



Navajo Nation Constitutional Attempt 2013

PROPOSED CONSTITUTION OF THE NAVAJO NATION

Article I. Preamble

Since time immemorial the Navajo Nation, in the exercise of its inherent sovereignty, has existed and governed itself upon its traditional homelands within the four sacred mountains on behalf of Dine.

As a sovereign nation the Navajo Nation has an obligation and duty to Dine and its neighbors to exercise its governing powers with the consent of Dine and in a manner that respects and honors the Navajo culture and tradition, the rule of law, and its homeland and comports with the Treaty of 1868 between the Navajo Nation and the United States of America and the United Nations Declaration on the Rights of Indigenous Peoples.

The Dine hereby adopt and endorse the following articles for the operation of its government.

NOTES:

This provision will likely be amended upon further input from interested parties. One comment received was that it should be translated into Navajo.

Article II. System of Government

The Dine is the ultimate source of governmental power and the Navajo government shall operate in a manner that is consistent with the consent of the governed.

There is hereby established a three branch government for the Navajo Nation which shall consist of the Legislative Branch, the Executive Branch and the Judicial Branch.

Each branch is equal in status with each other and it is intended that the doctrines of "check and balances" and "separation of powers" consistent with Navajo common law shall be the guiding principles underlying governmental operations and cooperation among the branches for the benefit of Dine.

The respective branches' authorities, duties and limitations thereof shall be set forth in the following articles.

NOTES:

This section clarifies that the Navajo People is the source of governmental power and not the Tribal Council. This comes into line with the Navajo Supreme Court decisions on the subject matter. It further clearly states that the Navajo People

adopt a 3 branch form of government which has not been done by the Navajo People.

Article III. Legislative Branch

A. The Legislative Branch shall consist of two chambers. One chamber shall be the Navajo Nation Tribal Council and the other chamber shall be the Navajo Nation Assembly of Chapters. All powers exercised by the Legislative Branch are hereby delegated by the People and subject to the supervision of the People.

1. The Tribal Council shall legislate generally on behalf of the Navajo People subject to certain limitations described herein or as otherwise provided by Navajo law or applicable Federal law.
2. The Assembly of Chapters shall advocate the local interests of the chapters on issues affecting chapters and the Navajo Nation.

NOTES:

This section sets forth the establishment of two chambers or bi-cameral legislature. This form of legislature has not been previously used by the Navajo People. Also it is clarified that the Navajo People delegate power to the Legislative Branch and will supervise the exercise of such powers.

Article IV. Tribal Council

A. The Tribal Council shall consist of twenty-four (24) delegates elected every four years and who shall serve a four year term of office. There shall be no limit on the number of terms of office a delegate may served. Delegates shall be reapportioned in accordance with Navajo Nation law.

1. The Tribal Council shall meet on a quarterly basis. Special meetings may be called by the Speaker of the Tribal Council or upon a petition signed by a majority of the delegates.
2. The Tribal Council shall select a Speaker who shall preside over Tribal Council sessions and who shall serve as the chief executive officer for the Tribal Council administrative support staff.
 - (a) The Speaker shall serve a two year term and serves at the pleasure of the Tribal Council. The Speaker shall be a member of the Tribal Council and shall be selected and confirmed by the Tribal Council as the first order of business at the first quarterly session of the Tribal Council scheduled for January of any year. No Speaker shall serve more than one term.

- (b) The Speaker shall be compensated an additional ten percent (10%) of a delegate's annual salary.
 - (c) The Speaker shall be authorized to appoint and hire those personnel who are political appointees as defined by applicable Personnel policies to positions within the Legislative Branch. Professional administrative support staff shall be classified accordingly and shall not be political appointees.
- 3. Delegates to the Tribal Council shall be enrolled members of the Navajo Nation. Delegates shall possess at a minimum a high school diploma or GED and must be at least twenty-five (25) years old when elected to office.
 - (a) No delegate shall have been convicted of a felony crime as defined by Federal and state law. If a delegate is convicted of a felony while in office said delegate's term of office shall automatically terminate upon the expiration of thirty (30) days from the date of conviction unless an appeal of the conviction is timely filed. Upon the conclusion of all proceedings including any appeal the 30 days as proscribed herein shall commence upon a conviction. Upon the expiration of the 30 days from the conclusion of proceedings, the Board of Election Supervisors shall declare a vacancy and conduct a special election to fill the vacancy.
 - (b) No delegate shall run for office or be elected as a delegate if he or she is serving a term of sentence including probation or parole for a violation of Navajo Nation laws.
 - (c) Navajo Nation law duly enacted may prescribe other conditions of eligibility not in conflict with the articles set forth herein.
- 4. Delegates shall be compensated in the amount of seventy thousand dollars (\$70,000) per annum plus deferred compensation in the amount of ten percent (10%) per annum. Delegates shall not be paid any stipend or other form of compensation other than the annual salary or per diem authorized herein for attendance at any Tribal Council session, standing committee meetings or other business activities required as a delegate. Delegates shall be paid a per diem for attendance at Tribal Council sessions, standing committee meetings and other authorized meetings. With the exception of cost of living adjustments provided to all Navajo Nation employees, any proposed increase in the annual base salary paid to delegates shall be approved only by a referendum vote of the Navajo People. Delegates shall be prohibited from applying for and receiving any financial assistance from the Navajo Nation such as the Navajo Nation discretionary fund accounts or other tribal financial assistance program from whatever source,

however, this prohibition does not extend to loans or other financial assistance obtained from a non-Navajo Nation financial institution.

5. The Tribal Council shall be authorized and empowered to:
- (a) Legislate on behalf of the Navajo Nation on matters of health, welfare and safety of the Navajo People subject to the limitations set forth herein or as may be proscribed by Navajo Nation law; and
 - (b) Approve any and all intergovernmental agreements or contracts with Federal, state, county and other non-Navajo governmental entities; and
 - (c) Approve the annual budget and any supplemental budgets for the operation of the Navajo Nation subject to the line-item veto of the President of the Navajo Nation; and.
 - (d) Shall have the authority to promulgate rules, regulations and procedures for the conduct of its meetings and that of its standing committees; and
 - (e) Shall confirm the appointment of division directors of the Executive Branch upon recommendation from the appropriate oversight committee. The President shall present the appointment at the next Tribal Council session following the date the appointments are made; and
 - (f) Shall confirm the appointment of justices and judges of the Judicial Branch of the Navajo Nation which shall conform to the appointment process set forth herein at Article VI; and.
 - (g) Shall approve any mineral, oil or gas lease or other resource extraction or utilization agreement with any entity; and
 - (h) Shall approve any sale or lease of Navajo tribal land, trust lands or fee lands, for various authorized purposes such as business, educational, religious, charitable or other lawful purposes; and
 - (i) Shall approve plans of operation for all tribal entities.
 - (j) Shall approve bonds, borrow funds and other evidence of indenture for the benefit of the Navajo People.
 - (k) Shall establish standing committees of the Tribal Council and delegate such authority to such committees as it deems necessary

and proper for such committees to execute the purposes delegated. No delegation of authority shall circumvent or exceed the authorities set forth in these articles.

5. Limitations on the Tribal Council-The Tribal Council in the exercise of its powers set forth herein is subject to the Navajo Nation Bill of Rights, the Indian Civil Rights Act, the Navajo Nation Ethics in Governmental Act, and other applicable laws of the Navajo Nation including Navajo Fundamental Law;
 - (a) With respect to the veto power of the President of the Navajo Nation, the Tribal Council shall not have the authority to override a veto by the President of the Navajo Nation and any override of a Presidential veto shall be pursuant to Article V (C)(1)(i)); and
 - (b) The authority of the Tribal Council and its standing committees to engage in oversight shall be strictly limited to policy issues and shall not engage in program operation and administration; and
 - (c) The Tribal Council shall have the authority to enact, amend, or repeal any legislation for the benefit of the Navajo People, however, the Tribal Council shall not have the authority to waive any Navajo Nation laws for the purpose of allowing the Navajo Nation to avoid compliance with such laws.
 - (d) With respect to procurement activities involving non-capital day to day business expenditures of the Navajo Nation, the Executive Branch shall be responsible for such procurement activities if the authorized budget line item identified for use of the procurement has been approved pursuant to the annual or any supplemental budget. Any expenditure that constitutes a capital expense shall be subject to approval by the Tribal Council or the appropriate standing committee as may be required by law.
 - (e) The Tribal Council shall not possess any authority to remove any non-Legislative Branch official from office.
 - (f) Delegates at Tribal Council sessions or other authorized meetings who have personal, family or business interests in matters before the Council or standing committees shall not participate or vote on the matter.

NOTES:

While many sections are taken from the Navajo Nation Code there are several notably differences and additions.

First, delegates will now have to meet certain educational requirements to qualify to run for office. Delegates must have at least a high school diploma or GED.

Second, delegates will receive an annual salary and per diem for attendance at meetings but no stipend. Many commentaries have noted the unseemly occupation with income generation in the conduct of delegates business. It seems to be one motivation for the significant involvement in program operations rather than policy development. Not receiving any stipend for meetings may increase the efficiency of tribal operations if there is no income motivation for such meetings. In light of the controversy surrounding the alleged misuse of the Navajo Nation discretionary fund accounts as well as the delinquency rate for tribal loans obtained by delegates the Navajo public desire limitations on the ability of delegates to take advantage of their office to receive tribal funds for their personal benefit.

Third, there are listed specific limitations on the activities of the Tribal Council and such limitations include forbidding the Council from engaging in procurement in day to day business transactions, stripped of its authority to waive Navajo laws simply to avoid compliance with such laws by the Navajo Nation, removing non-Legislative Branch officials from office, no authority to override a President's veto and limiting legislative action to policy matters rather than program operations.

Article V. Assembly of Chapters

A. There is hereby established the Assembly of Chapters which shall comprise the lower chamber of the Legislative Branch of the Navajo Nation government.

1. The Assembly of Chapters shall consist of each certified chapter of the Navajo Nation including LGA certified chapters and any entity established under the Assembly of Chapters.
2. The president of each chapter shall represent the chapter at Assembly of Chapters sessions. If the Chapter President is unable to attend any Assembly of Chapters session, the chapter may select or designate any elected chapter official to appear and vote on behalf of the chapter. Written notice shall be provided to the Assembly of Chapters of the substitute representative of any chapter. At each Assembly of Chapter session there shall be a roll call clearly identifying the authorized representative for each chapter appearing.
3. If a chapter has adopted an alternative form of local government the chapter shall be represented at the Assembly of Chapters by the highest ranking chapter official or authorized designee.

4. The Assembly of Chapters shall meet on a quarterly basis or as otherwise duly authorized. Special meetings may be authorized by a petition signed by a majority of all chapters.
5. The Assembly of Chapters shall adopt an agenda in accordance with written rules and procedures established by the Assembly of Chapters. Once an agenda is adopted it may be amended only by the Assembly of Chapters.
6. A quorum shall consist of a simple majority of all voting members of the Assembly of Chapters. Each chapter shall have the right to cast only one vote at any election. When a quorum is present, any motion or resolution shall be passed if it receives a majority of all votes cast in favor or opposed, unless a larger proportion than a simple majority has been properly stipulated in advance or is required by Navajo law.
7. Representatives of chapters at Assembly of Chapters proceedings who have personal, family or business interests in matters before the Assembly of Chapters meetings shall not participate in the proceedings or vote on the matter.

B. Presiding Chairperson Appointment: Duties and Powers

1. There shall be a Presiding Chairperson appointed from among certified chapters in accordance with the procedures set forth below. The Presiding Chairperson shall serve a term of office beginning on the date of appointment by an agency council until the conclusion of the Assembly of Chapters session to which he or she is appointed to preside over. Any person serving as Presiding Chair shall serve only one term as Chairperson in a four year period. A Presiding Chairperson shall not receive any additional compensation for serving as Chairperson.
2. The Presiding Chairperson of any session of the Assembly of Chapters shall be appointed on a rotating basis by the respective Agency Councils and the order of rotation shall be determined by drawing of lots and subsequently thereafter
 - (a) The presiding chairperson designated by an Agency Council shall be selected from among the Chapter presidents in attendance at an Agency Council meeting convened for that purpose and upon selection by an Agency Council written notice shall be provided to the administrative office of the Assembly of Chapters and to the Chapters at least sixty (60) days prior to the next Assembly of Chapters session.

3. The duties and responsibilities of the presiding chairperson include the following:
 - (a) Preside over Assembly of Chapters sessions convened during his or her term as Chairperson and ensure all proceedings are conducted in a prompt and orderly manner in accordance with rules of order adopted by the Assembly of Chapters; and
 - (b) Certify the enactment of all resolutions or other actions which receive a majority vote unless a two-thirds (2/3) majority vote is otherwise authorized; and
 - (c) Execute any contract, agreement or other document approved during an Assembly of Chapters session on behalf of the Assembly of Chapters; and
 - (d) Consult with, advise and cooperate with the administrative offices of the Assembly in the preparation of the agenda and other administrative matters necessary in order to conduct Assembly of Chapters sessions and branch operations.

C. Powers of Assembly

1. The Assembly of Chapters is hereby authorized and empowered to do all things necessary and proper to exercise the following powers:
 - (a) Convene quarterly sessions to review, consider and approve or disapprove resolutions and other action relating to issues within the jurisdiction of the Assembly of Chapters or other issues affecting the chapters and the Navajo Nation; and
 - (b) Establish committees, task forces and work groups for the purpose of accomplishing the objectives of the Assembly of Chapters and chapters; and
 - (c) Propose legislation to be forwarded to the Tribal Council for the general welfare and benefit of the Navajo People. This subsection does not preclude any Council Delegate from individually sponsoring legislation on behalf of the Assembly of Chapters or any individual chapter or constituent; and
 - (i) In the event the Tribal Council disapproves or otherwise declines or fails to approve legislation proposed by the Assembly of Chapters, the Assembly of Chapters may

authorize a referendum measure concerning the subject matter of the proposed legislation not approved by the Tribal Council to be placed on the next General Election ballot or a special election ballot designated for such purpose to be voted upon by the Navajo People. Any proposed referendum question shall be approved by a 2/3 vote of the full membership of the Assembly of Chapters to be referred to the Board of Election Supervisors. The costs of conducting a special referendum election is a funding obligation of the Navajo Nation and the annual Navajo Nation budget shall contain sufficient funds to conduct such elections and the Tribal Council lacks the discretion to decline to provide such funding;

- (ii) Notwithstanding 11 NNC Section 404-409, a referendum authorized by the Assembly of Chapters is not subject to approval by the Tribal Council nor subject to the initiative requirements and shall be referred to the Board of Election Supervisors to be placed on the ballot; and
- (iii) A referendum approved by the Navajo People pursuant to this subsection shall not be subject to amendment or rescission by the Tribal Council and may be amended or rescinded only by a subsequent referendum vote of the Navajo People; and
- (d) Shall confirm the appointment of the Executive Director of the Division of Community Development or its successor entity. The President of the Navajo Nation shall retain the authority to appoint the Executive Director. The Assembly of Chapters shall have oversight of the Division of Community Development operations and functions, such oversight shall consist of policy matters and not direct program administration and shall exercise such oversight authority jointly with the appropriate standing committee of the Tribal Council; and
- (e) Shall employ such other administrative and professional staff and other consultants; and
- (f) Shall approve and recommend to the Tribal Council the annual budget and any supplemental budget for the Chapter Branch; and
- (g) Possess sole authority to review and approve LGA certification for chapters; and

- (h) Approve regulations authorized by legislation on matter affecting the chapters; and
- (i) If the President of the Navajo Nation vetoes any legislation approved by the Tribal Council with the exception of the annual budget and any supplemental budget, the Assembly of Chapters may override the veto by a super-majority vote of two-thirds of the full membership of the Assembly of Chapters;
 - (i) The Speaker of the Navajo Tribal Council and the sponsor(s) of the original Tribal Council legislation that was vetoed shall appear before the Assembly of Chapters at its next Assembly of Chapters session following the Tribal Council session to present arguments for over-riding a veto and the President or Vice-President shall present arguments in support of the veto.
- (j) The Assembly of Chapters shall create an Executive Committee which shall consist of fifteen (15) members with three (3) members selected and appointed from each Agency Council. Term of appointment shall be one (1) year. The Executive Committee shall recommend an agenda for the Assembly of Chapters, recommend the establishment of various standing committees, task force and work groups, and any other executive function necessary to conduct the Assembly of Chapters sessions.

NOTES:

This section is new language not found in the Navajo Nation Code. It was derived from an analysis of the existing Chapter government structure and notes and comments from the Red Rock Convention and the 2012 Peoples' Convention. The sections are self-explanatory. However, the thought behind its creation was the recognition that it will be very difficult to create a new form of government from thin air. The author decided to utilize an existing governmental infrastructure that was initially designed to facilitate participatory democracy at the local level. However, chapter votes on matters often stop at the chapter level with no follow up by the central Navajo government. Many community members feel that their wishes and concerns are often ignored by the central government.

With the authority to directly recommend legislation to the Tribal Council and to authorize a referendum on the subject matter of proposed legislation if the Council declines to approve recommended legislation will significantly alter the power structure of the government in a manner that will give a stronger voice to community concerns. Authorizing the Assembly to have the power to override a President's veto rather than the Tribal Council will force the Tribal Council to engage and lobby with the Assembly and influential chapters in order to override

a veto. This will empower the Assemble and chapters as well as give them a voice in national issues of concern.

Article VI. Executive Branch of the Navajo Nation

A. There is hereby established the Executive Branch of the Navajo Nation which shall consist of the Office of the President and Vice-President and all executive divisions, programs and offices thereof or as may be established as an entity of the Executive Branch. With the exception of the Office of the President and Vice-President, the Tribal Council or the appropriate standing committee properly authorized shall review and approve all plans of operation for Executive Branch divisions, programs and offices.

B. Office of the President and Vice-President; President

1. There is hereby established the Office of the President and Vice-President.
2. There shall be one President of the Navajo Nation.
3. The President shall be elected to a term of four years.
4. The President shall serve no more than two consecutive terms of office.

C. Vice-President

1. There shall be one Vice-President of the Navajo Nation.
2. The Vice-President shall be elected to a term of four years.
3. The Vice-President shall serve no more than two consecutive terms of office.

D. Qualifications for President and Vice-President

1. No person shall serve as President or Vice-President of the Navajo Nation unless he or she is an enrolled member of the Navajo Nation and have attained the age of thirty years old when sworn into office.
2. No person shall serve as President or Vice-President of the Navajo Nation unless he or she has continuously, during the three years preceding the date of election been physically residing within the Navajo Nation. The Navajo Nation is defined at 7 N.N.C. Sec. 254.
3. No person shall serve as President or Vice-President of the Navajo Nation

unless he or she has attained a high school diploma or GED certificate.

4. No person shall serve as President or Vice-President of the Navajo Nation if he or she has been convicted of a felony offense as may be defined by the appropriate federal or state jurisdiction where such conviction occurred. No person shall serve as President or Vice-President if he or she is convicted of a misdemeanor offense including conviction of tribal offenses and serving a term of sentence including probation or parole when the date of election occurs.

E. Salary, Benefits

1. The President shall be paid an annual salary in the amount of one hundred thousand dollars (\$100,000) with deferred compensation in the amount of ten percent (10%) per annum. Other benefits include a resident and health insurance as well as other benefits provided to all tribal employees.
2. The Vice-President shall be paid an annual salary in the amount of seventy-five thousands dollars (\$75,000) with deferred compensation in the amount of ten percent (10%) per annum. The Vice-President shall be eligible for benefits provided to all tribal employees.
3. With the exception of cost of living adjustments provided to all Navajo Nation employees any proposed increase in the annual salary of the President or Vice-President shall be approve only by a referendum vote of the Navajo people.

F. Powers and Duties

1. The President of the Navajo Nation shall serve as the Chief Executive Officer of the Executive Branch of the Navajo Nation government with the full authority to conduct, supervise, and coordinate personnel and programs of the Navajo Nation. The President shall have the fiduciary responsibility for the proper and efficient operation of all Executive Branch offices in accordance with Navajo Nation laws and other applicable laws.
2. The President shall represent the Navajo Nation in relations with governmental and private agencies to create favorable public opinion and good will towards the Navajo Nation. The President shall have considerable latitude regarding the manner in which inter-governmental relations are conducted. The President shall seek the advice of the Legislative Branch in such matters, however, the President shall have the discretion to proceed without any further review or approval by the Legislative Branch.

3. The President shall have the following enumerated powers:
- (a) Faithfully execute and enforce the laws of the Navajo Nation; and
 - (b) Negotiate and execute agreements and contracts on behalf of the Executive Branch subject to applicable laws; and
 - (c) Appoint supervisory executive personnel subject to applicable laws; and
 - (d) Appoint members of boards, commissions, and other entities subject to applicable laws; and
 - (e) Report quarterly to the Tribal Council and the Assembly of Chapters on the state of the nation; and
 - (f) Recommend to the Tribal Council and the appropriate successor standing committee and to the Assembly of Chapters, an annual operating budget or any supplemental budget for the Executive Branch and advise the Tribal Council and the Assembly of Chapters on the annual budget; and
 - (g) Recommend legislation, rules or regulations to the Tribal Council or its standing committees and to the Assembly of Chapters and its committees; and
 - (h) Exercise such powers as may be lawfully delegated to the Office of the President of the Navajo Nation; and
 - (i) Sign into law such legislation as may be enacted by the Tribal Council within ten (10) calendar days of certification of the legislation by the Speaker of the Tribal Council.
 - (j) Veto legislation enacted by the Tribal Council subject to an override of the veto by a two-thirds vote of the membership of the Assembly of Chapters. The veto shall be exercised by the President by sending a letter to the Speaker specifying the reasons for the veto and shall provide a copy of such letter to the Assembly of Chapters. The President's veto shall not be subject to an override by the Assembly of Chapters after the end of the next regular session of the Assembly of Chapters following the Tribal Council session in which the legislation was enacted by the Tribal Council; and
 - (k) The President's authority to sign into law or veto legislation shall

be waived if not exercised within ten (10) calendar days after certification of the legislation by the Speaker or Speaker Pro Tem and the legislation shall be deemed enacted and become effective pursuant to 2 N.N.C. Sec. 221; and

- (l) Shall engage in procurement activities involving non-capital day to day business transactions where the authorized budget line item identified for the proposed procurement has been approved pursuant to the annual or any supplemental budget.
 - (m) Speak and act for the Navajo Nation on and all matters related to the Navajo-Hopi land dispute subject to applicable laws; and
 - (n) Issue executive orders for the purpose of interpreting, implementing or giving administrative effect to statutes of the Navajo Nation in the manner set forth in such statutes. Executive orders shall have the force of law upon the recipient.
4. The Vice-President of the Navajo Nation, in the absence, unavailability or incapacity of the President of the Navajo Nation shall exercise the powers and execute the duties of the President of the Navajo Nation.

G. Removal of President or Vice-President

1. The President or Vice-President may be removed depending on the underlying circumstances such as conviction of a felony offense, misconduct in office not arising to a felony, or violation of the Navajo Ethics in Government Act.
- (a) If the President or Vice-President is convicted of a felony offense by the Federal or any state government, there shall be declared a vacancy upon the expiration of thirty (30) days from the date of conviction unless an appeal is timely filed. If at the conclusion of the appeal the conviction is upheld a vacancy shall be declared upon the date of the decision.
 - (b) If the President or Vice-President are alleged to have committed misconduct in office which constitutes a breach of their fiduciary duty to the Navajo People by the filing of a charge by any Navajo Nation chapter and presented to the Assembly of Chapters, the Assembly of Chapters may authorize a recall referendum upon a two-thirds (2/3) vote of the full membership of the Assembly. The accused will be provided an opportunity to appear before the Assembly to respond to the allegations and may present evidence and testimony in support and the chapter which filed the charge

shall provide its evidence and testimony in support of the allegations. The Assembly shall promulgate rules of procedure governing such proceedings.

- (c) The President or Vice-President may be subject to removal in accordance with the Navajo Ethics in Government Act if the above sections are not utilized.

NOTES:

Many provisions in this section are taken from the Navajo Nation Code with some slight differences. First, the annual salary for the President and Vice-President has been modified to increase the amount that is more appropriate for leaders who will lead such a large Indian nation and the level of education and experience that is necessary to handle the CEO duties of the largest Indian nation in the U.S.

Second, the authority of the President over inter-governmental matters is clarified and strengthened. As the Navajo Nation Supreme Court observed in the case of Shirley v. Morgan, No. SC-CV-02-10, the President is the one individual who is elected at large by the entire Navajo population. Accordingly, the President speaks on behalf of the Navajo population and should be accorded the necessary latitude to develop independent foreign policy without interference from the Legislative Branch. Certainly, the Legislative Branch may issue position statements and hopefully the President will work in conjunction with the Legislative Branch on the development of common goals and positions. For this reason it seemed appropriate for the President to have the discretion to follow his own path in foreign relations.

Third, the Executive Branch will have the responsibility to handle procurement activities without procurement agreements or contracts being reviewed and approved by the Legislative Branch. This will enhance the efficiency of tribal operations and speed up procurement and resultant economic development as well as relieve the standing committees of the need to call meetings to review and approve procurement contracts.

Fourth, the possible removal of the President and Vice-President for misconduct in office has been included. With the decision of the Navajo Supreme Court in Shirley v. Morgan, it is now clear that the Legislative Branch lacks the authority to remove from office any non-Legislative Branch government official.

Article VII. Judicial Branch of the Navajo Nation

A. The Navajo People recognize and understand the important role the Judicial Branch plays in enforcing and ensuring compliance with Navajo Nation laws by the respective branches of government and the compelling need to preserve the independence

and judicial authority of the Judicial Branch. Accordingly, there is hereby established the Judicial Branch of the Navajo Nation which shall consist of the Supreme Court and any other inferior courts as may be established pursuant to Navajo law under the Judicial Branch.

B. Supreme Court; Chief Justice.

The Supreme Court of the Navajo Nation shall be comprised of five (5) Justices with one Justice to be designated as Chief Justice.

1. The Chief Justice shall be selected from qualified applicants nominated by the Judicial Selection Commission and appointed by the President of the Navajo Nation subject to final confirmation by the Tribal Council.
2. The Chief Justice shall receive an additional amount of compensation in the amount of twenty percent (20%) of the annual base salary for justices. A residence shall be provided for the Chief Justice.
3. The Chief Justice shall be authorized to supervise, operate and manage the Judicial Branch and its personnel including judges and attorneys and to establish Judicial policies and procedures and ensure the Judicial Branch to abide by the rule of law in its operations.

C.. Jurisdiction

1. The jurisdiction of the Supreme Court shall consist of appellate review of lower court decisions and decisions of Navajo Nation administrative tribunals as authorized by applicable Navajo Nation law.
2. The Supreme Court shall have original jurisdiction over writs and other special proceedings. The jurisdiction of other inferior courts shall be determined and established by statute duly enacted.
3. The judicial review authority of the Judicial Branch is paramount and shall not be abridged or limited by any action of the Legislative Branch.
4. The Supreme Court shall review and approve all rules and procedures for all courts and other proceedings operated by the Judicial Branch.

D. Justices/Judges Qualifications

1. Justices and judges shall be an enrolled member of the Navajo Nation and shall have attained thirty (30) years of age upon appointment by the President of the Navajo Nation.
2. Justices and judges shall at a minimum possess a degree from an accredited

four year college or university and shall be a member in good standing with the Navajo Nation Bar Association. In addition, justices shall possess a juris doctorate degree from an accredited school of law and/or be a member in good standing with any bar association of any state. Exception to this condition shall be limited to Navajo Nation judges who have served on the Navajo Nation bench for a minimum of ten (10) years prior to their appointment.

3. Justices and judges shall possess adequate knowledge of Navajo Nation laws, court rules and procedures, Navajo common law, Navajo fundamental law, and applicable Federal laws in order to carry out their judicial functions.
4. Justices and judges shall be of good moral character and fitness No justice or judge shall be suffering from any mental conditions.
5. No person shall be appointed as a justice or judge if he or she has been convicted of a felony as defined by Federal or state law. No person shall be appointed as a justice or judge if he or she has been convicted of a misdemeanor offense within five (5) years of appointment with the exception of traffic offenses. No person shall be appointed as a justice or judge if he or she is serving a term of sentence for any offense including probation or parole at the time of appointment.

E. Justices/Judges Selection; Judicial Selection Commission

1. There is hereby established the Navajo Nation Judicial Selection Commission which shall consist of seven (7) members described and appointed as follows:
 - (a) One member shall be the Chief Justice of the Navajo Nation or designee;
 - (b) One member who shall be appointed by the President of the Navajo Nation;
 - (c) One member who shall be appointed by the Speaker of the Tribal Council;
 - (d) One member who shall be appointed by the Assembly of Chapters;
 - (e) One member who shall be appointed by the President of the Navajo Nation Bar Association who shall be a member in good standing with the Navajo Nation Bar Association;

NOTES:

These provisions are derived from the Navajo Nation Code and in particular the Navajo Judicial Reform Act. New sections include increasing the number of Supreme Court justices from three to five members. This increase may provide for more divergent views on the important legal issues confronting the Navajo Nation and its citizens. Another important change is the requirement that justices be state licensed attorneys which is a significant increase in the qualifications of justices. An exception will be made for those Navajo judges who have served as a judge for at least ten years. Having served on the bench for ten years will provide such judges the necessary experience and knowledge to perform the duties of a justice. In order to attract more qualified judges to the district court level a monetary bonus will be paid to those district court judges who are state licensed attorneys. It is understood that the relatively low salary is a deterrence to state licensed attorneys from applying for district court positions.

To ensure a more peer oriented review of qualifications there is the creation of a Judicial Selection Commission partially composed of judges and lawyers. Under the proposed structure at least a majority of Commissioners will be lawyers. Arguably such individuals may be able to better assess the qualifications of judicial candidates. Furthermore, this Commission will be involved in any recommended removal of judges or justices.

VIII. Amendment of Articles

No article or subsection of the Constitution of the Navajo Nation shall be subject to amendment, rescission or repeal unless approved by the Navajo People pursuant to a referendum vote of a majority of the registered voters who vote at any election.

IX. Approval and Effective Date

These articles of the Constitution of the Navajo Nation was approved on this _____ day of _____, 2013 at Window Rock, Arizona.