to begin the Section 106 process as soon as possible.**

As we discussed earlier, an agency should commence Section 106 reviews at the beginning of a federal undertaking. This can be completed concurrently with other reviews and helps to avoid potential delays or increased costs later in the process.

Additionally, providing increased training for federal agencies about the Section 106 process, including on program alternatives like Programmatic Agreements, would provide more consistency and predictability in the application.

### **Conclusion**

The **National Historic Preservation Act** and its **Section 106 consultation process** represent a **bipartisan success story**. For nearly six decades, they have demonstrated that preservation and progress are not competing goals—they are complementary responsibilities of good governance.

As we prepare to commemorate the 250th anniversary of our nation, the 60th anniversary of the NHPA, and the 50th anniversary of the Historic Preservation Fund in 2026, we encourage the Committee to reaffirm the importance of the NHPA.

We recognize that permitting can be improved and made more efficient. Increased funding for SHPOs and THPOs would enhance staffing, technology, and consultation capacity, helping them process reviews more efficiently, and keep pace with growing federal project demands. And encouraging agencies to commence Section 106 reviews early in the process can avoid potential delays and costs later on.

Preservation Action thanks the Committee for holding this important hearing and appreciates the opportunity to provide written testimony. We look forward to working with you and are happy to answer any questions.