

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0192-22_

SPONSOR: Mark A. Freeland

TITLE An Action Relating to Resources and Development and Naabik'iyáti' Committees and the Navajo Nation Council; Approving a Limited Waiver of Sovereign Immunity Allowing the Navajo Nation to be Sued in Federal District Court Regarding Compliance with the National Environmental Policy Act in Carrying Out Grants from the United States Department of Housing and Urban Development and Authorizing the President of the Navajo Nation or the Executive Director of the Navajo Nation Division of Community Development to Sign HUD Form 7015.15 Through September 30, 2027

Date posted: October 6, 2022 at 6:15 PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0192-22

DATE: October 6, 2022

TITLE OF RESOLUTION: A PROPOSED NAVAJO NATION COUNCIL RESOLUTION; AN ACTION RELATING TO RESOURCES AND DEVELOPMENT AND NAABI'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY ALLOWING THE NAVAJO NATION TO BE SUED IN FEDERAL DISTRICT COURT REGARDING COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT IN CARRYING OUT GRANTS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING THE PRESIDENT OF THE NAVAJO NATION OR THE EXECUTIVE DIRECTOR OF THE NAVAJO NATION DIVISION OF COMMUNITY DEVELOPMENT TO SIGN HUD FORM 7015.15 THROUGH SEPTEMBER 30, 2027

PURPOSE: This resolution, if approved, will approve a limited waiver of sovereign immunity to allow the Navajo Nation to be sued in Federal District Court regarding compliance with NEPA in carrying out HUD grants and also approve the Navajo Nation President to sign Form 7015.15 through September 30, 2027.

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

5-DAY BILL HOLD PERIOD: Johnson
Website Posting Time/Date: _____
Posting End Date: 10-11-22
Eligible for Action: 10-12-22

Resources & Development Committee
Thence
Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL—Fourth Year, 2022
3 INTRODUCED BY

4
5
6 _____
Primary Sponsor



7
8 TRACKING NO. 0192-22

9
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT AND NAABI'ÍYÁTI'
12 COMMITTEES AND THE NAVAJO NATION COUNCIL; APPROVING A LIMITED
13 WAIVER OF SOVEREIGN IMMUNITY ALLOWING THE NAVAJO NATION TO
14 BE SUED IN FEDERAL DISTRICT COURT REGARDING COMPLIANCE WITH
15 THE NATIONAL ENVIRONMENTAL POLICY ACT IN CARRYING OUT GRANTS
16 FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN
17 DEVELOPMENT AND AUTHORIZING THE PRESIDENT OF THE NAVAJO
18 NATION OR THE EXECUTIVE DIRECTOR OF THE NAVAJO NATION DIVISION
19 OF COMMUNITY DEVELOPMENT TO SIGN HUD FORM 7015.15 THROUGH
20 SEPTEMBER 30, 2027

21
22 BE IT ENACTED:

23 SECTION ONE. AUTHORITY

- 24 A. The Resources and Development Committee is the oversight committee for the
25 Navajo Division of Community Development. 2 N.N.C. § 501(C)(1).
26 B. A proposed resolution that requires final action by the Navajo Nation Council shall be
27 assigned to the Naabik'iyáti' Committee before it is heard by the Navajo Nation
28 Council. 2 N.N.C. § 164 (A)(9).
29
30

1 C. The Navajo Nation Code provides, “[c]ontracts shall not waive the sovereign immunity
2 of the Navajo Nation or its entities unless approved by two-thirds (2/3) vote of the full
3 membership of the Navajo Nation Council.” 2 NNC § 223(C).

4 D. The Navajo Nation Council is the governing of body of the Navajo Nation. 2 N.N.C. §
5 102(A).

6
7 **SECTION TWO. FINDINGS**

8 A. The Navajo Nation Division of Community Development for purposes of
9 administering Indian Community Development Block Grant (ICDBG) funds is
10 required to have a tribal official sign and execute HUD Form 7015.15- “Request
11 for Release of Funds and Certification” in which the Navajo Nation consents to be
12 sued in Federal district court regarding compliance with the National
13 Environmental Policy Act in carrying out the Department of Housing and Urban
14 Development (HUD) grants.

15 B. Pursuant to 24 CFR Part 58, HUD Form 7015.15 as signed by an authorized tribal
16 official is required as part of the HUD Environmental Review.

17 C. In order for the Navajo Nation to draw down funds needed to implement projects
18 an authorized tribal official must execute HUD Form 7015.15.

19 D. The Navajo Nation Council approved Council Resolutions CO-58-17, CJA-04-13,
20 CO-32-09, CAP-21-05 authorizing a limited waiver of sovereign immunity
21 thereby permitting the President of the Navajo Nation or the Executive Director of
22 the Navajo Nation Division of Community Development to sign HUD Form
23 7015.15 through Fiscal Year 2022. Resolution CO-58-17 is attached as **Exhibit**
24 **A.**

25 E. The Southwest Office of Native American Programs (HUD), in a letter dated
26 October 18, 2017, indicated the current Navajo Nation Council limited waiver of
27 sovereign immunity will expire on September 30, 2022. Letter is attached as
28 **Exhibit B.**

29 F. The Navajo Nation Division of Community Development Indian Community
30 Development Block Grant (CBDG) Program requests a five-year authorization

1 period, through fiscal year 2027, for the President of the Navajo Nation and the
2 Executive Director of the Division of Community Development to sign HUD
3 Form 7015.15. The five-year timeframe will have a favorable impact on the
4 ability to carry out approved HUD projects and to apply for new Indian
5 Community Development Block Grants. The Nation competes with other tribes
6 for these grants. These grants provide needed infrastructure service to improve
7 quality of life.

8 G. The request for this limited waiver of sovereign immunity has been reviewed
9 under the Section 164 Review Process, attached as **Exhibit C**.

10 H. It is in the best interest of the Navajo Nation that a limited waiver of sovereign
11 immunity be approved by the Navajo Nation Council and that the President of the
12 Navajo Nation or the Executive Director of the Navajo Nation Division of
13 Community Development be authorized to sign HUD Form 1715.15 allowing the
14 Navajo Nation to be sued in Federal District Court regarding compliance with the
15 National Environmental Policy Act in carrying out HUD grants through Fiscal
16 Year 2027.

17
18 **SECTION THREE. APPROVAL**

19 A. The Navajo Nation Council hereby approves a limited waiver of sovereign
20 immunity through Fiscal Year 2027 allowing the Navajo Nation to be sued in
21 Federal District Court regarding compliance with the National Environmental
22 Policy Act in carrying out HUD grants.

23 B. The Navajo Nation Council hereby authorizes the President of the Navajo Nation
24 and the Executive Director of the Division of Community Development to sign
25 HUD Form 7015.15 through Fiscal Year 2027.