

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0064-25_

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, MP 8.1-13.8, Located on Navajo Nation Trust Lands, Beclabito Chapter, Navajo Nation (San Juan County, New Mexico)

Date posted: April 22, 2025 at 9:03PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0064-25

DATE: April 22, 2025

TITLE OF 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, MP 8.1-13.8, LOCATED ON NAVAJO NATION TRUST LANDS, BECLABITO CHAPTER, NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)

PURPOSE: The purpose of this resolution is to approve a temporary construction easement for NMDOT at US 64 milepost 8.1-13.8.

FINAL AUTHORITY: Resources and Development Committee

VOTE REQUIRED: Simple Majority

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

1 PROPOSED STANDING COMMITTEE RESOLUTION
2 25th NAVAJO NATION COUNCIL—Third Year, 2025

3 INTRODUCED BY

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5
6

7 Primary Sponsor

8 TRACKING NO. 0064-25

9
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;
12 APPROVING A TEMPORARY CONSTRUCTION EASEMENT TO NEW
13 MEXICO DEPARTMENT OF TRANSPORTATION FOR THE PURPOSES OF
14 TEMPORARY CONSTRUCTION EASEMENT FOR NMDOT US 64, MP 8.1-13.8,
15 LOCATED ON NAVAJO NATION TRUST LANDS, BECLABITO CHAPTER,
16 NAVAJO NATION (SAN JUAN COUNTY, NEW MEXICO)

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18 BE IT ENACTED:

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20 **Section One. Authorities**

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

27
28 **Section Two. Findings**

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

1 easement for NMDOT US 64, milepost 8.1 to 13.8 that services Beclabito Chapter,
2 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. Beclabito Chapter's Resolution No. BECL-21-02-25 "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 / Stateline
15 Shiprock 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 New Mexico Department of Transportation is requesting a waiver of bond,
20 insurance or other security, waiver of valuation and grant of easement for the
21 lifetime of the US highway 64 as stated in **Exhibit C**.
- 22 I. 25 CFR § 169.110 addresses how much monetary compensation must be paid for a
23 right-of-way over or across tribal land. It states:
- 24 *(a) A right-of-way over or across tribal land may allow for any payment amount*
25 *negotiated by the tribe, and we will defer to the tribe and not require a valuation if*
26 *the tribe submits a tribal authorization expressly stating that it:*
- 27 *(1) Has agreed upon compensation satisfactory to the tribe;*
28 *(2) Waives valuation; and*
29 *(3) Has determined that accepting such agreed-upon compensation and waiving*
30 *valuation is in its best interest.*

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

5 (c) *If the conditions in paragraph (a) or (b) of this section are not met, we will require*
6 *that the grantee pay fair market value based on a valuation in accordance with §*
7 *169.114.*

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

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

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

13 (2) *The estimated damages resulting from the construction of any permanent*
14 *improvements;*

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

17 (4) *The operation and maintenance charges for any land located within an irrigation*
18 *project;*

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

21 * * * *

22 (f) *We may waive the requirement for a bond, insurance, or alternative form of*
23 *security:*

24 * * * *

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

28 K. 25 CFR § 169.110 addresses how long the duration of a grant of right-of-way may
29 be. It states:

30 (a) *All rights-of-way granted under this part are limited to the time periods stated*
 in the grant.

1 (b) For tribal land, we will defer to the tribe's determination that the right-of-way
2 term is reasonable.

3 L. Executive Official Review Document Number 024278 is attached as **Exhibit G**.

4 **Section Three. Approval**

- 5 A. The Resources and Development Committee of the Navajo Nation Council hereby
6 approves the temporary construction easement to New Mexico Department of
7 Transportation subject to, but not limited to, the terms and conditions attached as
8 **Exhibit A**, for the purposes of temporary construction easement for NMDOT US 64,
9 milepost 8.1-13.8., Beclabito Chapter, that services Shiprock, New Mexico located
10 on Navajo Nation Trust Lands in Shiprock Chapter, Navajo Nation (San Juan County,
11 New Mexico), as described in maps attached as **Exhibit B**.
- 12 B. The Resources and Development Committee of the Navajo Nation Council hereby
13 waives valuation and consideration for the right-of-way. It has determined that
14 accepting the agreed-upon compensation and waiving valuation is in its best interest
15 of the Navajo Nation, pursuant to Title 25 CFR § 169.110.
- 16 C. The Resources and Development Committee of the Navajo Nation Council hereby
17 authorizes the President of the Navajo Nation to execute any and all documents to
18 affect the intent and purpose of this resolution.
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