THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: 0264-26 **SPONSOR: Crystalyne Curley**

TITLE: **An Action Relating to the Naabik'íyáti' Committee; Approving the Navajo Nation's Written Comments on the United States Census Bureau's Proposed Rule Governing the 2030 Decennial Census That May Affect Tribal Sovereignty, Trust and Treaty Obligations, and Federal Funding to the Navajo Nation; Authorizing Submission of the Comments to the United States Census Bureau for inclusion in the Rulemaking Record; And Authorizing A Formal Request for Government-To-Government Consultation**

Date posted: **November 06, 2026 at 5:05 PM**

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LEGISLATIVE SUMMARY SHEET
Tracking No. 0264-26

DATE: November 4, 2026

TITLE OF RESOLUTION: AN ACTION RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE; APPROVING THE NAVAJO NATION'S WRITTEN COMMENTS ON THE UNITED STATES CENSUS BUREAU'S PROPOSED RULE GOVERNING THE 2030 DECENNIAL CENSUS THAT MAY AFFECT TRIBAL SOVEREIGNTY, TRUST AND TREATY OBLIGATIONS, AND FEDERAL FUNDING TO THE NAVAJO NATION; AUTHORIZING SUBMISSION OF THE COMMENTS TO THE UNITED STATES CENSUS BUREAU FOR INCLUSION IN THE RULEMAKING RECORD; AND AUTHORIZING A FORMAL REQUEST FOR GOVERNMENT-TO-GOVERNMENT CONSULTATION

PURPOSE: This legislation, if approved, would approve the Navajo Nation's supplemental written comments on the United States Census Bureau's proposed rule governing the 2030 Decennial Census, authorize their submission to the Census Bureau, and request formal government-to-government consultation with the Navajo Nation.

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: 11/6/26
Website Posting Time/Date:
Posting End Date: 11/11/26
Eligible for Action: 11/12/26

PROPOSED STANDING COMMITTEE RESOLUTION

25th NAVAJO NATION COUNCIL—Fourth Year, 2026

Introduced by:

Primary Sponsor

Tracking No. 0264-26

AN ACTION

RELATING TO THE NAABIK'ÍYÁTI' COMMITTEE; APPROVING THE NAVAJO NATION'S WRITTEN COMMENTS ON THE UNITED STATES CENSUS BUREAU'S PROPOSED RULE GOVERNING THE 2030 DECENNIAL CENSUS THAT MAY AFFECT TRIBAL SOVEREIGNTY, TRUST AND TREATY OBLIGATIONS, AND FEDERAL FUNDING TO THE NAVAJO NATION; AUTHORIZING SUBMISSION OF THE COMMENTS TO THE UNITED STATES CENSUS BUREAU FOR INCLUSION IN THE RULEMAKING RECORD; AND AUTHORIZING A FORMAL REQUEST FOR GOVERNMENT-TO-GOVERNMENT CONSULTATION

WHEREAS:

A. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council empowered to coordinate all requests for information, appearances, and testimony related to proposed county, state, and federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 700(A) and 701(A)(6).

B. The Navajo Nation is a sovereign Tribal Nation with a government-to-government relationship with the United States, as recognized under the Treaty Between the United States of America and the Navajo Tribe of Indians, June 1, 1868, 15 Stat. 667, and has an enrolled membership of over 420,000.

C. Decennial census data is a basis upon which federal agencies allocate funding to the Navajo Nation and discharge the federal government's trust obligations, including

allocations under the Native American Housing Assistance and Self-Determination Act, 25 U.S.C. §§ 4101 et seq., Indian Health Service population estimates by which unmet need is measured, and tribal shares under the Tribal Transportation Program, 23 U.S.C. § 202(b)(3), and is further the basis for redistricting under Public Law 94-171 in Arizona, New Mexico, and Utah and in the counties in which the Navajo Nation is located, and for the apportionment of the Navajo Nation Council's twenty-four delegate districts across one hundred ten Chapters.

D. On September 10, 2026, the United States Census Bureau, Department of Commerce, published a proposed rule titled "Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions," 91 Fed. Reg. 57,524 (Sept. 10, 2026), Docket No. USBC-2026-0628, RIN 0607-AA75, proposing to add new Parts 60 and 70 to Title 15 of the Code of Federal Regulations, with public comments originally due on or before October 13, 2026, a deadline the Census Bureau extended for all commenters to November 2, 2026 by notice published October 5, 2026; the proposed rule is attached as **Exhibit A**.

E. Proposed 15 CFR § 70.2(a) would prohibit any question about race, ethnicity, or sexual orientation on the short-form decennial census questionnaire or on any questionnaire used for the enumeration of the population, and because the American Indian or Alaska Native identifier is a race category and the field in which a respondent writes the name of an enrolled or principal tribe is a component of that race item, the provision as drafted would result in the 2030 Census producing no count of Navajo people and no count of American Indian people anywhere in the enumeration.

F. The Census Bureau stated in footnote 11 of the preamble to the proposed rule that questions about tribal membership are not necessarily questions about race or ethnicity, citing Morton v. Mancari, 417 U.S. 535 (1974), yet no provision of proposed Part 70 permits a question concerning enrollment or affiliation with a federally recognized Indian Tribe, and a statement appearing in a preamble footnote is not regulatory text and binds no one.

G. Proposed 15 CFR § 60.2(a) would determine a person's usual residence by reference to tax records and administrative addresses, and proposed § 60.2(c) would define the census enumeration period as January 3 through April 1, and because most homes on the Navajo Nation have no conventional street address and residents receive mail at post office boxes in off-reservation border communities, the provisions as drafted would place Navajo residents in border-town counties in the official count and would misplace households that reside seasonally in more than one location.

H. The Census Bureau's own published results demonstrate an existing and worsening accuracy problem on the Navajo Nation, in that the Bureau counted 165,158 persons on the Navajo Nation Reservation and Off-Reservation Trust Land in 2020 as against 173,667 in 2010, a reported decline of 8,509 persons over a decade in which Navajo Nation enrollment grew; the Bureau's own American Community Survey estimate for 2017 through 2021 places the population of the same geography at 169,688 with a margin of error of plus or minus 2,942, above the Bureau's own enumeration; and the Bureau's 2020 Post-Enumeration Survey estimated net coverage error for American Indian and Alaska Native people living on reservations at negative 5.64 percent, the worst result for any group the Bureau measured and worse than the negative 4.88 percent recorded in 2010.

I. The Census Bureau reported in June 2023 that at least 353 federal assistance programs used Census Bureau data, in whole or in part, to distribute more than $2.8 trillion in federal funds in fiscal year 2021; the Navajo Nation received approximately $133 million under the Indian Housing Block Grant in fiscal year 2024, the largest award of nearly 600 grantees; the Department of Housing and Urban Development computes the Needs component of that formula twice, once using single-race census data and once using multi-race census data, awarding each Tribe the greater of the two results; and the Indian Health Service constructs the service population by which unmet need in the Navajo Area is measured from decennial census counts of persons identifying as American Indian or Alaska Native, such that the elimination of those counts would leave these formulas without data on which they depend.

J. In September 2026, the Census Bureau issued a Dear Tribal Leader Letter announcing a single virtual Tribal consultation session on the proposed rule, and acknowledged in that letter that it was providing two weeks of advance notice rather than the thirty days it aims to provide, citing its operational deadlines for the 2030 Census and its obligations in litigation concerning the 2020 Census.

K. On October 2, 2026, the Census Bureau conducted that session, a single ninety-minute virtual meeting convened for all 575 federally recognized Tribes and as of the date of this resolution the Census Bureau has not conducted a consultation session specific to the Navajo Nation, has not furnished a written analysis of the proposed rule's effects on Tribal governments, and has not published a consultation summary or federal response.

L. The session conducted on October 2, 2026 did not satisfy the federal government's obligation to engage in meaningful government-to-government consultation with the Navajo Nation under Executive Order 13175 and the federal trust responsibility, because a ninety-minute session convened jointly for all federally recognized Tribes on two weeks' notice affords the Navajo Nation no meaningful opportunity to be heard; because the Census Bureau published the proposed rule containing no Tribal impact analysis, no identification of the provisions carrying Tribal implications, and no reference to the federal trust responsibility; and because participation in a general public comment docket is likewise not consultation.

M. The Navajo Nation has previously reaffirmed, in Resolution NABIAP-14-25 and Resolution NABIJY-41-25 and related Council action, that federal funding and programs provided to the Navajo Nation are based on its political and legal status as a sovereign nation, and not on classifications of race or discretionary inclusion in domestic equity programs, and that Tribal Nations are not part of any federal Diversity, Equity, or Inclusion framework, which position is consistent with the Census Bureau's own acknowledgment in footnote 11 of the proposed rule.

N. On November 2, 2026, the Navajo Nation President issued written comments on behalf of the Navajo Nation in response to the proposed rule, attached as **Exhibit C**.

O. The Navajo Nation has developed supplemental written comments in response to the proposed rule, which (i) support the Census Bureau's stated objectives of accuracy, fidelity to the constitutional purpose of the enumeration, protection of respondent confidentiality, and reduction of unnecessary respondent burden; (ii) object to proposed § 70.2(a) and proposed § 60.2(a) because they would defeat those objectives as applied to the Navajo Nation; (iii) request formal government-to-government consultation and an extension of the Tribal comment period; and (iv) propose specific drafting-level revisions to the regulatory text, attached hereto as **Exhibit B**.

P. It is in the best interest of the Navajo Nation to approve and adopt the comments within **Exhibit B**, to authorize their submission to the Census Bureau for inclusion in the rulemaking record, and to authorize their separate transmittal to the Census Bureau as a formal request for government-to-government consultation.

NOW, THEREFORE, BE IT RESOLVED:

A. The Navajo Nation hereby approves and adopts the comments of the Navajo Nation in response to the United States Census Bureau's proposed rule, "Decennial Census of the Population of Americans; Proposed Residence Criteria and Proposed Regulations for Demographic Questions," 91 Fed. Reg. 57,524 (Sept. 10, 2026), Docket No. USBC-2026-0628, attached as **Exhibit B**, and authorizes the submission of those comments to the United States Census Bureau for inclusion in the administrative record of Docket No. USBC-2026-0628, as a supplement to the written comments the Navajo Nation President issued on November 2, 2026, which the Navajo Nation hereby acknowledges and which are attached as **Exhibit C**.

B. The Navajo Nation hereby authorizes and directs the separate transmittal of the comments attached as **Exhibit B** to the Director of the United States Census Bureau and to the Secretary of Commerce as a formal request for government-to-government consultation with the Navajo Nation under Executive Order 13175 and the federal trust responsibility.

C. The Navajo Nation hereby opposes the promulgation of any final rule arising out of Docket No. USBC-2026-0628 that affects Indian Tribes until formal government-to-government consultation specific to the Navajo Nation has been completed and the results of that consultation are reflected in the regulatory text.

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