

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0071-26\_

SPONSOR: Dr. Andy Nez

**TITLE: An Action Relating to the Naabik'iyáti' Committee; Navajo Nation Comments to the United States Department of Veterans Affairs Expressing the Navajo Nation's Opposition to the Department of Veterans Affairs Interim Final Rule Amending 38 C.F.R. § 4.10 and Urging Government-to-Government Consultation with Tribal Nations**

***Date posted:*** April 08, 2026 at 11:05AM

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**LEGISLATIVE SUMMARY SHEET**  
**Tracking No. 0071-26**

**DATE:** April 7, 2026

**TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE; NAVAJO NATION COMMENTS TO THE UNITED STATES DEPARTMENT OF VETERAN AFFAIRS EXPRESSING THE NAVAJO NATION'S OPPOSITION TO THE DEPARTMENT OF VETERANS AFFAIRS INTERIM FINAL RULE AMENDING 38 C.F.R. § 4.10 AND URGING GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH TRIBAL NATIONS**

**PURPOSE:** This resolution, if approved, would formally oppose the United States Department of Veterans Affairs interim final rule titled *Evaluative Rating Impact of Medication*, 91 Fed. Reg. 7,118 (Feb. 17, 2026), and approve written comments opposing regulatory actions that would alter disability evaluations inconsistent with governing law and binding judicial precedent, while calling for meaningful government-to-government Tribal consultation on any future actions affecting veterans' benefits.

**FINAL AUTHORITY:** Naabik'íyáti' 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: At Mkt III  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 4/13/26  
Eligible for Action: 4/14/26

1 PROPOSED STANDING COMMITTEE RESOLUTION  
2 25<sup>th</sup> NAVAJO NATION COUNCIL—Fourth Year, 2026

3 Introduced by:

4   
5 \_\_\_\_\_

6 Primary Sponsor

7  
8 Tracking No. 0071-26

9  
10 AN ACTION

11 RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE; NAVAJO NATION  
12 COMMENTS TO THE UNITED STATES DEPARTMENT OF VETERAN AFFAIRS  
13 EXPRESSING THE NAVAJO NATION'S OPPOSITION TO THE DEPARTMENT  
14 OF VETERANS AFFAIRS INTERIM FINAL RULE AMENDING 38 C.F.R. § 4.10  
15 AND URGING GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH  
16 TRIBAL NATIONS

17  
18 WHEREAS:

- 19 A. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council  
20 empowered to coordinate all request for information, appearances, and testimony  
21 related to proposed county, state, and federal legislation impacting the Navajo Nation.  
22 2. N.N.C. §§ 700 (A) and 701 (A)(6).
- 23 B. The Navajo Nation Council, as the governing body of the Navajo Nation, is entrusted  
24 with the responsibility to safeguard the interest, rights, and traditions of the Navajo  
25 people. 2 N.N.C. § 102 (A).
- 26 C. The Navajo Nation is a sovereign Tribal Nation with a government-to-government  
27 relationship with the United States, as recognized under the Treaty Between the  
28 United States of America and the Navajo Tribe of Indians, June 1, 1868, 15 U.S. Stat  
29 667, and has an enrolled membership of over 420,000.

- 1 D. Navajo citizens, like other Native peoples, have served in the United States Armed  
2 Forces in every major conflict and at higher per capita rates than any other racial or  
3 ethnic group, reflecting a longstanding tradition of military service and sacrifice that  
4 continues to the present day.
- 5 E. Peer-reviewed research, including Kimberly R. Huyser et al., *Consistent Honor,*  
6 *Persistent Disadvantage: American Indian and Alaska Native Veteran Health in the*  
7 *National Survey of Veterans*, PMID: PMC8236669 (2021), attached hereto as  
8 **Exhibit A**, demonstrates that American Indian and Alaska Native veterans are  
9 overrepresented in military service, experience disproportionately high exposure to  
10 combat and environmental hazards, and face lower income levels and increased  
11 socioeconomic disadvantage relative to other veteran populations.
- 12 F. Research further demonstrates that American Indian and Alaska Native veterans  
13 experience significantly poorer health outcomes, are more likely to report fair or poor  
14 health, and are more likely to experience limitations in activities of daily living  
15 compared to white veterans, even after controlling for socioeconomic status, health  
16 behaviors, and military-related factors.
- 17 G. These documented disparities establish that American Indian and Alaska Native  
18 veterans, including Navajo veterans, experience a higher burden of disability and face  
19 structural barriers to accessing care, which are directly relevant to how disability is  
20 experienced and must be evaluated within the United States Department of Veterans  
21 Affairs (“Department”) disability compensation system.
- 22 H. The Department issued an interim final rule titled *Evaluative Rating Impact of*  
23 *Medication*, published at 91 Fed. Reg. 7,118 (Feb. 17, 2026) (RIN 2900-AS49),  
24 which proposed to amend 38 C.F.R. § 4.10 to require consideration of the  
25 ameliorative effects of medication when evaluating disability, attached hereto as  
26 **Exhibit B**. The Department will continue to accept comments until April 20, 2026.
- 27 I. The interim final rule was intended to respond to judicial precedent, including *Ingram*  
28 *v. Collins*, 38 Vet. App. 130 (2025), which held that where rating criteria do not  
29 contemplate medication, the Department may not rely on the beneficial effects of  
30 treatment to deny or reduce a disability rating.

- 1 J. The Navajo Nation determines that the interim final rule, if passed, would have  
2 substantively altered the evaluation of disability by prioritizing treated conditions  
3 over underlying impairment, thereby risking the underrepresentation of the true  
4 severity of service-connected disabilities, particularly for veterans who experience  
5 inconsistent access to care or interruptions in treatment.
- 6 K. The Navajo Nation further determines that the interim final rule would have direct  
7 and significant impacts on Tribal governments that provide accredited representation  
8 and assistance to veterans in the preparation and prosecution of benefits claims.
- 9 L. The Navajo Nation, through the Navajo Department of Veterans Affairs, was the first  
10 Tribal government to receive accreditation to function in a role comparable to a  
11 Veterans Service Organization, and in that capacity provides critical services to  
12 Navajo veterans by assisting with claims development, evidentiary support, and  
13 advocacy within the Department of Veterans Affairs system.
- 14 M. The interim final rule would have required Tribal governments serving in this  
15 capacity to modify training, advocacy strategies, and evidentiary development  
16 practices in order to comply with a revised framework for evaluating disability,  
17 thereby directly affecting the Nation's ability to carry out governmental functions on  
18 behalf of its veterans.
- 19 N. Executive Order 13175, 65 Fed. Reg. 67,249 (Nov. 9, 2000), requires federal  
20 agencies to engage in meaningful government-to-government consultation with Tribal  
21 Nations when developing policies that have Tribal implications.
- 22 O. The interim final rule was issued without prior Tribal consultation despite its clear  
23 and direct impact on Tribal governments and the veterans they serve.
- 24 P. The Department subsequently rescinded the interim final rule in *Evaluative Rating*  
25 *Impact of Medication; Withdrawal*, 91 Fed. Reg. 9,712 (Mar. 4, 2026) (Docket No.  
26 VA-2026-VBA-0067) (RIN 2900-AS49), attached hereto as **Exhibit C**.
- 27 Q. Although the rule has been rescinded, the Navajo Nation remains concerned with the  
28 legal rationale advanced by the Department and the absence of Tribal consultation  
29 during the development of the rule, and has developed comments in response attached  
30 hereto as **Exhibit D**.

1 R. The Navajo Nation formally opposes the interim final rule titled *Evaluative Rating*  
2 *Impact of Medication*, published at 91 Fed. Reg. 7,118 (Feb. 17, 2026), as it would  
3 have altered the evaluation of service-connected disabilities in a manner inconsistent  
4 with governing law and the lived realities of Navajo veterans, and would have risked  
5 underrepresenting the true severity of disabilities experienced by those who have  
6 served.

7 S. The Navajo Nation finds that any future regulatory action affecting the evaluation of  
8 veterans' disability claims must be consistent with governing law, respectful of  
9 binding judicial precedent, and informed by the documented disparities in health,  
10 disability, and access to care experienced by American Indian and Alaska Native  
11 veterans.

12  
13 **NOW, THEREFORE, BE IT RESOLVED:**

14 A. The Navajo Nation hereby formally opposes the interim final rule titled *Evaluative*  
15 *Rating Impact of Medication*, published at 91 Fed. Reg. 7,118 (Feb. 17, 2026), and  
16 affirms that such regulatory changes would be inconsistent with governing law,  
17 binding judicial precedent, and the realities faced by Navajo veterans.

18 B. The Navajo Nation acknowledges the Departments' withdrawal of the interim final  
19 rule as published in *Evaluative Rating Impact of Medication; Withdrawal*, 91 Fed.  
20 Reg. 9,712 (Mar. 4, 2026), but maintains its opposition to the underlying policy  
21 rationale and approach reflected in the rules.

22 C. The Navajo Nation hereby approves the comments in **Exhibit D** and authorizes the  
23 submission of comments to the United States Department of Veteran Affairs.

24 D. The Navajo Nation further urges the United States Department of Veterans Affairs to  
25 refrain from pursuing any future regulatory action that would require disability  
26 evaluations to be based solely on medicated or treated conditions without fully  
27 accounting for the underlying severity and functional impact of service-connected  
28 disabilities.

29 E. The Navajo Nation calls upon the United States Department of Veterans Affairs to  
30 engage in early, meaningful, and government-to-government consultation with Tribal

1 Nations prior to proposing or implementing any regulatory changes that have Tribal  
2 implications, consistent with Executive Order 13175.

3 F. The Navajo Nation urges the United States Department of Veterans Affairs to  
4 coordinate with relevant federal partners and advisory bodies, including those within  
5 the Department and the Indian Health Service, to ensure that future policy  
6 development reflects the realities of healthcare access, service delivery, and disability  
7 experienced in Tribal communities

8 G. The Navajo Nation hereby authorizes the Navajo Nation President, Navajo Nation  
9 Vice-President, and the Speaker of the Navajo Nation Council and their designees to  
10 take all steps necessary to advocate for the Navajo Nation's position with respect to  
11 this resolution.

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