

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0063-25\_

SPONSOR: Amber Kanazbah Crotty

**TITLE: An Action Relating to Resources and Development Committee; Approving a Temporary Construction Easement to New Mexico Department of Transportation for the Purposes of Temporary Construction Easement for NMDOT US 64 CN 5100821, MP 20.6 to 22 Serving Shiprock, NM, Located on Navajo Nation Trust Lands in Shiprock Chapter, Navajo Nation (San Juan County, New Mexico)**

*Date posted:* April 22, 2025 at 9:00PM

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**LEGISLATIVE SUMMARY SHEET**  
Tracking No. 0063-25

DATE: April 22, 2025

**TITLE OF RESOLUTION: PROPOSED STANDING COMMITTEE RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING A TEMPORARY CONSTRUCTION EASEMENT TO NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF TEMPORARY CONSTRUCTION EASEMENT FOR NMDOT US 64 CN 5100821, MP 20.6 TO 22 SERVING SHIPROCK, NM, LOCATED ON NAVAJO NATION TRUST LANDS IN SHIPROCK CHAPTER, NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)**

**PURPOSE:** The purpose of this legislation is to approve a grant of temporary construction easement to New Mexico Department of Transportation purposes of temporary construction easement for NMDOT US 64 CN 5100821, milepost 20.6 to 22 that services Shiprock, New Mexico located on Navajo Nation Trust Lands in Shiprock Chapter, Navajo Nation (San Juan County, New Mexico). The legislation will also waive valuation and consideration for the right-of-way upon a determination that accepting the agreed-upon compensation and waiving valuation is in its best interest of the Navajo Nation, pursuant to Title 25 CFR § 169.110.

**Final Authority:** Resources and Development Committee

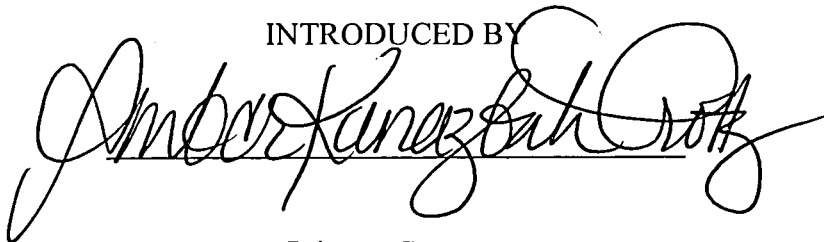
**Vote Required:** Majority vote

**This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.**

5-DAY BILL HOLD PERIOD:                       
Website Posting Time/Date:                       
Posting End Date: 04-27-25  
Eligible for Action: 04-28-25

PROPOSED STANDING COMMITTEE RESOLUTION  
25<sup>th</sup> NAVAJO NATION COUNCIL—Third Year, 2025

INTRODUCED BY



Primary Sponsor

TRACKING NO. 0063-25

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING  
A TEMPORARY CONSTRUCTION EASEMENT TO NEW MEXICO DEPARTMENT  
OF TRANSPORTATION FOR THE PURPOSES OF TEMPORARY CONSTRUCTION  
EASEMENT FOR NMDOT US 64 CN 5100821, MP 20.6 TO 22 SERVING  
SHIPROCK, NM, LOCATED ON NAVAJO NATION TRUST LANDS IN SHIPROCK  
CHAPTER, NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)

BE IT ENACTED:

**Section One. Authorities**

Pursuant to 2 N.N.C. § 500 (B) (2), the Resources and Development Committee of the Navajo Nation Council has the authority to grant final approval for all land withdrawals, non-mineral leases, permits, licenses, right-of-way, surface easements and bonding requirements on Navajo Nation lands and unrestricted (fee) land. This authority shall include subleases, modifications, assignments, leasehold encumbrances, transfers, renewals, and terminations.

**Section Two. Findings**

A. The New Mexico Department of Transportation has submitted a request for approval of a temporary construction easement for the purposes of temporary construction

1 easement for NMDOT US 64 CN 5100821, milepost 20.6 to 22 that services  
2 Shiprock, New Mexico.

3 B. The Terms and Conditions is attached as **Exhibit A**.

4 C. The proposed right-of-way map is attached as **Exhibit B**.

5 D. The application is attached as **Exhibit C**.

6 E. The Temporary Construction Permit Agreement is attached as **Exhibit D**.

7 F. The clearances including individual land users, Grazing Committee recommendation,  
8 Biological Resources Compliance Form, Abbreviated Environmental Assessment,  
9 Finding of No Significant Impact and Environmental Compliance Determination are  
10 attached as **Exhibit E**.

11 G. Shiprock Chapter Resolution No. 03-09-23-038-SHIP "Reaffirming Support of the  
12 State of New Mexico, San Juan County, Federal, and Navajo Nation Department of  
13 Transportation Entities to Continue in Partnership to Develop and Seek  
14 Grant/Funding for Improving of New Mexico Highway 64 NM/AZ Shiprock to AZ  
15 Stateline for Highway Reconstruction, Replacement of Bridges, Guard Rails, Repair  
16 Right of Way Fencing, Signage, Turn outs for School Buses, Safety Corridor Pull  
17 Out Zones, Street Lights and all necessary safety needs of the highway Improvement  
18 Projects." is attached as **Exhibit F**.

19 H. The Navajo Minerals Department has assessed consideration for the Temporary  
20 Construction Easement for 1 year at \$1,313.10. The November 7, 2024  
21 memorandum from the Navajo Minerals Department is attached as **Exhibit G**.

22 I. The New Mexico Department of Transportation is requesting a waiver of bond,  
23 insurance or other security, waiver of valuation and grant of easement for the  
24 lifetime of the US highway 64 as stated in **Exhibit C**.

25 J. 25 CFR § 169.110 addresses how much monetary compensation must be paid for a  
26 right-of-way over or across tribal land. It states:

27 *(a) A right-of-way over or across tribal land may allow for any payment amount*  
28 *negotiated by the tribe, and we will defer to the tribe and not require a valuation if*  
29 *the tribe submits a tribal authorization expressly stating that it:*

30 *(1) Has agreed upon compensation satisfactory to the tribe;*

1           (2) Waives valuation; and

2           (3) Has determined that accepting such agreed-upon compensation and waiving  
3 valuation is in its best interest.

4           (b) The tribe may request, in writing, that we determine fair market value, in which  
5 case we will use a valuation in accordance with § 169.114. After providing the tribe  
6 with the fair market value, we will defer to a tribe's decision to allow for any  
7 compensation negotiated by the tribe.

8           (c) If the conditions in paragraph (a) or (b) of this section are not met, we will require  
9 that the grantee pay fair market value based on a valuation in accordance with §  
10 169.114.

11 K. 25 CFR § 169.103 address bond, insurance or alternative forms of security. It states:

12           (a) You must include payment of bonds, insurance, or alternative forms of security  
13 with your application for a right-of-way in amounts that cover:

14           (1) The highest annual rental specified in the grant, unless compensation is a one-  
15 time payment;

16           (2) The estimated damages resulting from the construction of any permanent  
17 improvements;

18           (3) The estimated damages and remediation costs from any potential release of  
19 contaminants, explosives, hazardous material or waste;

20           (4) The operation and maintenance charges for any land located within an irrigation  
21 project;

22           (5) The restoration of the premises to their condition at the start of the right-of-way  
23 or reclamation to some other specified condition if agreed to by the landowners.

24           \* \* \* \*

25           (f) We may waive the requirement for a bond, insurance, or alternative form of  
26 security:

27           \* \* \* \*

28           (2) For tribal land, deferring, to the maximum extent possible, to the tribe's  
29 determination that a waiver of a bond, insurance or alternative form of security is in  
30 its best interest.

- 1 L. 25 CFR § 169.110 addresses how long the duration of a grant of right-of-way may  
2 be. It states:  
3 *(a) All rights-of-way granted under this part are limited to the time periods stated*  
4 *in the grant.*  
5 *(b) For tribal land, we will defer to the tribe's determination that the right-of-way*  
6 *term is reasonable.*

7 M. Executive Official Review Document Number 023517 is attached as **Exhibit H**.

8 **Section Three. Approval**

- 9 A. The Resources and Development Committee of the Navajo Nation Council hereby  
10 approves the temporary construction easement to New Mexico Department of  
11 Transportation subject to, but not limited to, the terms and conditions attached as  
12 **Exhibit A**, for the purposes of temporary construction easement for NMDOT US 64  
13 CN 5100821, milepost 20.6 to 22 that services Shiprock, New Mexico located on  
14 Navajo Nation Trust Lands in Shiprock Chapter, Navajo Nation (San Juan County,  
15 New Mexico), as described in maps attached as **Exhibit B**.
- 16 B. The Resources and Development Committee of the Navajo Nation Council hereby  
17 waives valuation and consideration for the right-of-way. It has determined that  
18 accepting the agreed-upon compensation and waiving valuation is in its best interest  
19 of the Navajo Nation, pursuant to Title 25 CFR § 169.110.
- 20 C. The Resources and Development Committee of the Navajo Nation Council hereby  
21 authorizes the President of the Navajo Nation to execute any and all documents to  
22 affect the intent and purpose of this resolution.
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