S. 5653 in Colorado: What the Permitting Bill Would Lock In

The Bipartisan American Affordability and Jobs Act

In 2016, the Interior Department canceled 33,000 acres of unlawfully issued oil and gas leases in the Thompson Divide. Under S. 5653, a future administration could not do that again.

S. 5653 is pitched as a compromise to end the Trump administration's war on clean energy, and its transmission planning and grid-enhancing technology provisions could help Colorado meet its goals. As drafted, though, it would lock in this administration's fossil fuel leases, drilling permits, and mining decisions while opening the door to data centers, non-energy infrastructure, and other industrial development on public lands in Colorado. It would also shut communities and Tribes out of decisions and prevent future administrations from fixing mistakes or revisiting unlawful decisions. The Senate could take it up as soon as November 9.

24M+
acres of public land in Colorado, including 8.3M BLM acres that added $8.8B to the state economy in 2023

134,173
acres sold in the BLM's June 2026 oil and gas lease sale in Colorado, exceeding *annual statewide totals* dating back to 2008

8 years
BLM has offered more Colorado oil and gas acreage this year than in the last eight years combined

5 months
to challenge an unlawful decision in court under S. 5653, down from six years today

Colorado places on the line (and why)

- **Roan Plateau.** The BLM's December 8 sale includes Roan parcels that the Colorado Department of Natural Resources and Colorado Parks and Wildlife asked it to defer. Garfield County communities spent more than a decade working to protect the plateau. (Sec. 1401)
- **Moffat County.** June's sale offered more than 100 parcels in elk, pronghorn and mule deer migration corridors in northwest Colorado, and on several conservation easements, despite concerns from Colorado Parks and Wildlife. (Sec. 1401)
- **Chimney Rock and Canyons of the Ancients.** Tribal concerns have been raised about parcels near Chimney Rock in the December sale. Section 106 consultation is how Tribal Nations identify and protect these sites. (Sec. 1401, 2301)
- **Routt National Forest.** Routt County learned of a proposal to lease nearly 14,000 acres for oil and gas only because NEPA required public notice. That notice opened a 30-day comment window, and the bill would narrow it further.(Sec. 1401, Div A Title I)
- **Western Colorado's federal minerals.** A court ruled the BLM violated NEPA, forcing a new review of oil and gas management on nearly 2 million acres around Grand Junction and the Colorado River Valley. The bill's limits on judicial review would weaken that kind of check. (Div A, Title I)
- **Split-estate lands.** More than 600,000 acres of BLM spacing units on the Western Slope and Eastern Plains, where ranchers and homeowners own the surface over federal minerals, could be drilled without a federal permit — and without the transparency and protections that come with it. (Sec. 2211)
- **Data centers.** If passed in its current form, this means permanently entrenching data center development on public lands. With at least 35 data center related applications covering 24,000 acres of public lands already pending, this could have very damaging impacts for public lands and local communities. It also means the Administration has even more incentive to race ahead and lock in as many approvals for pending data centers on public lands – as we've seen so far, this means cutting corners to eliminate or curtail public input and environmental review. A recent poll by Magellan Strategies found that 94% of Coloradans oppose data centers on public lands. (Sec. 1401)

Six threats in the bill, and what they mean for Colorado

Provision	What it does	What it means for Colorado
1. Sec. 1401 Project certainty	Bars future administrations from revoking, suspending or modifying permits and leases once issued, even unlawful ones. Companies can recover damages if an agency acts. Not limited to energy projects; would include data centers and ICE contract detention facilities.	This year's record leasing, including Roan Plateau and migration-corridor parcels, could not be corrected even if a court or new science showed harm. Projects could not be vacated by a future administration, even if unlawful.
2. Div. A, Title I NEPA	Five-month deadline to sue; only those who filed detailed comments and show "direct" harm can sue; more actions exempt from review; no duty to weigh science published after the notice of intent; courts cannot halt projects that violate NEPA.	Counties, water providers, outfitters and ranchers get less say on 1,000+ page resource management plans that guide land use for 20+ years. Rural and disproportionately impacted communities lose the most.
3. Sec. 2301 Historic preservation	Makes Tribal consultation under NHPA Section 106 effectively optional and narrows what counts as a culturally significant place.	Weakens the voice of the Southern Ute, Ute Mountain Ute and other Tribal Nations over places like Chimney Rock, Canyons of the Ancients and other culturally important sites across the state.
4. Sec. 2215 Mining	Lets mining companies occupy public land without valid mineral rights, without paying royalties and without full environmental review.	Opens Colorado's BLM and national forest lands to mining occupation without the safeguards that apply today.
5. Sec. 1402 Project pauses	Lets developers sue for 50–100% of projected construction costs, plus damages, if approvals slow compared with prior years. Could block pauses like the post–Deepwater Horizon drilling pause or the Obama-era coal leasing moratorium.	A future administration could not pause Colorado leasing or possibly data center buildout to study its impacts without risking large payouts from the Treasury.
6. Sec. 2211 Split estate	Exempts oil and gas drilling on split-estate lands from federal permits, eliminating associated notice requirements, prohibiting surface owner protection bonds, and removing a key lever for BLM to ensure reclamation bonds suffice. Could cover hundreds of thousands, potentially millions, of acres nationwide.	600,000+ Colorado acres. Ranchers and homeowners lose notice and BLM bonding checks. More orphaned wells and cleanup obligations for Colorado taxpayers, at odds with the Stop Orphaned Wells Act Sens. Bennet leads and Hickenlooper supports.

Concerns are broad and growing

- **Former White House climate adviser John Podesta** warned the certainty language hands the administration "a loaded howitzer" to spend the next two years making bad — and even unlawful — decisions on public lands that can't be revisited
- **Senators Duckworth, Wyden, Merkley and Markey** **and** **nine state attorneys general** have raised serious concerns.
- **Tribal Nations:** the National Congress of American Indians and eight Tribal organizations asked Congress to withdraw the historic preservation changes.

Senators Bennet and Hickenlooper: Vote no on S. 5653

Colorado's senators should oppose bringing S. 5653 to the floor and vote against it as written.

Take action: Call the Capitol switchboard at (202) 224-3121 and ask for Senator Bennet and Senator Hickenlooper. Tell them to oppose S. 5653 before the Senate returns on November 9.

Learn more: 6 threats to public lands in the Bipartisan American Affordability and Jobs Act (The Wilderness Society, Oct. 15, 2026)