



THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

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Task Force on Government Reform responds to anti-reform website, Sets record straight with factual, independently verifiable information

WINDOW ROCK, Ariz. – The Task Force on Government Reform and the Office of the President and Vice President today issue responses to inaccurate statements regarding two government reform initiatives posted on the anti-government reform website Keepthe88.com.

The website statements are unsigned and unattributed. Although labeled as “frequently asked questions,” they mention neither who asked them nor where they come from.

The website statements make unsubstantiated assertions about what the two government reform initiatives will do and *will not* do. None cite any sources to validate claims or independently verify assertions. Almost all are opinions unsupported by fact.

The Task Force welcomes inquiries about how its responses are sourced and substantiated and has provided Internet links so voters can check statements, history and background for themselves.

The December 15 special election will be the first time in Navajo history that voters have a direct and specific role in deciding the structure of their own government and the powers of the President. Until now, all decisions of this kind have been made by the Navajo Nation Council with voter input limited to lobbying or, at most, chapter resolutions – neither of which assure compliance.

Following are questions and answers as they are written on the anti-reform website followed by the Task Force’s responses and clarifications of inaccuracies.

George Hardeen
OPVP Communications Director

1. [Would small chapters lose representation?](#)

KEEPTHE88.COM:

Yes, small chapters would lose representation and they would become submerged and cancelled out. If you have 24 Council delegates, there is going to be some submergence, meaning smaller chapters would have their votes and their interests submerged beneath those of the larger chapters within that same precinct. This provides the basis for challenges. We would see candidates from larger chapters attracted to an area with larger registered voters. As a result, the interests of smaller chapters would be submerged. Do not risk losing representation. Why allow the Navajo President the opportunity to dictate how your government should be formed, especially without any kind of plan in place.

TASK FORCE ON GOVERNMENT REFORM RESPONSE:

Chapters will not lose their representation through a reduction of the Navajo Nation Council.

Point 1. The purpose and goal of reducing the Council to 24 delegates is to make the Council accountable to the people as possible, cut its high costs by millions of dollars a year, restore true checks and balances to the three-branch government as was intended in 1989, and return it to its policy-making function.

Chapters will not lose their representation through a reduction of the Navajo Nation Council. A Council of 24 delegates will strengthen Navajo democracy through a more precise expression of the people’s voice, and replace the Council’s current focus of micro-managing the Executive Branch with a refocus on lawmaking.

With a smaller legislature, it is expected that voters will elect a higher caliber of delegates based on education, knowledge and experience. It is certain that there will be no shortage of suitable candidates in order to achieve greater efficiency and effectiveness of the Council.

Reducing the Council is the people’s will and the people’s right. They want it. Nine years ago, they voted for it. Last year, they signed petitions in support of it. They are

closely following news of it. And they are eagerly waiting to vote for it again on Dec. 15, 2009.

Opponents argue that reducing the Council will mean a loss of representation of the people. The facts are that the Navajo people are already, and will continue to be, represented by:

- More than 330 chapter officials at 110 chapters.
- Grazing board officials at each chapter.
- Senior citizen council members at most chapters.
- Health board members at all IHS service units.
- Farm board members at most chapters.
- Public, contract, BIA school board members at each chapter.
- Navajo Nation Human Rights Commission.
- Navajo Nation Water Rights Commission.
- Navajo-Hopi Land Commission.
- Navajo Nation Labor Commission.
- Navajo Nation Tax Commission.
- Navajo Nation Board of Education.
- Navajo Nation Gaming Enterprise Board.
- Navajo Nation Commission on Emergency Mgt.
- Navajo Nation Telecommunications Regulatory Commission.
- Navajo Nation Human Research Review Board.
- Navajo Nation Hospitality Enterprise Board.
- Navajo Nation Oil & Gas Enterprise Board.
- Native Broadcast Services Board.
- Navajo Arts & Crafts Enterprises Board.
- Navajo Housing Authority Board.
- Navajo Engineering Construction Authority Board.
- Navajo Agricultural Products Industry Board.
- Navajo Tribal Utility Authority Board.
- Diné Power Authority Board.
- The Black Mesa Review Board, and
- Navajo Green Economy Commission (when Speaker Morgan appoints its members).

A Council of 24 delegates will allow chapter officials, the closest people to community issues, to be better heard than they are now.

The best example of representation of the broadest cross-section of Navajos was the former Navajo Nation Government Development Commission. The Commission was represented by Council delegates, a citizen from every agency, Diné College, a Navajo graduate student, a Navajo medicineman, and the former Navajo Women's Commission.

However, this representation was lost on Dec. 19, 2007, when the Navajo Nation Council overrode President Shirley's veto by a vote of 65-15 and abolished the commission.

"We've put a lot of money and years into the commission, with little to show for it," Birdsprings/Leupp/Tolani Lake Delegate Leonard Chee said at the time. "Let us bring reform to the government, as it was intended."

Council overrides President Shirley's vetoes, appropriates funding

Office of the Speaker, Dec. 19, 2007

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Dec07/121907%20Special%20Session%20Dec%2019%202007.pdf

Council delegates used the reasoning that the commission had accomplished little in 20 years although its unique work had been recognized by the Harvard Project on American Indian Economic Development "Honoring Nations" program in 2002.

Harvard Project on American Indian Economic Development

www.hks.harvard.edu/hpaied/hn/hn_2002_govreform.htm

Although the commission had been quasi-independent, after the Council abolished it, the Council moved the Government Development Office under the Speaker's office. On May 8, 2009, Speaker Lawrence T. Morgan appointed his spokesman as director of the office. This occurred one year after the Task Force on Government Reform launched its petition drive for the initiatives to reduce the Council and presidential line item veto authority. Since then, the office has produced no work.

Point 2. Opponents to Council reduction say fewer delegates will be unable to attend chapter, committee and other meetings to adequately represent the Navajo people. Currently, however, Council delegates sit on county boards, enterprise boards, school boards and the boards of national organizations. The time needed to devote to that work does not seem to be a problem to delegates.

Point 3. Reducing the Council is the people's will. The people want it, they've already voted for it, they've signed petitions in support of it, they are closely following news of it, and they are eagerly waiting to vote for it again on Dec. 15, 2009.

In the May 2, 2000, primary election referendum to decide the size of the Council, Navajos voted in favor of reducing the Council to 24 delegates. Voters were also given the option to choose among 110, 88, 44, 48, 72 and 32 delegates.

On Sept. 5, 2000, the Navajo people voted to reduce the Council to 24 delegates. But because of the way the referendum law is written, requiring a majority vote in every voting precinct, the Council was not reduced. That is why this effort is brought as an initiative from the people.

On May 14-15, 2002, the Government Development Commission sponsored a Statutory Reform Convention at Red Rock State Park attended by hundreds of Navajo representatives. The representatives forwarded 26 reform proposals to the Navajo Nation Council. The Council did not adopt a single reform.

Point 4. Reducing the Council to 24 delegates will make representation of all chapters more equal, more fair, and more balanced.

The concept of “submergence” – when the concerns of smaller chapters are overpowered by larger chapters – will be eliminated. Council reduction will make the representation of every chapter more equal and fair.

Submerging occurs most frequently when taxation issues are considered because larger chapters have more businesses to tax and smaller chapters lack the economic development to raise taxes.

Submergence has served the interests of larger chapters for many years, but the Navajo Nation Council has ignored it as a serious problem and has done nothing to correct it.

With Council reduction, every delegate will represent more than one chapter. However, that is occurring now without objection from the public or Council. Today, three delegates represent four chapters, 24 delegates represent three chapters, and 30 delegates represent three chapters. Only 30 delegates represent one of the 110 chapters, and many chapters are already represented by delegates from other communities.

21st Navajo Nation Council Delegates
Office of the Speaker

www.navajonationcouncil.org/main/index.php?option=com_content&view=section&layout=blog&id=6&Itemid=56

Those chapters that are already represented with more than one delegate often vote in opposition to each other. When that happens, those chapters are essentially

deprived of *any* representation on issues of importance to them and the Navajo Nation.

Point 5. When the Navajo Nation Council adopted language to declare itself “the governing body of the Navajo Nation,” it excluded the Navajo people without their consent. This language was never ratified by the people as it was supposed to be. It remains generally-held public opinion of the Navajo people that the Council governs only with the consent of the people.

“Under Fundamental Law, the Navajo People, as well as the Council, may make laws for the good of the community; the People’s authority to make laws is not delegated to them by the Council. The referendum and initiative processes are modern acknowledgment of this authority.”

Navajo Nation Supreme Court
Title 1 N.N.C. §§ 201; 206 (2005)
[SC-CV-41-08](#), July 18, 2008

In the book, *The Navajo Political Experience*, Professor David Wilkins wrote that surveys of the Navajo people by the Navajo Government Development Commission revealed “a general distrust of tribal officials and a desire for a more representative National Council.” He wrote that the Navajo public “also insisted that the people should be the ultimate judge of what changes tribal government should entail.”

Based on the survey data, in 1993 the Office of Navajo Government Reform staff prepared and submitted specific recommendations that would have amended the Navajo Nation Code to provide for “the Navajo people to consent to be governed by the Navajo Nation government,” Professor Wilkins said. The Council took no action and implemented none of the recommendations.

Should the people chose – as they have by signing petitions for these two government reform initiatives – it is their right to petition their government for redress of grievances through the initiative process, to empower the President with authority, to change the number of Council delegates, and to make other governmental changes as they see fit.

Unfortunately, the Navajo people are being prevented from exercising that right through the Speaker’s office hindrance of the initiative process, continual delays and challenges from the Office of Legislative Counsel, and,

most recently, the Council's prolonged refusal to fund the Dec. 15 special election.

IGR turns down plea to fund special election
Navajo Times, Nov. 19, 2009
www.navajotimes.com/news/index.php

A Council of 24 delegates will strengthen Navajo democracy through a more precise expression of the people's voice, and replace the Council's current focus on micro-managing the Executive Branch with a refocus on lawmaking. The Navajo people already know that the Nation will receive better representation with a smaller Navajo Nation Council and better educated, more astute delegates.

Point 6. On Oct. 26, when the Council took the unprecedented action to place President Shirley on administrative leave without charge, without informing him of the allegations against him, and without hearing from him, many Council delegates voted without the knowledge of their chapters or against the wishes of their chapters, or chose not to vote.

How the council voted
Navajo Times, Oct. 28, 2009
<http://www.navajotimes.com/politics/2009/1009/102809vote.php>

Point 7. The 2001 report "*Lawmaking and Oversight Efficiency Study; Increasing the Efficiency of the Navajo Nation Council and Standing Committees*" found that the Council is significantly more expensive than other legislatures, is better paid, has the highest percentage of representation per constituent in the country, and has attendance problems although delegates sit on commissions and boards.

By comparison, the Arizona House of Representatives is composed of 60 members who represent at least 86,000 citizens each. The Arizona Senate consists of 30 members representing each district having average populations of 171,021.

The New Mexico House of Representatives is composed of 70 members who represent roughly 25,980 residents each. The New Mexico Senate Representatives is composed of 42 members who represent roughly 43,300 residents each.

http://ballotpedia.org/wiki/index.php/New_Mexico_State_Legislature

2. Would there be a loss in Chapter representation?

KEEPTHE88.COM:

Yes, there would be a loss in Chapter representation and Navajo Chapters would be most negatively affected with Council reduction. There are currently 110 Navajo Chapters and they would be divided among 24 Council delegates with each representing 4.5 chapters and this would promote PROBLEMS. Of the majority of the 110 Chapters, a majority are small chapters that would lose representation. A reduced Council would not strengthen Navajo democracy, sovereignty and representation at both the Chapter and the central government levels—it would weaken it. If smaller chapters do not get the vote out during election years, they risk the loss of their representation and losing the ability to elect a Council delegate of their choosing. Larger Chapters will also lose representation as well. Chapters such as Tohajilee, Alamo and Ramah will not have a Council delegate—they will have to share one with "Big Navajo." Most times, Navajos think they can get their needs addressed through a person of their choosing, but after reduction, how are they going to be provided that representation? It will not be possible anymore. This is not true democracy, the reduction will take the Navajo people's voice away—a voice they have through their elected representatives. The reduction will cut off service delivery to the Navajo people as well.

TASK FORCE RESPONSE:

No, reducing the Council will not cause a loss of representation. It will make representation more equitable, more balanced, and fulfill the purpose of the Legislative Branch – to make policy for the good of the Navajo Nation.

Point 1. Every Navajo Nation chapter will continue to be represented just as they are now. Currently, many chapters are represented by delegates from other communities.

21st Navajo Nation Council Delegates
Office of the Speaker
www.navajonationcouncil.org/main/index.php?option=com_content&view=section&layout=blog&id=6&Itemid=56

Chapters with more than one delegate often vote in opposition to each other. When that happens, the chapter is essentially deprived of any representation on issues of importance to the Navajo Nation.

Point 2. Because the Council often strays from its policy-making function into Executive Branch activities, it creates a duplication of services and programs, and micro-manages those that already exist. This further deprives chapters of representation by making delegates program managers, in competition with real program managers.

Streamlining the Council is the simplest, purest and most fair way to ensure equality among all chapters, and will strengthen Navajo democracy through a more precise and unified expression of the people's voice.

Point 3. Council delegates currently serve on county boards, enterprise boards, school boards and national boards. Although this cuts the time they have to represent their chapters on the Council now, this is not an issue to them although opponents use this as a reason to object to Council reduction.

Point 4. It is the duty of the Navajo Board of Election Supervisors to develop a reapportionment plan but only after Council reduction is approved by voters. If Tohajiilee, Alamo and Ramah do not have a Council delegate, as the website statement hypothetically supposes, that is because the election supervisors, with the concurrence of the Legislative Branch, did not reapportion in such a way as to provide one for them.

Point 5. Service delivery is an Executive Branch function in a three-branch government, not a Legislative Branch function. To suggest that Council reduction will cut off service delivery indicates that the Navajo Nation Council has strayed from its purpose, that the checks and balances between the Legislative and Executive branches have eroded over the last 20 years, and that the Council intends to instill anxiety in hopes of persuading the public to be wary of Council reduction.

3. Would I receive less representation with council reduction?

KEEPTHE88.COM:

Yes, you would receive less representation with Council reduction. There is some complaint that people do not see their Council delegates too often. Most cases, Council delegates represent more than one chapter, some as many as four chapters, in addition to attending their assigned committee meetings in Window Rock, Ariz. Council reduction will put more burden on the Navajo people and their Council delegates. If people feel they do not see their Council delegates enough, it will become even worse. A Council delegate's time will be stretched far too thin.

TASK FORCE RESPONSE:

No. The Navajo Nation will receive better representation with a smaller Navajo Nation Council and fewer, better educated, more astute delegates.

Point 1. A Council of 24 delegates will permit locally-elected chapter officials, who are closest to community issues, to be better heard than they are now.

Currently, many chapters have delegates who do not report to them regularly or fail to represent the chapter's interests, as was expressed by Blue Gap-Tachee's recent letter to the editor. Reducing the Council to 24 delegates will refocus, renew, clarify and capture the Council's purpose to place the interests of the Navajo Nation first as a policy-making body.

Representation of the people will continue and be enhanced should chapters elect delegates of a higher caliber, and through chapter officials themselves. After 10 years, the promise of local governance will be fulfilled.

Point 2. It is generally-held public opinion that the main incentive for Council delegates to attend meetings is the stipend they receive. The argument that Council reduction will prevent them from attending meetings is not credible.

New policy on meeting attendance fees provides equal compensation
Office of the Speaker, Nov. 22, 2004

Tribal Council sneaks in pay raise
Gallup Independent, July 21, 2000

www.gallupindependent.com/1999-2001/7-21-00.html#anchor3

The stipend policy adopted by the Legislative Branch after the Navajo Nation District Court eliminated the self-imposed pay raise in *Judy v. White* left no recourse for the public to object. Although one effect of *Judy v. White* was erased by the stipend policy which paid delegates, an important principle of law was established; that the Council answers to the people.

"As *Diné bi naat'áanii* we are gifted with the treasures of community influence and recognition, while at the same time we carry the burden of leadership and safeguarding the interests of our people. The Council understood its obligations under 106(A) and attempted to comply by giving way to the Chapter ratification process. When that failed, it attempted a bypass. Had the Council properly approached the chapters, they would not have failed, perhaps. But, at the very least, the members of the Council would have taken their concern for delegate welfare to the very people who voted them into office. That is the Navajo way. We refer to it in Navajo as *baanii'jookaah* or "you beg leave" of your people. That has been the Navajo way for centuries. There is a custom to be followed, and the 1989 Council recognized the necessity of its observance. The

ritual goes like this: you approach and ask. The act of approach suggests humility and equality. In the course of asking you speak of your status, your need for recompense and you beg leave. While your request may not be honored, the act of approach and request strengthens ties and relations. The cornerstone of this custom is K'é. Whether your request is honored depends on the following of the custom and your people's acceptance of the merits of your request."

Judy v. White, No. SC-CV-35-02 (Navajo 08/02/2004)
National Tribal Justice Resource Center
www.tribalresourcecenter.org/opinions/opfolder/2004.NANN.000007.htm

Point 3. Perhaps the most serious problem in Navajo government is the outdated practice of bestowing political patronage and largess under the guise of helping the poverty-stricken people of the Navajo Nation. This is done through the appropriation of funding to chapters and discretionary funding to Council delegates. Since 2003, the Council has appropriated \$44 million in discretionary funds with little to show for it in benefit to the Navajo Nation, according to the latest figures from the Office of Management and Budget.

Council gives nearly \$2 million to delegates; session ends up as spendfest
Gallup Independent, Aug. 28, 2007
www.gallupindependent.com/2007/august/082807jch_nvjospdfst.html
Delegates receive an additional \$1.6M
Gallup Independent, July 2, 2005
www.gallupindependent.com/2005/july/070205dgates.html

Slush funds total over \$35 million
Navajo Times, Nov. 12, 2009
www.navajotimes.com/news/2009/1109/111209slush.php

It is public opinion that this practice is used not only to help those in need but to ensure delegates' re-election. The Council continues to appropriate money to chapters although chapters don't request it and currently have millions of dollars in unspent savings, according to the Office of Management and Budget.

On July 6, 2009, OMB Director Dominic Beyer expressed concern that if the Council appropriated \$9.7 million from the Personnel Lapse Fund – which it did – chapters would receive a total of \$69.6 million in FY2009 and the Nation will be in deficit.

"The resolution, and the process used to legislate it, is flawed because it does not fit the emergency definition and proper reviews and prioritization did not take place, especially in light of the current economic conditions. All requirements for planning, consultation, and review were waived as is frequently the case each time supplemental amendments are

considered directly from the floor of the NN Council. The appropriation is risky because it assumes there will be enough unexpended funds to fund this and all the other prior commitments."

OMB Director Dominic Beyer
Memo to President Shirley
July 6, 2009

Citizen group sues over discretionary funds
Navajo Times, Sept. 10, 2009
www.navajotimes.com/politics/2009/0909/090909slushsue.php

4. Is the Dec. 15 election date set by the Navajo Supreme Court a disadvantage to the Navajo elderly and to individuals with disabilities?

KEEPTHE88.COM:

Yes, the election date of Dec. 15 to consider the two petition initiatives is a huge disadvantage to Navajo elderly, to individuals with disabilities and special needs. The Navajo people are questioning why the election on Dec. 15 cannot be combined with the upcoming Navajo Nation elections in 2010.

TASK FORCE RESPONSE:

This statement is inaccurate and misleading.

Delaying the Dec. 15 special election until the 2010 Navajo elections will allow delegates to serve another four-year term rather than have the Council reduced as the people desire, even if the initiative is successful. Delaying the special election is in the Council's interest only, rather than the people's.

Point 1. The Dec. 15 election date was set by the Navajo Board of Election Supervisors, not the Navajo Nation Supreme Court.

Navajo Nation President Joe Shirley, Jr., and the Initiative Petition Committee wanted the election to be set for the regular election date of Nov. 3, 2009, but the Election Board did not consider it.

The Board of Election Supervisors delayed setting an election date until its fifth meeting after the Navajo Nation Supreme Court affirmed the Office of Hearings and Appeals' order that there be an election.

Point 2. There is no record of any Navajo citizen asking for the election to be combined with the Navajo Nation 2010 election. The first suggestion of this was made on Nov. 5 by Navajo Election Administration Director Edison Wauneka to the Navajo Board of Election Supervisors.

He suggested this because of the Council's refusal to pay for the election.

IGR turns down plea to fund special election
Navajo Times, Nov. 19, 2009
www.navajotimes.com/news/index.php

Prez withdraws offer of money to pay for special election
Navajo Times, Nov. 5, 2009
www.navajotimes.com/politics/2009/1109/110509elex.php

Lack of money for special election may delay vote
Navajo Times, Oct. 23, 2009
www.navajotimes.com/news/2009/1009/102309elex.php

There have been no letters to newspapers, no comments on newspaper blogs, no correspondence to the Initiative Petition Committee or the President's office, or comments from Council delegates opposed to Council reduction suggesting this. Further delay does not serve the interest of the people.

Point 3. Delaying the election to 2010 is indicative of the Speaker's office efforts to stall, delay or obstruct the election in order to prevent it from happening. Former Legislative Counsel Steve Boos, who was hired by the Speaker's office in May 2008 to help facilitate talks with President Shirley, specifically told the President that his purpose was to delay and interfere with the election moving forward.

On June 25, Hearing Officer Judge Carol Perry ordered an election be conducted within six months. Nearly five months later, the Navajo Nation Council has refused to consider legislation to pay for the election – even as late as its last Council session and the Intergovernmental Relations Committee meeting on Monday, Nov. 16.

Point 4. On Oct. 5, the Speaker accused President Shirley and his staff of interfering with the election and threatened action under the Navajo Ethics in Government Law because the President offered to pay for the election using Executive Branch funds.

"Your cessation of attempts to improperly influence of direct governmental decision and actions would be greatly appreciated and perhaps render unnecessary further action under the Navajo Ethics in Government Law," the Speaker wrote.

OPVP Chief of Staff Patrick Sandoval says allegation of interference is without basis, designed to have office appear acting in bad faith
OPVP, Oct. 9, 2009

www.navajo.org/News%20Releases/George%20Hardeen/Oct09/091009pres%20OPVP%20Chief%20of%20Staff%20says%20accusation%20of%20interference%20baseless%20for%20Oct.%202009.pdf

Money for reform election still uncertain
Navajo Times, Oct. 15, 2009
www.navajotimes.com/politics/2009/1009/101509reform.php

President Shirley has offered several solutions to the Navajo Election Administration to pay for the special election, and each time the office has found reasons to reject them.

The Navajo Nation Supreme Court stated that the election is a governmental function that should be paid for by the government. President Shirley has stated that Executive Branch funds are government resources, and that using them to pay the cost of the election will not impact the delivery of services in any way.

Because of the accusation of interference with the Navajo Election Administration and threat of ethics charges by the Speaker, President Shirley had to withdraw his offer of Executive Branch funding. It is now becomes the responsibility of the Legislative Branch to appropriate funding.

Prez withdraws offer of money to pay for special election
Navajo Times, Nov. 5, 2009
www.navajotimes.com/politics/2009/1109/110509elex.php

5. Are the Executive Branch and the Office of the President unable to deliver services?

KEEPTHE88.COM:

Yes, the Executive Branch and the Office of the President are unable to deliver services to the Navajo people, that is the reason the Legislative Branch of the Navajo Nation has moved some responsibility from the Executive Branch to the Legislative Branch in order to service needs of the Navajo people. The Navajo Nation Council assists Navajo voters and Navajo Chapters when the Executive Branch agencies fail or refuse to meet the needs of the Navajo voters and Navajo Chapters.

TASK FORCE RESPONSE:

This website statement is inaccurate, misleading and cannot be substantiated. It displays an inferior knowledge of Navajo government, its functions, and an insufficient knowledge of the annual comprehensive budget process approved by the three branch chiefs – President, Speaker and Chief Justice – and the Navajo Nation Council.

The statement neglects to detail what direct services the Council has moved from the Executive to Legislative branch.

Point 1. OPVP and the Executive Branch divisions deliver services to the people continually. Were the Executive Branch not delivering services, it is the responsibility of Council oversight committees to correct the problem.

The Executive Branch consists of 10 divisions, three departments, three commissions, an Office of Management and Budget, and an Environmental Protection Agency, among other programs. Each administers numerous programs and delivers services to the people daily.

However, because the Legislative Branch has taken responsibility to administer *any* service programs, this further illustrates the erosion of checks and balances between the branches of government over the last 20 years at the direction of the Council delegates.

This finding is repeatedly emphasized in the 2005 study commissioned by the Council titled *Final Report to the Navajo Nation Council Subcommittee on Legislative Branch Effectiveness*. The report recommends that Council refrain from micro-managing the Executive Branch and cease duplicating its services.

“Delegation of decision-making authority to the Executive Branch and its respective agencies would allow the Council and its legislative committees to focus more exclusively on policy development and would preserve the balance of power that a three-branch government provides. Many of the administrative actions considered by the Navajo Nation Council are functions more appropriately handled by the administrative agencies within the executive branch and should be delegated accordingly.”

Office of Navajo Government Development
www.ongd.navajo.org/files/frmc.pdf

The Executive Branch is composed of the Divisions of Public Safety, Health, Economic Development, Finance, Natural Resources, Community Development, Social Services, General Services, Human Resources, Departments of Justice, Diné Education, Transportation, the Navajo Nation Environmental Protection Agency, the Navajo Nation Tax Commission, the Navajo

Telecommunications Regulatory Commission, the Navajo-Hopi Land Commission, the Navajo Nation Washington Office, and the Office of Management and Budget.

Within the Division of Community Development is the Capital Improvement Office, the Community Housing Infrastructure Dept., Design and Engineering Services, the Solid Waste Management Program, Local Governance Support Centers, links to 110 Chapters, and formerly the Navajo Department of Transportation which was elevated to a division by the Navajo Nation Council.

Within the Division of Finance is the Controller's office, Credit Services, Accounts Payable, Accounts Receivable, Budget Review Section, Cashier's Section, Contract Accounting Section, Fixed Asset Section, FMIS Systems Office, General Accounting Section, Investment Section, WIA Section, Office Services Section, Purchasing Services, Travel office Section, Property Management and the Warehouse.

Within the Division of Economic Development is the Small Business Development Dept., Support Services Dept., the Business Regulatory Dept., the Real Estate Dept., the Commercial and Industrial Development Program, the Project Development Dept., Navajo Nation Shopping Centers, the Navajo Nation Tourism Office, and the Navajo Times.

Within the Department of Diné Education is the Navajo Nation Board of Education, the Navajo Head Start Program, the Navajo Nation Library System, the Scholarship and Financial Assistance Office, the Office of Special Education/Rehabilitation Services, the Office of Dine Culture, Language, and Community, the Office of Diné Youth, and the Office of Dine Science, Math & Technology, and the Johnson O'Malley Program.

Within the Division of Public Safety is Navajo Law Enforcement, Internal Affairs, Dept. of Corrections, Criminal Investigations, Highway Safety, Emergency Management, Emergency Medical Services, and Fire and Rescue Services.

Within the Division of General Services are the Facilities Maintenance Dept., Fleet Management Dept., Department of Information Technology, the Navajo Transit System, Air Transportation Dept., Navajo Nation Communication & Utilities, Employee Housing Program, Insurance Services Dept., and the Records Management Dept.

Within the Division of Health is the Office of the Medical Officer, the Management Information System, the Office of Planning, Research & Evaluation, the Navajo Research Office, the Navajo Epidemiology Center, the Bio-Terrorism Preparedness Program, the Breast and Cervical Cancer Prevention Project, the Community Health Representative Program, the Dept. of Behavioral Health Services, the Food Distribution Program, the Health Education Program, the Kayenta Public Health Nursing Program, the Navajo Area Agency on Aging, the New Dawn Program, the Office of Environmental Health, the Office of Navajo Uranium Workers, the

Navajo Special Diabetes Project, and the Women, Infants & Children Program.

Within the Division of Social Services is the administration of Block Grants & Special Projects, Quality Assurance, Management Information Systems, Title IV-E, Navajo School Clothing Program, Dine for Our Children, Developmental Disabilities Program, Title XX-Long Term Care Program, Navajo Children & Family Services, 638 Contract Administration, Child Care & Development Fund Program, Navajo Treatment Center for Children & Their Families, Program for Self-Reliance.

Within the Division of Human Resources is Personnel Management, Staff Development & Training, Workforce Development, Veterans Affairs, Retirement Services, Labor Relations, Broadcast Services, Vital Records, Occupational Safety, Navajo Women, Child Support and the Navajo Nation Band.

Within the Division of Natural Resources is the Navajo Nation Department of Agriculture, the Forestry Dept., the Archaeology Dept., the Navajo Land Department, the Minerals Dept., the Fish & Wildlife Dept., the Parks and Recreation Dept., the Abandoned Mine Lands/UMTRA Dept., the Historic Preservation Dept., the Water Code Administration, the Department of Water Resources, and the Navajo Nation Water Management Branch.

Within the Department of Justice is the Office of the Attorney General, the Office of the Prosecutor, the Juvenile Justice Program, and the Navajo-Hopi Legal Services Program.

Within the Navajo Nation Environmental Protection Agency is the Office of Environmental Review, the General Assistance Program, the Criminal Enforcement Department, the Air Quality Control Program, the Pesticide Enforcement & Development Program, the Radon Program, the Hazardous Waste Program, the Underground and Leaking Storage Tanks Program, the Superfund Program, the Resource Conservation & Recovery Program, the Water Quality/NPDES Programs, the Public Water System Supervision Program and the Underground Injection Control Program.

6. Is the Navajo way of life being challenged by way of these referendum initiatives?

KEEPTHE88.COM:

Yes, the Navajo way of life is being challenged by these initiatives. The Navajo Nation government is being thrown into disarray and the voice of the Navajo voters is being silenced by the Council reduction initiative. The Navajo way of life is also being threatened. The Navajo people need to rise up and oppose Council reduction.

TASK FORCE:

The Navajo way of life will be enhanced by Council reduction, not challenged.

Point 1. Both Title 1 and Title 11 of the Navajo Nation Code – Diné Fundamental Law and the election code –

support having the people participate in their government through the initiative process.

Laws governing the initiative process are in place in order to have the most people participate in their government in the most direct way. The initiative process gives the people a direct voice in their government in an orderly and lawful fashion.

Point 2. The Navajo Nation Supreme Court found that all laws were followed by the Initiative Petition Committee, as it stated in its July 30, 2009, opinion:

“This Court finds that the IPC operated in good faith following the rules as best it could given the lack of clear directives in carrying out its drive.”

Navajo Nation Supreme Court
SC-CV -28-09

www.navajocourts.org/NNCourtOpinions2009/11Navajo%20Election%20Administration%20v.%20Dr.%20Joe%20Shirley%20Jr..%20Designated%20Representative.pdf

Further, the Court felt it necessary to mention that the lawyer from the Office of Legislative Counsel engaged in unprofessional conduct by accusing the Court of being biased in this matter.

“We further informed counsel that we see these statements as innuendos to apply improper political pressure. We took these statements to imply that if the Court did not decide the matter in NEA's favor, the probationary justices may not be confirmed by Council as permanent justices ... This type of unprofessional conduct will not be tolerated.”

Navajo Nation Supreme Court
SC-CV -28-09

www.navajocourts.org/NNCourtOpinions2009/11Navajo%20Election%20Administration%20v.%20Dr.%20Joe%20Shirley%20Jr..%20Designated%20Representative.pdf

Justices grill elections board on president's reform petitions

Navajo Times, July 30, 2009

www.navajotimes.com/politics/2009/0709/073009reform.php

Point 3. Governmental disarray occurred most alarmingly on Oct. 26 when the Council placed President Shirley on administrative leave without charge, without apprising him of the specific reasons for the action, without due process, in violation of the Navajo Bill of Rights, and with a presumption of guilt rather than a presumption of innocence. This disregards a basic principle of American jurisprudence and the Diné Fundamental Law.

Article 4 of the Navajo Bill of Rights states that the Navajo Nation Council shall make no law prohibiting the right of the people to petition the Navajo Nation Government for redress of grievances.

It is Navajo public opinion, expressed prolifically on newspaper blogs and in letters to the editor, that the Council's action to place the President on administrative leave occurred in retaliation for these government reform initiatives, despite the denials of some Council delegates.

Point 4. It is the inalienable right of the Navajo people to decide how they want their government structured, how large their Council is, and what powers their President holds. They may express this through an initiative election. Making law through the initiative process is a power reserved by the people, not a power granted by the Council.

Title 11 of the Navajo Nation Code, § 401, states that the Council can initiate a referendum and the people can originate an initiative by petition. That is how the two government reform initiatives came about.

The people filed a petition, which was challenged by the Speaker's office but approved. The people collected signatures, whose sufficiency was challenged by the Speaker's office but approved.

The people submitted ballot language to the Board of Election Supervisors, which approved a version of it only after the Speaker's office sought significant changes not signed onto by Navajo petition signers and which were disapproved by the Navajo Department of Justice.

Finally, after challenges to the Navajo Supreme Court, which also failed, the Navajo Board of Election Supervisors set an election date for Dec. 15.

On July 18, 2009, the Navajo Supreme Court stated:

"...the Council has represented to the Navajo People that they alone shall make the important policy decision whether the Council shall remain at 88 delegates. Contrary to the Speaker's argument, this means the People may reduce or increase the size (of the Council) ...there is no reservation of authority; the Council unequivocally has taken itself out of the process."

On July 30, 2009, the Court found that the Initiative Petition Committee had operated in good faith and had followed the rules but that the Navajo Election Administration gave the committee unclear instructions, and failed to count signatures accurately or in a timely fashion.

The Court wrote:

"There has been a failure by the regulatory body to implement the law through proper guidelines and standards. This systemic failure to execute statutory responsibilities should not delay the People's participation in their government."

Navajo Nation Supreme Court
SC-CV -28-09

www.navajocourts.org/NNCourtOpinions2009/11Navajo%20Election%20Administration%20v.%20Dr.%20Joe%20Shirley%20Jr.%20Designated%20Representative.pdf

Point 5. Despite a June 25, 2009, order from the Office of Hearings and Appeals to conduct an election within six months, the director of the Navajo Election Administration, under the Speaker's office, failed to prepare a budget for the election.

IGR turns down plea to fund special election
Navajo Times, Nov. 19, 2009

www.navajotimes.com/news/index.php

After President Shirley said he would fund the special election through Executive Branch resources, on Oct. 5 Speaker Morgan accused staff of OPVP of interfering with and attempting to influence the election administration, and threatened ethics charges. As a result, on Oct. 16 the President had to withdraw his offer of Executive Branch funding of the election, leaving responsibility to pay for the election to the Navajo Nation Council.

Because of its desire to prevent the special election from taking place, on Oct. 19 the Council failed to acquire enough votes to place legislation to fund the election on its fall session agenda. As of today, the Navajo Nation Council has neglected to approve funding for the election despite the people's expressed wish for it and their compliance with all applicable laws to have it.

Point 6. The Navajo way of life is eroded only when the Speaker of the Council asks the President to "talk things out" in the spirit of *k'e*, compromise and harmony for six

weeks, and then reneges on an agreement he publicly signed on Aug. 13, 2008.

Navajo Nation government: Talking reform

Gallup Independent, Aug. 14, 2008

www.gallupindependent.com/2008/08august/081408nnreform.html

Comprehensive gov't reform agreement jeopardized by Speaker's inaction

OPVP, Oct. 2, 2008

<http://www.navajo.org/News%20Releases/George%20Hardeen/Oct08/Reform%20agreement%20jeopardized%20by%20Speaker's%20inaction%20for%20Oct.pdf>

Memorandum of Agreement, Aug. 13, 2008

www.navajo.org/News%20Releases/George%20Hardeen/Aug08/080813presGovernment%20Reform%20Agreement.pdf

Delegates squabble over size of council

Gallup Independent, May 22, 2008

www.gallupindependent.com/2008/May/052208council.html

The agreement states: "This legislation shall be presented at the next special session of the Navajo Nation Council." That did not occur.

The agreement states:

"In light of the Navajo Nation Council not taking action to make changes to the structure of the Navajo Nation government, another alternative is for the Navajo People to make changes through election initiatives."

The agreement states:

"Despite having as its goal the creation of a more balanced system of checks and balances, the governmental structure established through CD-68-89 had the actual effect of tilting the balance of authority toward the Council. Because this temporary government structure was never re-examined as stated in and intended by CD-68-89, the government structure created by that resolution had the unintended effect of concentrating power in the hands of a single entity, the Legislative Branch, in a manner that the Navajo Nation Council had actually sought to avoid in 1989."

Ironically, the Speaker said he wished the settlement meetings "could have been given a much higher priority for the sake of the Navajo people and their government."

President, speaker not seeing eye to eye

Gallup Independent, July 31, 2008

www.gallupindependent.com/2008/07july/073108president.html

Speaker Morgan disappointed with delays of meetings with President Shirley

Office of the Speaker, July 28, 2008

www.navajonationcouncil.org/Press%20Release/072908_Speaker_President_mtgs_sliding_down.pdf

That sense of urgency was written into the agreement.

The agreement states:

"The parties agree that meaningful restructuring of the Navajo Nation government is a matter of the highest priority. The parties agree to actively and in good faith pursue the negotiations outlined in this agreement."

In signing the agreement, the Speaker acknowledged that since 1989 the balance of power within the three-branch Navajo government has shifted to the Legislative Branch.

President Shirley said he was willing to lay aside politics in the spirit of compromise, resolution and *k'e*, in order to give this negotiated effort the chance it deserved. However, in the end it was apparent that reform was not really what the Speaker wanted.

President Shirley's statement on Government Reform Agreement

Aug. 13, 2008

www.navajo.org/News%20Releases/George%20Hardeen/Aug08/080813presPresident%20Shirley's%20statement%20on%20government%20reform%20agreement%20Aug%20%2013%202008.pdf

Comprehensive gov't reform agreement jeopardized by Speaker's inaction

OPVP, Oct. 2, 2008

<http://www.navajo.org/News%20Releases/George%20Hardeen/Oct08/Reform%20agreement%20jeopardized%20by%20Speaker's%20inaction%20for%20Oct.pdf>

Point 7. This website statement uses an oxymoron – "referendum initiative" – a figure of speech that combines two opposite terms. This combination of terms is inaccurate, confusing, and illustrates a lack of understanding about the election scheduled to take place.

A **referendum** is an election with a ballot question referred to voters by the government. An **initiative** is an election with a ballot question proposed to the government by the people.

Point 8. This website calls upon the Navajo people to "rise up" to oppose government reform. This statement expresses sentiments counter to the Navajo principle of *k'e* and the teaching of seeking resolution through harmonious means in a peaceful way.

Calling upon the people to "rise up" incites anger, fear, and invites violent encounters. This should be condemned as a non-Navajo approach to stop law-abiding Navajo citizens from freely exercising their rights under the law, and without molestation.

7. Why should I protect my chair in Council?

KEEPTHE88.COM:

There are 88 seats in the Navajo Nation Council, the actual chair Council delegates sit in do not belong to them as individuals, the chair belongs to your community. Now, whether you like whoever occupies those seats or not, that chair would always belong to your community. Protect your chair in Council, that chair represents your community.

TASK FORCE RESPONSE:

Rather than a chair belonging to a community, the Council belongs to the Navajo people.

When the Navajo Nation Council adopted language to declare itself “the governing body of the Navajo Nation,” it excluded the Navajo people without their consent. This language was never ratified by the people as it was supposed to be. It continues to remain the public opinion of the Navajo people that the Council governs *only* with the consent of the people.

“Under Fundamental Law, the Navajo People, as well as the Council may make laws for the good of the community; the People’s authority to make laws is not delegated to them by the Council. The referendum and initiative processes are modern acknowledgment of this authority.”

Navajo Nation Supreme Court

Title 1 N.N.C. §§ 201; 206 (2005), July 18, 2008
[SC-CV-41-08](#)

Should the people chose, it is their right to petition their government for redress of grievances through the initiative process, to empower the President with authority, to change the number of Council delegates, and to make other governmental changes as they see fit.

8. Do the Navajo people risk losing scholarship money and financial assistance?

KEEPTHE88.COM:

Yes, the Navajo Chapters and the Navajo people risk losing scholarship money and financial assistance with the reduction of Council. Currently, the Council makes regular appropriations to Chapters for their use within their communities and to assist constituents in need. Before Council appropriations, Chapter funds were regularly channeled through the Executive Branch only to be drastically absorbed by overhead and administrative costs. The Council responded to this dilemma by now appropriating funds directly to Chapters to be used for direct services of the Navajo people. Do the Navajo people want to lose their access to these resources? Do not risk losing Council representation. You would lose money for your Chapters and you would lose resources.

TASK FORCE RESPONSE:

Council reduction and line item veto authority will have no adverse affect on scholarships or financial assistance whatsoever.

Point 1. Tribal scholarships are administered through the Navajo Nation Scholarship and Financial Assistance Office within the Department of Diné Education. Unfortunately, the program is underfunded in proportion to the number of eligible applicants it receives annually. The Navajo Nation Council appropriates no money for scholarships. Funding comes from the Bureau of Indian Education.

When the Council opts to give money to chapters for scholarships, the effect is to engender favor through political patronage for re-election.

Point 2. Scholarships should be administered based on qualifications, merit and need, but should not be administered as discretionary funding. Financial assistance is administered as general assistance through the Division of Social Services and should not be a program administered by Council delegates through discretionary funding.

Appropriating funding to chapters for these purposes, as well as for veterans and other purposes, results in local conflicts and inequitable distribution of tribal resources at the chapter level.

Currently, chapters have an unused balance of \$52 million yet delegates continue to appropriate money without chapters requesting it, and over the repeated objections of the Navajo Nation Office of Management and Budget.

Point 3. Creating programs is a practice cited in the “*Final Report to the Navajo Nation Council Subcommittee on Legislative Branch Effectiveness*” that the Council should refrain from, and leave those functions to the Executive Branch. The report, commissioned by the Council, found the practice to be inefficient, inequitable, wasteful, self-serving, and lacking in accountability.

9. Would the reduction of Council solve the Nation's problems?

KEEPTHE88.COM:

No, the reduction of Council would not solve the Nation's problems. There is a huge misconception that reducing Council to 24 members would solve everyone's problems, but the petition initiatives are not going to do that, and it has all sorts of negative impacts. This is your government, not the Navajo Nation President's government.

TASK FORCE RESPONSE:

Neither President Shirley nor the Initiative Petition Committee ever suggested that reducing the Council would solve everyone's problems.

Point 1. President Shirley has repeatedly stated that reducing the Council is a first but necessary step toward greater government reform, and one the people have sought for 10 years.

It is the function of the Legislative Branch to establish policy and legislate solutions to the Nation's greatest problems. The size of the Council is irrelevant to that task.

Point 2. With a smaller legislature, it is expected that voters will elect a higher caliber of delegates based on education, knowledge and experience, and that there will be no shortage of suitable candidates in order to achieve greater efficiency and effectiveness of the Council.

Point 3. Reducing the Council will make the Navajo Nation government more accountable to the people, bring efficiency to its policy-making function, and, most importantly, reverse the concentration of power in the Legislative Branch as was intended by 1989 government reforms.

Point 4. Reducing the Council will reduce its costs by millions of dollars a year, reduce delegate meeting stipends costs by hundreds of thousands of dollars a year, and restore checks and balances to the three-branch government.

Point 5. This website statement is correct that the government belongs to the people rather than a Navajo Nation president. However, the assertion that President Shirley is trying to "monopolize" power or benefit politically through Council reduction is erroneous because

President Shirley's second term will end when a new, smaller Council takes office.

10. Is negative media attention and criticism from the Office of the President painting a negative image of Council?

KEEPTHE88.COM:

Yes, the negative media attention and criticism from the Office of the President is painting a negative image of Council. In the past several months, the Navajo people have been swarmed with negative criticism of their Council being irresponsible. The Navajo people have a right to be presented both sides of the issue.

TASK FORCE RESPONSE:

► Local and regional newspapers have published only a fraction of the information made available by the Office of the President and Vice President.

For instance, this document is 36 pages in length and could not possibly be condensed into one or two news stories.

Point 1. Public opinion and the negative image of the Council is attributable to coverage by the press of the Council's actions and controversial behavior of delegates. The Council's public image and low esteem is of its own making. Denial of responsibility for it is unrealistic. Blaming OPVP for the Council's image is unreasonable. All information issued by OPVP is sourced, substantiated, and can be independently verified.

Delegate busted for DWI

Gallup Independent, Nov. 6, 2008

www.gallupindependent.com/2008/11/november/110608delegatedwi.html

Prosecutors to pursue charges against delegates

Navajo Times, April 27, 2008

Fierce fracas erupts at Diné council meeting

Gallup Independent, Dec. 20, 2007

www.gallupindependent.com/2007/december/122007jch_frfracs.html

Point 2. There are many valid reasons to reduce the Council and to establish presidential line item veto authority. This information is available on the website www.88to24.org.

Statements by the Task Force on Government Reform and OPVP regarding Council reduction and line item veto authority is based on data produced by the Council's reports, the Controller's Office, the Office of Management

and Budget, the Navajo Election Administration, Attorney General opinions, Office of Hearings and Appeals orders, and Navajo Nation Supreme Court decisions and opinions.

Two of the most important sources of information were commissioned by the Navajo Nation Council. The first is the 2001 report "*Lawmaking and Oversight Efficiency Study; Increasing the Efficiency of the Navajo Nation Council and Standing Committees.*"

This report found that the Council is significantly more expensive than other legislatures, is better paid, has the highest percentage of representation per constituent in the country, and has attendance problems although delegates sit on commissions and boards.

The second is the 2005 "*Final Report to the Navajo Nation Council Subcommittee on Legislative Branch Effectiveness.*"

This report evaluated the Council's effectiveness and found that it has poor legislative record-keeping, delegates are prevented from dealing with issues that should be heard by the full Council but often are not, and oversight committees spend more than half their time micro-managing Executive Branch functions.

Point 3. The Gallup Independent has dubbed the Navajo Nation legislature "the runaway Council" in its reporting of repeated draining of the Undesignated, Unreserved Fund Balance, repeated waivers of the Appropriations Act, and repeated appropriation of discretionary funds to delegates and the Speaker's office.

Delegates want big money
Gallup Independent, Jan. 14, 2008
www.gallupindependent.com/2008/January/011408kh_bigmney.html

"I think we can all agree that at some point in time the constant digging at the Undesignated Fund will hurt the Nation," Budget and Finance Committee Chairman LoRenzo Bates told the Council in 2007. "When it comes to the Unreserved, Undesignated Fund we have a definite spending pattern and it's nothing we should be proud of."

Panel mulls line item veto,
Power would help president curb overspending of UUF
March 27, 2007
www.gallupindependent.com/2007/march/032707jch_lineitemveto.html

The prestige of the Council was not improved by the Navajo Times' recent coverage of the use of discretionary funding to benefit delegates' relatives and employees within the Speaker's office, the Council's purchase of gold rings for delegates, the proposed \$50 million legislative building, the unexplained gift of longhorn cattle by a Texas billionaire, excessive delegate travel – particularly to Las Vegas in December during the National Finals Rodeo – and delegate indiscretions such as traffic violations, DUI, domestic and other problems.

Legislative relatives received \$100,000
Navajo Times, Oct. 8, 2009
www.navajotimes.com/politics/2009/1009/100809slush.php

Delegate takes law into own hands,
Begay charged after confronting burglary suspects
Gallup Independent, March 17, 2009
www.gallupindependent.com/2009/03March/031709delegate.html

Where's the beef? President refused billionaire's longhorns;
nobody knows what to do with animals
Gallup Independent, Feb. 14-15, 2009
www.gallupindependent.com/2009/02February/021409wheresthebeef.html

Architect says speaker will not pay him for work on proposed building, Navajo Times, Sept. 25, 2008
www.navajotimes.com/news/2008/0908/092408legislative.php

Navajo delegates hit Vegas after Hawaii amid criticism
Associated Press, Dec. 10, 2007
<http://the.honoluluadvertiser.com/article/2007/Dec/10/br/br7826430951.html>

Prosecutors to pursue charges against delegates
Navajo Times, April 27, 2008

Delegate busted for DWI
Gallup Independent, Nov. 6, 2008
www.gallupindependent.com/2008/11november/110608delegatedwi.html

Viva Las Vegas! Navajo delegates meeting in Sin City
Gallup Independent, Dec. 8-9, 2007
www.gallupindependent.com/2007/december/120807db_vvalsvqs.html

On Aug. 16, 2007, the Navajo Times reported that Speaker Morgan proposed legislation:

"...that would grant delegates limited protection from arrest for non-criminal violations of law. The proposed language in the bill states members of the council are not adequately protected from arrest during council sessions and while they drive to and from Window Rock. The purpose of the bill is to provide 'reasonable limitations' on arrest for some civil charges, including outstanding warrants, so as not to obstruct delegates from performing their duties."

Point 4. While newspaper readers *deserve* to be given both sides of an issue by the press, it is not a right as is the people's right to vote in a duly-called election that has been ordered by the Office of Hearings and Appeals, affirmed by the Navajo Supreme Court, and scheduled by the Navajo Board of Election Supervisors.

Navajo voters continue to be denied the right to vote in the Dec. 15 election by the actions of the Speaker's office, Office of Legislative Counsel, the Navajo Election Administration and, through its inaction to appropriate funding, the Navajo Nation Council.

IGR turns down plea to fund special election
Navajo Times, Nov. 19, 2009
www.navajotimes.com/news/index.php

11. Should I believe everything I hear and read in the media about the Navajo Council?

KEEPTHE88.COM:

No. As a Navajo voter, you have the right to hear both sides of the issue. The Navajo people are smarter than to believe everything they hear or read, mostly from political propaganda from the Office of the President. The Navajo people should realize reducing their Council to 24 members would not solve everyone's problems and the referendum initiative to reduce the Council would not do that. Instead, the referendum initiatives would create all sorts of negative impacts to the Navajo Nation government.

TASK FORCE RESPONSE:

This statement displays a distrust of the press and has nothing to do with the government reform initiatives.

"The media has painted a negative image of frivolous and wasteful spending by tribal officials in recent months."

Joshua Lavar Butler
Dec. 8, 2007

Speaker reassures Navajo people that official travel is necessary
Office of the Speaker, Dec. 8, 2007
www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Dec07/Microsoft%20Word%20%20120907%20Follow%20up%20to%20Hawaii%20Trip.pdf

Point 1. The local and regional press occasionally make factual mistakes in reporting or publish one-source stories that do not reflect all sides of an issue. However, readers should have confidence that reporters and editors make every effort to strive for accuracy, balance, completeness,

fairness, impartiality and professionalism in their news coverage.

Point 2. Newspaper readers *deserve* to be given both sides of an issue by the press, but it is not a right as is the people's right to vote in a duly-called election that has been ordered by the Office of Hearings and Appeals, affirmed by the Navajo Supreme Court, and scheduled by the Navajo Board of Election Supervisors.

Point 3. This website statement expresses an opinion about local reporting but fails to specify what it refers to as "political propaganda." The public and press are welcome to inquire about sources of information or attribution found in OPVP news releases.

Point 4. This website statement repeats an earlier, unsubstantiated assertion about what the government reform initiatives *will not* do.

Point 5. This website statement repeats an oxymoron, "referendum initiative," a figure of speech that combines two opposite terms. This combination of terms is inaccurate, confusing, and illustrates a lack of understanding about the election scheduled to take place.

A **referendum** is an election with a ballot question referred to voters by the government. An **initiative** is an election with a ballot question proposed to the government by the people.

The statement ends on a point of conjecture that has nothing to do with the question.

12. Would the Navajo Nation President become too powerful?

KEEPTHE88.COM:

Yes, the Navajo Nation President would become too powerful. The President is trying to take it upon himself to reapportion the Council as he sees fit, while exercising a Legislative Branch function—the Navajo people cannot and should not allow this, because it is contrary to Navajo law. The Executive Branch would be taking over these legislative functions and this tramples over the three-branch governmental system that we currently have in place to ensure checks in balance of our government.

TASK FORCE RESPONSE:

This statement is inaccurate. The Navajo Nation President could not become too powerful through these initiatives.

Point 1. Line item veto authority will increase the power of the President to delete specific measures in budget and spending legislation *only*, not other legislation.

The original petition language states:

“The President of the Navajo Nation will be authorized to exercise line item veto authority over budget items contained in the annual Navajo Nation Comprehensive Budget or supplemental appropriations approved by the Navajo Nation Council. Budget line items vetoed by the President of the Navajo Nation will not be subject to Navajo Nation Council override. Upon approval of this initiative, the authority of the President of the Navajo Nation to exercise line item veto authority will become effective immediately.

“If approved, this initiative may be repealed or amended by the initiative process only.”

Point 2. Ballot language to allow the President to develop and approve reapportionment plans, once Council reduction is approved by voters and a plan is developed by the Navajo Board of Election Supervisors and submitted to Council for approval, was changed by the Board of Election Supervisors. The reapportionment plans will be developed by the Board of Election Supervisors and left to the Council to approve.

Timelines in the original petition language were voided because legal challenges by the Office of Legislative Counsel prevented the election from taking place in 2008.

The initiative process of Navajo law permits the people to seek these changes.

“But more importantly, the issues raised by the Petitioner involved the fundamental right of the People to participate in their democracy and determine their form of government. The concept of self-governance at an individual level and at the national level is expressed in Title 1 of our *Diné* Fundamental Law and the Navajo Bill of Rights. Self-

governance is an inherent right. Self-governance is premised on the principle that “*Diné bi nahat’á* is the foundation of the *Diné bi naat’á* (government).”

In the Matter of the Navajo Nation Election Administration's Determination of Insufficiency Regarding Two Initiative Petitions
No. SC-CV-24-09
Navajo Nation Supreme Court
June 22, 2009

www.navajocourts.org/NNCourtOpinions2009/Joe%20Shirley%20Jr.%20President%20v.%20Office%20of%20Hearing%20and%20Appeals.pdf

President Shirley says 2008 reform initiatives belong to the People
OPVP, May 7, 2008

<http://www.navajo.org/News%20Releases/George%20Hardeen/May08/Navajo%20President%20says%202008%20council%20reforms%20belong%20to%20the%20people%20for%20May%207.pdf>

The Court also noted that it is the right of the people to change their government through the initiative process.

“Importantly, the assumption within the certified question is that the Navajo people have the power to amend the size of the Navajo Nation Council. The parties and (the Office of Hearings and Appeals) agree on this point. The Court readily agrees as well. On this, there can be no dispute. Under Fundamental Law, the Navajo people, as well as the Council, may make laws for the good of the community; the people’s authority to make laws is not delegated to them by the Council. The referendum and initiative processes are modem acknowledgments of this authority.”

“In Navajo thought, words are sacred and never frivolous. If words are said, they are meant. Here, the Council has represented to the Navajo People that they alone shall make the important decision whether the Council shall remain at 88 delegates. Contrary to one party’s argument, this means the People may reduce or increase the size; there is no language in Section 102(A) to suggest otherwise. There is no reservation of authority; the Council unequivocally taken itself out of the process. Further, no general authority stated elsewhere can alter that once the Council has deferred to the People; to hold otherwise would be to render the Council’s words meaningless.”

Point 3. At no point during the multiple legal challenges to the initiative process by the Office of Legislative Counsel was the assertion made that the President will become too powerful, the Executive Branch will take over Legislative Branch functions, or that the checks and balances of the three-branch government will be trampled.

The Speaker's May 19, 2008, challenge to this ballot language before the Office of Hearings and Appeals was denied. Consequently, it is not "contrary to Navajo law" as this statement asserts.

Presidential Task Force on Government Reform corrects misrepresentation of initiatives' benefits to Navajo Nation
OPVP, May 14, 2008

<http://www.navajo.org/News%20Releases/George%20Hardeen/May08/051408PresidentialTas%20Force%20RespondsToMisinformationAboutInitiatives.pdf>

13. Would the Council's ability to override the President's veto be gone?

KEEPTHE88.COM:

Yes, the Council's ability to override the President's veto is at risk of being eliminated. The petition initiative to reduce Council does not just affect the Council, it also negatively affects people out in the Navajo Nation's 110 Chapters as well, where the Council delegates are elected from—at the Hogan level. The days of countering the President's decision by his veto authority would be gone, the system would go unchecked and that system would no longer exist.

TASK FORCE RESPONSE:

The Council's ability to override a presidential veto will remain intact after Council reduction and line item veto authority is approved by voters.

Ballot language that would prevent an override of a line item veto, once presidential line item veto authority is approved by voters, was changed by the Navajo Board of Election Supervisors.

The veto override provision would have applied only to spending and budget measures. Consequently, the Council's authority to override a presidential veto on all other issues remains unaffected.

Delegates manipulate rules for override
Navajo Times, July 23, 2009

<http://www.navajotimes.com/politics/2009/0709/072309override.php>

14. Would there be a loss of legislative committee oversight authority?

KEEPTHE88.COM:

Yes, there would be a loss of legislative committee oversight authority. With a 24 member Council, committees would cease to exist or not be viable anymore and the reduction would make them less able to serve constituents. The Navajo people would be most negatively affected by losing attention. Some Navajo agencies would only have a couple of Council delegates, based on population. As for

the Council's standing committees, which has oversight authority on behalf of the Navajo Nation and their constituents would be gone. According to the current law, there has to be at least one member from the five (5) agencies. There is great concern from the Western Agency that they are not getting their fair share out of community development. How would that be addressed and heard, if you do not even have standing committees providing oversight? Standing committees are so diverse in their focus and how can a 24 member Council provide that level of oversight? Most commission and board memberships may need to be abolished with the reduction.

TASK FORCE RESPONSE:

Nothing in the two government reform initiatives affect the authority of the Legislative Branch. Once Council reduction is approved by voters, the Legislative Branch will restructure itself as it sees fit. Council reduction will not change oversight committee authority in any way not authorized by the Council.

15. Is the reduction of Council going to create a mess?

KEEPTHE88.COM:

Yes, the reduction of Council would create a mess of the tribal government. The Navajo people need to realize the reduction will create a monopoly of power and a mess that will take years to correct. There are shocking and alarming facts that need to be considered by the Navajo people.

TASK FORCE RESPONSE:

Council reduction will result in greater efficiency, accountability, more effectiveness, and an improved working relationship between the Executive and Legislative branches.

Point 1. Laws governing the initiative process are in place to allow the Navajo people greater participation in their government in an orderly fashion.

All laws have been complied with in good faith by the Initiative Petition Committee although roadblocks have been placed in its way by the Speaker's office, the Office of Legislative Counsel, and the Navajo Election Administration, as affirmed by a July 30, 2009, Navajo Nation Supreme Court opinion:

"This Court finds that the IPC operated in good faith following the rules as best it could given the lack of clear directives in carrying out its drive. It submitted what it believed to be more than enough signatures in order to pass the 15% of registered voters threshold. Yet NEA chose to apply a very strict interpretation of

the rules, failed to pursue with due diligence the verification of many of the signatures, and failed to accurately and timely count the signatures; all factors well beyond the anticipation or control of (Initiative Petition Committee).”

Navajo Nation Supreme Court
SC-CV -28-09

www.navajocourts.org/NNCourtOpinions2009/11Navajo%20Election%20Administration%20v.%20Dr.%20Joe%20Shirley%20Jr.%20Designated%20Representative.pdf

Point 2. This website statement offers no facts to substantiate the assertion that “the reduction will create a monopoly of power and a mess of the tribal government.” University of New Mexico Political Science Professor W. Dale Mason has stated that the government reform initiative election would give Navajos “a greater sense of ownership in the government than they now have.”

In a First, Navajos to Vote on Their Power Structure
New York Times, Associated Press, July 4, 2009
www.nytimes.com/2009/07/05/us/05navajo.html?_r=1

At no point during multiple legal challenges to the initiative process by the Office of Legislative Counsel was the assertion made “the reduction will create a monopoly of power and a mess of the tribal government.”

This website statement claims “there are shocking and alarming facts” Navajo voters should consider but fails to present or cite any.

Point 3. On Oct. 2009, Speaker Morgan presented the Council with the “*Navajo Nation Constitutional Feasibility and Government Reform Project*,” a Diné Policy Institute report that was commissioned and paid for by the Speaker’s office. In a news release announcing the report, the Speaker’s spokesman Joshua Lavar Butler wrote:

“Perhaps the most significant conclusion drawn from the study is the continuance of the Navajo Nation Code and ...legislation that will strengthen the powers of the courts, *amend the Fundamental Laws of the Diné to remove references to structure of governance and to restructure the executive branch, removing the Office of the President* and strengthening the regional agencies into *naacids*.”

Speaker to present report on feasibility of a constitutional government
Office of the Speaker, Oct. 13, 2008

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Oct08/Speaker%20Morgan%20to%20present%20report%20on%20feasibility%20of%20a%20constitutional%20government.pdf

16. Will the reduction of Council effect financial assistance?

KEEPTHE88.COM:

Yes, the reduction of Council will negatively affect financial assistance to the Navajo people. Discretionary funds are given to Navajo people who are in desperate need of financial assistance. Most times, people come into the Council delegates’ office or the Office of the Speaker as their last resort, after they have been turned away from other social service agencies or from the Office of the President. These individuals are not rich. With some, we see them possibly on the worst day of their lives, they may have no place to go, they may have already been to the Executive Branch offices, turned away from the LIHEAP program, turned down for burn-out assistance, or turned away because programs have exhausted their resources, or they may have lost a loved one and need assistance with burial expenses. Whatever the case, they come to the Council Speaker or to their Council delegate for help. We need to realize there is a face and human story with every request.

TASK FORCE RESPONSE:

Reduction of the Council will not affect financial assistance. Appropriations of discretionary funds will continue to remain under the control of the Council, regardless of the number of its members.

Point 1. According to the latest figures from the Controller’s office, since 2003, the Navajo Nation Council has appropriated \$44 million in discretionary funding.

Recent news coverage of alleged abuse of discretionary funds by Council delegates in the form of disbursements to their relatives and employees of the Speaker’s office led to a joint investigation of the use of discretionary funds by the White Collar Crime Unit and the Ethics & Rules Office.

Discretionary fund records subpoenaed
Navajo Times, Oct. 22, 2009

www.navajotimes.com/politics/2009/1009/102209slush.php

The Ethic & Rules Office issued subpoenas to examine the discretionary fund records of all 88 Council delegates, However, on Oct. 22, the Office of Legislative Counsel ordered the Ethics & Rules Committee of the Council to quash the subpoenas, citing the lack of a complaint. The committee took action without debate.

The way in which Council delegates appropriate and spend discretionary funding constitutes a reason many Navajo voters support reduction of the Council and presidential line item veto authority. The effect of both government reform initiatives will be to make the Navajo Nation government more accountable to the people.

President Shirley urges Navajo Nation Council to support line-item veto bill to end irresponsible spending

OPVP, July 18, 2007

<http://opvp.org/cms/kunde/rt/opvporg/docs/280992440-07-21-2007-11-02-05.pdf>

Point 2. At no point during the multiple legal challenges to the initiative process by the Office of Legislative Counsel was the assertion made “the reduction of Council will negatively affect financial assistance to the Navajo people.”

This website statement speculates without substantiation that people seeking financial assistance have been turned away by the President’s office or other agencies. Despite a need for discretionary funding for home burn-outs and burial assistance, this website statement:

- Overlooks alleged abuse of the discretionary fund program by Council delegates.
- Ignores the people’s appeal for greater governmental transparency and accountability.
- Disregards Council delegates’ comments that express concern about the affect of discretionary funds on the people and the questionable appropriation methods by Council.

“The more we do this, we encourage our people to look for handouts,” Birdsprings, Leupp, Tolani Lake Delegate Leonard Chee said during an Aug. 27, 2007, special session called to appropriate \$2 million in discretionary funds. “They become so dependent, they even demand they get the funds.”

“I have a problem with the way we’re doing things recently,” Cornfields, Greasewood Springs, Klagetoh, Wide Ruins Delegate Omer Begay, Jr., said. “Sneaking certain things into legislation. I think it’s about time we started promoting self-sufficiency.” He said he would rather see everyone “get a job, rather than a hand-out.”

During that session, the discretionary fund appropriation overwhelmingly passed by a vote of 65-15.

Council gives nearly \$2 million to delegates; session ends up as spendfest

Gallup Independent, Aug. 28, 2007

www.gallupindependent.com/2007/august/082807jch_nvjosndfst.html

Point 3. Currently, there is no policy in the Speaker’s office to ensure accountability of discretionary funds. Speaker Morgan told the Navajo Times that discretionary fund policy allows him and delegates to provide assistance to anyone with a census number, including immediate family members and legislative staff, and that he is unconcerned about how this might appear to the public.

“As long as the council authorized it, I’ll continue to do it,” he said.

Legislative relatives received \$100,000

Navajo Times, Oct. 8, 2009

www.navajotimes.com/politics/2009/1009/100809slush.php

17. Are Council delegates wasting the Navajo people’s money?

KEEPTHE88.COM:

No, Council delegates are not wasting the Navajo people’s money. The Council’s finance office keeps financial records of Council delegates when they request for meeting stipends for chapter meetings. There is strong documentation and supporting documents for every Council delegate and every employee. Financial records would provide a narrative and statistics relative to how many Chapter meetings have been attended for any particular period of a month or a year. This information can be backed up with actual supporting documents.

TASK FORCE RESPONSE:

The Council is wasting the Navajo people’s money when one considers the purchase of rings, the proposed \$50 million legislative complex, the use of discretionary funds, excessive travel and meetings, and the bloating of legislation with supplemental appropriation “riders.”

President Shirley appreciates letter stating special session would be costly

OPVP, March 17, 2008

www.navajo.org/News%20Releases/George%20Hardeen/Mar08/Navajo%20President%20says%20planned%20council%20session%20unneeded%20costly%20for%20Mar%20ch%2017.pdf

Viva Las Vegas! Navajo delegates meeting in Sin City

Gallup Independent, Dec. 8, 2007

www.gallupindependent.com/2007/december/120807db_vvalsvgs.html

Council gives nearly \$2 million to delegates; session ends up as spendfest
Gallup Independent, Aug. 28, 2007
www.gallupindependent.com/2007/august/082807jch_nvjospdfst.html

Point 1. During his April 21, 2008, State of the Navajo Nation address, President Shirley called upon the Council to reject the proposed \$50 million legislative complex, saying the needs of the people must come first, that no public hearings had been held, and that approval would waive a series of Navajo financial and employment laws enacted to ensure accountability through the Appropriations Act.

“We need to mind the affairs of our government through the rule of law. We cannot enact laws and then not follow them. We have done that too many times by waiving the laws that have been put into place, and conducting business as if there are no laws, especially where Navajo Nation funds are involved.”

President Shirley, State of the Navajo Nation Address
April 21, 2008

[www.navajo.org/News%20Releases/George%20Hardeen/Apr08/President%20Shirley%20State%20of%20Navajo%20Nation%20April%202021%202008%20%20\(2\).pdf](http://www.navajo.org/News%20Releases/George%20Hardeen/Apr08/President%20Shirley%20State%20of%20Navajo%20Nation%20April%202021%202008%20%20(2).pdf)

President Shirley opposes \$50 million legislative complex, will establish Presidential Task Force on Government Reform this week
April 21, 2008

<http://opvp.org/cms/kunde/rts/opvporg/docs/1060341819-04-24-2008-11-25-02.pdf>

Point 2. An example of the Council wasting money is the interest-free loans delegates can receive.

An Internal Revenue Service review of interest-free loans to delegates – a benefit that is not extended to other Navajo citizens – is expected to result, among other issues, in a negotiated settlement that will require the Navajo Nation pay the IRS \$2 million because delegates failed to report these loans as income. Unfortunately, this personal benefit is an expense the Navajo people will have to pay for.

The Navajo people have repeatedly expressed concerns about what they perceive as a waste of tribal funds by the Council. This concern is seen in newspaper letters to the editor, online blogs, and the signing of government reform initiative petitions.

Point 3. This concern has continued ever since reports of delegates’ giving themselves a pay raise, paying themselves \$300 per day to attend agency caucus meetings on the same days they meet for Council sessions, stipends for committee meetings, the purchase

of gold rings for themselves, the repeated waiving the Appropriations Act, repeatedly draining the Undesignated Unreserved Fund Balance, excessive travel, and, most recently, the questionable use of discretionary funds for relatives and Legislative Branch employees.

Tribal Council sneaks in pay raise
Gallup Independent, July 21, 2000

www.gallupindependent.com/1999-2001/7-21-00.html#anchor3

Letters, Navajo Times, Nov. 12, 2009
www.navajotimes.com/opinions/letters.php

Trio received thousands in council aid
Navajo Times, Sept. 10, 2009

Point 4. The Speaker’s office’s repeated efforts to block the press from acquiring information about delegates’ annual pay and their use of discretionary funds lends credence to the appearance of a lack of financial accountability to the people.

Arrogance and fear

Navajo Times, Sept. 10, 2009

www.navajotimes.com/opinions/2009/0909/091009arrogance.php

On Sept. 15, 2009, Speaker Morgan reported to the press that he was seeking an internal audit of the use of discretionary funding.

Speaker Morgan clamps down on discretionary fund assistance program, request internal audit

Office of the Speaker, Sept. 15, 2009

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Sept09/090915spkr-Internal-Audit-Legislative-Branch-Discretionary.pdf

However, when the Ethics & Rules Office subpoenaed discretionary fund records, the Office of Legislative Counsel, under the Speaker’s office, had the Ethics & Rules Committee of the Council quash the subpoenas, saying that no complaint had been filed. This now prevents information about questionable spending by delegates from ever coming to light.

This is contrary to the Speaker’s stated policy on openness and transparency in government:

“Government spending and expenditures are public information and the Navajo Nation government should be diligent in providing this information to its Navajo people,” the Speaker’s spokesman Joshua Lavar Butler stated on Dec. 8, 2007. “The Office of the Speaker strongly encourages and promotes transparency in government. It has always been a priority of the Office of the Speaker to provide information in a diligent manner.”

Speaker reassures Navajo people that official travel is necessary

Office of the Speaker, Dec 8, 2007

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Dec07/Microsoft%20Word%20%20120907%20Follow%20up%20to%20Hawaii%20Trip.pdf

Further, when the Navajo Times tried to get more information from the Speaker's office, it was turned away.

"The Navajo Times attempted to speak with Vicky Cecil and Val Begay on Monday but Joshua Lavar Butler, Morgan's communication director, prevented the Times reporter from entering their office or speaking directly with them. Butler also refused to accept a copy of the documents on which the Times was seeking comment."

Legislative relatives received \$100,000
Navajo Times, Oct. 8, 2009

www.navajotimes.com/politics/2009/1009/100809slush.php

According to UMN Political Science Professor W. Dale Mason, the Navajo people's view is "that the council is incompetent, that they benefit themselves and not the people; that's where the point of conflict is."

In a First, Navajos to Vote on Their Power Structure
New York Times, Associated Press, July 4, 2009
www.nytimes.com/2009/07/05/us/05navajo.html?_r=1

If Council delegates are *not* wasting tribal money, efforts by delegates, the Speaker and the Office of Legislative Counsel to keep records from the press present the appearance that there is something to hide. This justifies the people's desire to reduce the Council and approve presidential line item veto authority.

Point 5. This website statement suggests financial records and supporting documents would provide a narrative to substantiate the assertion that delegates are *not* wasting the people's money. Making those records available to the public and the press for independent verification of this assertion would be welcome:

"Government spending and expenditures are public information and the Navajo Nation government should be diligent in providing this information to its Navajo people," the Speaker's spokesman Joshua Lavar Butler stated on Dec. 8, 2007. "The Office of the Speaker strongly encourages and promotes transparency in government. It has always been a priority of the Office of the Speaker to provide information in a diligent manner."

Speaker reassures Navajo people that official travel is necessary
Office of the Speaker, Dec. 8, 2007

<http://www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Dec07/Microsoft%20Word%20%20120907%20Follow%20up%20to%20Hawaii%20Trip.pdf>

Legislative relatives received \$100,000
Navajo Times, Oct. 8, 2009

www.navajotimes.com/politics/2009/1009/100809slush.php

Trio received thousands in council aid
Navajo Times, Sept. 10, 2009

This statement from the Speaker's office is obviously insincere given the action to prevent the Ethics & Rules Office subpoenas from being served regarding delegates' use of discretionary funds.

The Council took action without informing the President, the public or the press when it voted on Oct. 26 to place President Shirley on administrative leave.

Albuquerque attorney James Zion has requested the reports the Council used to justify its action. He said the information should not be withheld "merely because public officials might be embarrassed by disclosure."

"When the Navajo Nation Council enacted the Navajo Nation Privacy Act, it made a declaration that a democratic form of government requires that information related to government operations be accessible to the public. The Navajo Nation Privacy Act provides that all records are public unless otherwise expressly provided by statute."

Attorney James Zion

Attorney seeks Navajo reports
Farmington Daily Times, Nov. 10, 2009
www.daily-times.com/four_corners-news/ci_13751540

18. Is my right to participatory politics being discouraged by Council reduction?

KEEPTHE88.COM:

Yes, your right to participatory politics is being discouraged with Council reduction. Participatory politics is the right of the Navajo people to choose their own leaders. Navajo people rely on their Council delegates in some situations for assistance and they value them. Council delegates protect the interests of their constituents and their community. How can the Navajo President say Council delegates are less important to the tribal government, when they represent the Navajo people as well? Council delegates provide the solid foundation for the people's Council. Obviously, Council delegates are doing something right, in order for them to be elected and sometimes reelected by their constituents. The Navajo Council is diverse, each community has different needs, some are rural and some have economic development. The 88 member Council provides varying opinions on issues concerning the Navajo people, a 24 member Council will have less diversity. Council delegates are one of the best resources within their community; they know first hand the issues and problems of their community. The President has one goal with Council reduction, it is to quiet the Navajo people's voice in their government. The President does not want the Navajo people to have their own Council delegate. Preserve your voice; keep the Council the way it is.

TASK FORCE RESPONSE:

The people’s right to participate in their government, as opposed to *participating in politics*, has been obstructed by efforts to prevent the government reform special election from taking place, not by what the people may decide in the election. That obstruction has been well-documented.

Point 1. The Navajo Bill of Rights gives citizens the right to petition the Navajo government. Navajo law gives citizens the right to bring changes to the Navajo government through the initiative process. These are rights in addition to voting for Council delegates and other elected offices.

Only through the Dec. 15 special election will the people have a choice to either support or reject reducing the Council and approving presidential line item veto authority. The Council has rejected attempts to do this on its own.

“After a short debate Thursday afternoon, the Navajo Nation Council rejected a bill that would give President Joe Shirley Jr. and future presidents line-item veto power.”

Navajo Council rejects presidential line-item veto
Farmington Daily Times, July 20, 2007

President Shirley urges Navajo Nation Council
to support line-item veto bill to end irresponsible spending
OPVP, July 18, 2007
<http://opvp.org/cms/kunde/rtspvoporg/docs/280992440-07-21-2007-11-02-05.pdf>

So far, efforts to conduct a special election have been challenged and frustrated at each step by the Speaker’s office, Office of Legislative Counsel, and Navajo Election Administration. Recently, the Navajo Nation Council, neglected to place legislation to fund the Dec. 15 special election on its fall regular session agenda.

IGR turns down plea to fund special election
Navajo Times, Nov. 19, 2009
www.navajotimes.com/news/index.php

Point 2. Should the Dec. 15 special election take place, it will unquestionably be the first time in Navajo history that voters have a direct and specific role in deciding the structure of their own government and the powers of the President. Prior to now, all decisions of this kind have been made by the Council with voter input limited to

lobbying or, at most, chapter resolutions – neither of which assure compliance.

This will also be the most significant and historic Navajo government reform since 1989. It will be the first time the initiative process is used on the Navajo Nation to change the governmental structure, and it will demonstrate to the Navajo people that change through the initiative process is possible for further changes they may desire in the future.

This website statement inaccurately states that President Shirley’s goal with Council reduction is to quiet the Navajo people’s voice. The opposite is true. The President’s goals through the government reform initiatives are to:

- 1) Make the Navajo Nation government more accountable to the people.
- 2) Reduce costs of the Navajo Nation Council by millions of dollars a year.
- 3) Bring efficiency to the policy-making function of the Council.
- 4) Reverse the concentration of power in the Legislative Branch as was intended by 1989 government reforms.
- 5) Restore checks and balances to the three-branch government.

Point 3. Three significant examples of the Council limiting public involvement have occurred since December 2007.

1) On Dec. 19, 2007, the Council overrode the President’s veto and abolished the Government Development Commission, moved the Government Development Office under the authority of the Speaker’s office, and changed its mission.

Council overrides Shirley’s vetoes
Gallup Independent, Dec. 20, 2007
www.gallupindependent.com/2007/december/122007jch_ovrdevts.html

The Navajo Government Development Commission and Office were created in 1989 specifically to work with the people to conduct government reform, foster the incorporation of Navajo culture and tradition into the Navajo Nation Code, and to help empower local chapters.

The Commission's and Office's mission was to improve government performance. Both worked to ensure passage of the 1998 Local Governance Act and to develop initiatives to expand tribal sovereignty and increase governmental accountability, transferability, and efficiency.

That changed on May 8, 2009, when Speaker Morgan appointed his spokesman, Joshua Lavar Butler, to serve as acting executive director of the Government Development Office while still working in the Speaker's office. In the six months since then, nothing has been accomplished by the office, and there have been no contacts with the public.

Butler appointed acting executive director of Navajo Government Development
Navajo-Hopi Observer, June 2, 1009
<http://navajohopiobserver.com/Main.asp?SectionID=74&SubSectionID=114&ArticleID=11559>

When the Council abolished the Government Development Commission, delegates stated it had not accomplished anything. However, according to the Harvard Project on American Indian Economic Development, which honored the Commission in 2002, "the Commission and Office discovered pervasive discontent with the Nation's central government, especially the Navajo Nation Council."

"Determined to transform this discontent into proposed amendments for central governmental reform, the Commission and Office initiated the Government Reform Project. Throughout 2001, the Commission and Office conducted a series of regional summits in order to solicit the input of the Navajo people on governmental reform. These summits were crucial in clarifying Navajo citizens' demands for a government consistent with their culture and tradition."

"In 2002, the Commission and Office organized this input into proposed amendments to the Navajo Nation Code and organized a convention to vote on the proposed amendments. Having formalized a process by which to elect convention delegates, the Commission and Office held the Statutory Reform Convention in May 2002. Delegates from 109 of the 110 chapters attended the Convention and approved 26 proposed amendments. If adopted by the Navajo Nation Council, the amendments will result in a more effective and culturally appropriate Navajo government."

Harvard Project on American Indian Economic Development
www.hks.harvard.edu/hpaied/hn/hn_2002_govreform.htm

Following the May 14-15, 2002, Statutory Reform Convention sponsored by the Office of Navajo

Government Development, none of its 26 recommendations were adopted by the Council.

2) During the April 2008 Council session, the Council revised the Eastern Navajo Agency Land Commission's plan of operation to have the Speaker appoint six Council delegates as members, and leave local officials and citizens only one place on the commission. The President vetoed the legislation, stating that revision would remove citizens from participation.

Navajo President Joe Shirley, Jr., vetoes legislation citing need for local representation on Eastern Land Commission
OPVP, May 5, 2008

www.navajo.org/News%20Releases/George%20Hardeen/May08/Navajo%20President%20vetoes%20legislation%20that%20lacks%20local%20representation%20for%20May%205.pdf

3) During the April 2008 Council session, delegates approved legislation to remove the Navajo Nation Board of Education's elected members, slashing the board's authority and giving more authority to the Council's education committee.

Delegates move to strip power from ed board
Navajo Times, April 3, 2008

President Shirley told the Council:

"Taking this action is wrong. It leads this body down a path fraught with hazards and inevitable heartache. It tampers with our democratic process and violates the people's trust. And it is indisputable that this proposal arose in reaction to issues involving our former superintendent. I would caution against allowing personnel matters to ever be used to confuse the original intent and purpose of our still-recent Title 10 amendments to strengthen Navajo education. This legislation would unravel all that is good and special about the Act. I recommend that you disapprove the proposed amendments to Title 10."

The legislation failed.

President Shirley, State of the Navajo Nation Address
April 21, 2008

[www.navajo.org/News%20Releases/George%20Hardeen/Apr08/President%20Shirley%20State%20of%20Navajo%20Nation%20April%2021%202008%20%20\(2\).pdf](http://www.navajo.org/News%20Releases/George%20Hardeen/Apr08/President%20Shirley%20State%20of%20Navajo%20Nation%20April%2021%202008%20%20(2).pdf)

Delegates move to strip power from ed board
Navajo Times, April 3, 2008

Education Committee prepares to present the Board of Education Amendments Act

Office of the Speaker, April 16, 2008
www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Apr08/Education_Co_mmittee_worksession.pdf

President Shirley launches government reform initiative, submits language to reduce Council to 24 members, obtain line item veto

OPVP, April 29, 2008

[http://www.navajo.org/News%20Releases/George%20Hardeen/Apr08/Navajo%20President%20sets%20council%20reduction%20line%20item%20veto%20plans%20into%20motion%20for%20April%2029%20\(2\).pdf](http://www.navajo.org/News%20Releases/George%20Hardeen/Apr08/Navajo%20President%20sets%20council%20reduction%20line%20item%20veto%20plans%20into%20motion%20for%20April%2029%20(2).pdf)

19. Have the Navajo people ever had a say-so in their government?

KEEPTHE88.COM:

Yes, the Navajo people have had a say-so in their government by electing leaders of their choice to represent them. The President contends the Navajo people have never had a say-so in how their tribal government is structured. That maybe true to a certain extent, but the power of the people has always been exercised through their elected Council, which is their voice in their government. The Council was first put in place by the federal government. Since that time, the Navajo people have controlled their own decisions and have passed laws since then. The tribal government has been operated by Navajos for Navajos. To say our tribal government has not been ours since 1935 is not true.

TASK FORCE RESPONSE:

Since the Navajo Business Council was established by the Bureau of Indian Affairs for the Navajo people in 1923, the Navajo people *have not* had input into how their Navajo government is structured.

For the first time in Navajo history, the two government reform initiatives will allow the people a direct role in deciding how their government is structured and the powers of the President.

If it is true, however, as this website statement states, that “the Navajo people have controlled their own decisions,” why are Navajo government officials now obstructing the people’s decision to have a government reform election?

OPVP Chief of Staff Patrick Sandoval says allegation of interference is without basis, designed to have office appear acting in bad faith

OPVP, Oct. 9, 2009

www.navajo.org/News%20Releases/George%20Hardeen/Oct09/091009pres%20OPVP%20Chief%20of%20Staff%20says%20accusation%20of%20interference%20baseless.%20for%20Oct.%209.pdf

OPVP Chief of Staff Patrick Sandoval says Legislative Counsel trying to change initiative to have voters affirm Council as ‘governing body’

OPVP, Oct. 13, 2009

www.navajo.org/News%20Releases/George%20Hardeen/Oct09/091013pres%20OPVP%20Chief%20of%20Staff%20says%20Leg%20Counsel%20trying%20to%20change%20vote%20language.%20for%20Oct.%2013.pdf

Neither the President nor the Initiative Petition Committee have ever suggested that the tribal government did not

belong to Navajos, only that the people’s actual participation has been limited until now:

1) The Navajo people were denied the opportunity to ratify the governmental changes of Title 2 as they were supposed to by 1993, or within three years of its passage.

2) Because of the restrictiveness of the Navajo Nation law governing referendum elections – requiring a supermajority vote of all 110 voting precincts for passage – Navajo voters were denied the changes they sought and overwhelmingly approved to reduce the Navajo Nation Council to 24 delegates in the referendum vote of 2000, despite participating in both a primary and general election.

3) None of the 26 recommended changes to Navajo government that were approved at a May 14-15, 2002, Navajo Statutory Reform Convention, sponsored by the now-abolished Navajo Government Development Commission, were ever adopted by the Council.

20. Is a reduction to 24 Navajo Nation Council delegates government reform?

KEEPTHE88.COM:

No, a reduction to 24 Council delegates is not government reform. The Navajo President claims a Council reduction to 24 members will save the Nation money. Supporters of the reduction fail to acknowledge that a 24 member Council will spend the same as an 88 member Council, because a majority of the money Council receives goes right back into the hands of Navajo constituents.

TASK FORCE RESPONSE:

Voter approval to reduce the Navajo Nation Council from 88 to 24 delegates will be the most significant and historic government reform on the Navajo Nation since 1989.

It will be the first time the initiative process is used on the Navajo Nation to change the governmental structure, and it will demonstrate to the Navajo people that change through the initiative process is possible for further changes they may desire in the future.

Reducing the Council is obvious government reform. The Navajo Nation Supreme Court stated on June 22, 2009, that “the government of the Navajo Nation belongs to the Navajo people. A government cannot operate effectively unless the citizenry has confidence in its government.”

Tuba City Judicial Dist. V. Sloan, 8 Nav. R. 159, 167 (Nav. Sup. Ct. 2001)

Further, it stated that reduction of the Council is real government reform.

“First, the issues at state here are of significant impact throughout the Navajo Nation. The petition itself suggests a *significant change in the structure of Navajo government* by reducing the size of the Council and granting the President line-item veto power.”

Navajo Nation Supreme Court
In the Matter of the Navajo Nation Election Administration's
Determination of Insufficiency Regarding Two Initiative Petitions
June 22, 2009

www.navajocourts.org/NNCourtOpinions2009/Joe%20Shirley%20Jr.%20President%20v.%20Office%20of%20Hearing%20and%20Appeals.pdf

21. Would Council reduction make the Navajo government more efficient?

KEEPTHE88.COM:

No, Council reduction would not make the Navajo government more efficient. Supporters of Council reduction base criticism on accusations of mismanagement of funds and the so called uncontrolled spending of Navajo dollars by Council. What people need to realize is the Executive Branch of the Navajo Nation—through the Office of the President—control the lion's share of approximately 94 cents of every dollar or 93.67% of the tribal budget, based on the FY 2010 budget. The Legislative Branch only receives 3.712% and the Judicial Branch 2.615%. These are very small fractions of the pie. The Navajo President and his initiative petition to reduce the Council continually ask how much of the Legislative Branch's budget is being wasted? Rather, the Navajo people should be asking how much of the nearly 94% Executive Branch budget is being wasted? The next fundamental question is what has been accomplished with that allocated money in the past 7 years of the President's administration—two terms as President of the Navajo Nation. The Navajo people need to question the spending of the Executive Branch. With the majority of the tribal budget being managed by the Executive Branch and the Office of the President, why are the Navajo people still asking for homes with some not even having running water or electricity? The Navajo Council has consistently overridden the President's veto in order to deliver much needed funds to the 110 chapters to help the Navajo people. The President, most times, disagreed with giving needed dollars to his people and this Council reduction is simply retaliation for this.

TASK FORCE RESPONSE:

Council reduction, combined with presidential item veto authority over spending measures, will make the Navajo

Nation government more effective, more efficient, and more accountable to the people.

Point 1. A Council of 24 delegates will bring the changes and reforms to the Council's operation that many delegates campaigned for when they first sought election. With restructuring, the Council could allow for more debate on issues and pending legislation than the five minutes Council rules allow now, limit the abuse of Council rules such as “point of order” interruptions of delegates, rush to voting, and allow the Council to renew its focus on the policy-making function of government.

Point 2. Because line item veto authority will allow a President to specifically delete wasteful and unnecessary spending, it will eliminate the current Council practice of loading legislation with appropriation “riders” that amount to millions of dollars beyond the original appropriation.

On July 6, 2009, OMB Director Dominic Beyer expressed concern that should the Council appropriate \$9.7 million from the Personnel Lapse Fund – which it did – chapters would receive a total of \$69.6 million in FY2009 and the Nation would be in deficit.

Legislation with riders attached now requires the President to either accept excessive spending in order to ensure some deserving appropriations are made or veto entire pieces of legislation. This is inefficient government.

Navajo OKs spending \$17 million on projects

Gallup Independent, March 5, 2008

www.gallupindependent.com/2008/March/030508jch_spndngprjcts.html

Having Council reconvene a special session simply to override such a veto is an inefficient and costly way of conducting government business that will be eliminated through these initiatives.

Delegates manipulate rules for override

Navajo Times, July 23, 2009

<http://www.navajotimes.com/politics/2009/0709/072309override.php>

Line item veto authority will encourage Council delegates to cooperate with the President on spending measures for the first time, and bring greater harmony and overall efficiency to the Navajo government.

Point 4. This website statement says that President Shirley “disagreed with giving needed dollars to his

people and this Council reduction is simply retaliation for this." This is untrue.

President Shirley's position on assisting chapters, on Council reduction and on government reform was well-established before he was elected President in 2002.

The Gallup Independent reported on Oct. 28, 2003, that "as a reform-minded candidate, Shirley was swept into office along with 51 new delegates, leaving 37 incumbents." It reported that he "consistently has acted to give decision-making power to the chapters."

Diné reform group- AG ought to be elected

Gallup Independent, Oct. 28, 2003

<http://web.archive.org/web/20040223012017/www.gallupindependent.com/10-28-03dinereformgroupago.html>

Navajos decry lack of reform, group wants smaller council

Gallup Independent, Dec. 29 2000

www.gallupindependent.com/1999-2001/12-29-00.html#anchor2

Ex-prez Albert Hale backs Shirley-Dayish

Gallup Independent, Oct. 31, 2002

<http://web.archive.org/web/20030324145947/http://www.gallupindependent.com/10-31-02.html#anchor3>

Point 5. This website statement also says that the government reform initiatives are causing the Navajo government to be "thrown into disarray" and are retaliation by the President. This is untrue.

A June 30, 2008, press release from the Speaker's office states that the Council considered firing Attorney General Louis Denetsosie in retaliation for a legal opinion the Council disagreed with. Mr. Denetsosie's opinion found that a successful government reform initiative special election would require only a simple majority for passage rather than a supermajority that a referendum election requires.

The Speaker's spokesman said that delegates opposed the legal opinion that he said supported President Shirley's initiative to reduce the Council from 88 delegates to 24.

"He's causing discord within the government right now, siding with the president. With that, the council delegates felt he wasn't being fair in his representation."

Joshua Lavar Butler

Navajo Council members move to oust tribe's top lawyer

Gallup Independent, Associated Press, June 23, 2008
<http://www.gallupindependent.com/2008/06June/062308navajo.html>

Mr. Butler wrote that Mariano Lake/Smith Lake Council Delegate Young Jeff Tom, sponsor of the legislation to fire Mr. Denetsosie, acknowledged the legislation was in retaliation for a legal opinion he and other delegates disagreed with.

"Tom said that Denetsosie did not consult with the Council with his most recent opinion drafted for Joe Shirley Jr.'s initiative to reduce the Council and that is the reason for this attempt to remove him. Some council delegates strongly agreed with the removal, Katherine Benally for example."

Diné Fundamental Law takes precedence over removal of Denetsosie

Office of the Speaker, June 30, 2008

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/June08/DineFundamentalLaw_removalDenetsosie.pdf

22. Would the Navajo Nation save money through Council reduction?

KEEPTHE88.COM:

No, the Navajo Nation would not save money through Council reduction. The Navajo President says reduction of Council would save money by less travel costs, meeting stipends and overall salaries of Council delegates. The Navajo people should be questioning the President's travel with his staff, his frequent daily trips utilizing numerous tribal vehicles, executive protection (security detail) and daily use of the tribal plane for business and personal travel. President Shirley has a high paid staff with many making upwards of \$85,000 or more per year—many of whom spend their days working on his initiative drive to reduce the Council. The Navajo people need to tell the President that they do not want their money used in this way.

TASK FORCE RESPONSE:

The Navajo Nation will save millions of dollars through Council reduction.

Point 1. Calculating at the lowest amount – without considering benefits such as deferred compensation, 401 (k) plans, NACE discounts, or interest-free loans – the cost savings for delegate salaries alone will be \$1.6 million a year, or \$6.4 million over a four-year term should the Council be reduced to 24 delegates.

The \$25,000 annual salaries for 87 delegates will be reduced from \$2.2 million a year to \$600,000 for an immediate savings. These figures *do not* take into account the significant additional cost for meeting stipends, which often double or triple a delegate's pay, or

travel expenses which amount to millions of dollars. The Speaker received \$87,411 in 2007.

Point 2. President Shirley issued a travel restriction for OPVP staff on Feb. 6, 2009. By contrast, the Economic Development Committee, the Speaker and staff traveled to travel to Washington, D.C., and New York City for an entire week in early November. Reduction of the Council will have a corresponding reduction in the number of delegates traveling and result in a significant decrease of the cost of those trips.

The Tribal Leaders Conference with President Obama was for one tribal leader, and Navajo Nation Vice President Ben Shelly was the designee to represent the Navajo Nation. However, a press release from the Speaker's office said Speaker Morgan led the Navajo delegation, and that the Vice President attended. No press release was issued about the delegates' week in New York City to attend the Veterans Day Parade.

Point 3. It is untrue that the President uses the tribal plane daily. This website statement offers no information to substantiate this allegation.

As President of the Navajo Nation, however, official travel is necessary, expected and budgeted, which even the Speaker's office acknowledges.

Speaker reassures Navajo people that official travel is necessary
Office of the Speaker, Dec 8, 2007

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Dec07/Microsoft%20Word%20%20120907%20Follow%20up%20to%20Hawaii%20Trip.pdf

Point 4. The Executive Protection Program of the Department of Public Safety was instituted during former Chairman Peter MacDonald's term in office and has served every Navajo Nation chairman and president since without interruption or threat of abolishment. Every state governor in the country has a similar program administered through state police departments.

On Nov. 10, 2009, the Government Service Committee voted 6-0 against legislation sponsored by Oak Springs/St. Michaels Council Delegate Curran Hannon to abolish the Executive Protection Program. The committee found that the legislation contained no documentation to justify abolishing the program.

Point 5. Pay for OPVP staff is comparable to that paid to staff in the Speaker's office. The Speaker is salaried at

\$55,000 per year but his income for 2007 was reported at \$87,411.03.

Point 6. It untrue that OPVP staff just spend their time working on the government reform initiative drive to reduce the Council. This website statement offers nothing to substantiate the allegation.

Diné Fundamental Law calls upon the leader of the Navajo Nation to communicate with and seek guidance from the Navajo people, as well as to use his experience and wisdom to act in the people's best interests.

Under Title 1, Section 3, of the Navajo Nation Code, President Shirley is authorized by Navajo law to educate the Navajo people about the government reform initiatives, have his staff assist him, use tribal resources necessary to inform the people, and seek the people's input about the initiatives.

It is unreasonable to expect any President to conduct the Navajo people's business without the assistance of his staff. Under the law, activities related to the President's initiatives are allowed when the President authorizes those activities.

Point 7. By contrast, the Council has taken steps to ensure the public remains unaware of government reform efforts. Delegates have refused to attend five agency government reform forum to explain their opposition to the initiatives.

Prior to December 2007, when the Navajo Nation Council abolished the Navajo Government Development Commission and moved the office under the Speaker's control, the office was independent and non-partisan.

On May 8, 2009, Speaker Morgan appointed his press officer, Joshua Lavar Butler, as director of the Navajo Government Development Office. Mr. Butler's appointment, and his active opposition to the government reform initiatives, is an obvious conflict of interest.

Butler appointed director of Navajo Government Development Office
Navajo-Hopi Observer, June 2, 1009

<http://navajohopiobserver.com/Main.asp?SectionID=74&SubSectionID=114&ArticleID=11559>

Further, the Speaker's office made a budget transfer of \$67,000 to hire Raphael Martin to represent the Council's

perspective in opposition to the initiatives at public forums.

The Speaker's office recently purchased full-page newspaper ads to fight the people's initiatives. On Nov. 4, 2009, the Speaker's office purchased two hours of airtime on KTNN for three Council delegates to speak against the people's initiatives without representation from the Task Force on Government Reform.

23. Does the Navajo Nation already have a balance to government?

KEEPTHE88.COM:

Yes, the Navajo Nation already has a system in place to ensure balance to its tribal government. The Navajo President assumes reduction will restore balance to the government. The Navajo people need to know we have a balance of government in place already with our current three branch government, we just do not have a President that is willing to work within that established structure.

TASK FORCE RESPONSE:

Since 1989, the balance of power of the Navajo government has increasingly tilted in favor of the Legislative Branch. Speaker Morgan officially acknowledged this during an Aug. 13, 2008, ceremony and press conference when he signed a memorandum of agreement with President Shirley.

Memorandum of Agreement, Aug. 13, 2008

www.navajo.org/News%20Releases/George%20Hardeen/Aug08/080813presGovernment%20Reform%20Agreement.pdf

Following six weeks of talks that Speaker Morgan requested with President Shirley, the Speaker signed a statement written by his attorney, Steve Boos, that reads:

"Despite having as its goal the creation of a more balanced system of checks and balances, the governmental structure established through *CD-68-89* had the actual effect of tilting the balance of authority toward the Council, through the continuation of Council powers that it 'shall be the governing body of the Navajo Nation' and that 'all powers not delegated are reserved to the Navajo Nation Council' and that the Council shall supervise those delegated powers."

The agreement also states:

"Because this temporary government structure was never re-examined as stated in and intended by CD-68-89, the government structure created by that resolution had the unintended effect of concentrating

power in the hands of a single entity, the Legislative Branch, in a manner that the Navajo Nation Council had sought to avoid in 1989."

"Dissatisfaction with the structure of the government has often been expressed through proposals to reduce the size of the Council."

A Diné Policy Institute report that was commissioned and paid for by the Speaker's office also confirms that the balance of power in the three-branch Navajo government is weighted in favor of the Legislative Branch.

"The (1989) changes were enacted to prevent a 'strong-man' from acquiring unchecked power as had been seen with former Chairmen. The reality is a bit different. The reform, although a step in the direction to 'check' power, is flawed; **the legislative branch continues to exercise ultimate control over the institutions that would empower the executive branch.** At the whims of the Council, the executive is, more or less, at the mercy of the legislative. It has created a strong-weak system of governance in that the legislative is by far much more powerful than the executive."

Navajo Nation Constitutional Feasibility
and Government Reform Project
www.onqd.navajo.org/files/dpiStudyReport.pdf

Point 1. Because the Council neglected to allow Navajo voters to ratify the Title 2 changes for 16 years, has made no effort to have the Navajo Government Development Office work on any government reforms since being moved under the Speaker's office in December 2007, or made any specific government reform proposals since the announcement of the people's initiatives in April 2008, it is unlikely the Council or the Speaker will seek real change now or in the future.

To date, all Council efforts have been to maintain the status quo, as represented by the name of the website, "Keep The 88."

Point 2. The reduction of the Council to 24 delegates and approval of presidential line item veto authority is the only opportunity the Navajo people will have to restore checks and balances to the three-branch Navajo government.

Shirley's idea of small council draws criticism
Gallup Independent, May 8, 2008
www.gallupindependent.com/2008/May/050708shirley.html

Point 4. This website statement inaccurately states that President Shirley is unwilling to work within the three-branch structure. The statement is nonsense because a President has no alternative available, and a President cannot create his own branch of government.

It is unfounded that President Shirley does not work with the Legislative Branch because he supports Council reduction. He has signed far more legislation in the past seven years than he has vetoed.

However, an impressive case can be made that the Council is unwilling to work with the President based on its unprecedented decision to place him on administrative leave without apprising him or the Navajo people of the allegations against him in violation of his due process rights under Article 4 of the Navajo Nation Bill of Rights.

Any other Navajo Nation employee would be protected from such action by Navajo Nation Personnel Policies and Procedures.

24. Does the Navajo Council lack accountability?

KEEPTHE88.COM:

No, the Council does not lack accountability. The Navajo President has continually criticized the Council of this. The President points to the fact Council delegates make: \$25,000 base salary \$300 per meeting for caucuses, chapter meetings, agency council meetings and other special meetings. \$300 to sponsor legislation \$60 per diem. The Navajo President uses these figures to make the Navajo people believe Council delegates are wasteful. Council delegates are simply being paid for the work they do on behalf of the Navajo people. Is the President indeed criticizing the work Council delegates do on behalf of the Navajo people? Most governments pay their legislators for meetings and for their time representing their constituents.

TASK FORCE RESPONSE:

There is no greater consensus among the Navajo public than the Navajo Nation Council lacks accountability to the people.

Tribal Council sneaks in pay raise
Gallup Independent, July 21, 2000

www.gallupindependent.com/1999-2001/7-21-00.html#anchor3

Undesignated fund use sparks debate
July 18, 2007

www.gallupindependent.com/2007/july/071807jch_uufsprksdbte.html

Point 1. A long list of indiscretions has been reported in the press and by readers on any local newspaper blog.

Discretionary fund records subpoenaed

Navajo Times, Oct. 22, 2009

www.navajotimes.com/politics/2009/1009/102209slush.php

Navajo Times letters, Nov. 12, 2009

<http://www.navajotimes.com/opinions/letters.php>

Navajo Council puts president on leave during investigation

Farmington Daily Times Discussion Forum

www.topix.net/forum/source/farmington-daily-times/TQCSRQ5US8PQ401JR

Point 2. This website statement raises the issue of compensation and states that the Council does not lack accountability. The Speaker's public policy on openness and transparency in government is:

"Government spending and expenditures are public information and the Navajo Nation government should be diligent in providing this information to its Navajo people. The Office of the Speaker strongly encourages and promotes transparency in government. It has always been a priority of the Office of the Speaker to provide information in a diligent manner."

Joshua Lavar Butler

Navajo Times, Dec. 8, 2007

Speaker reassures Navajo people that official travel is necessary

Office of the Speaker, Dec 8, 2007

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Dec07/Microsoft%20Word%20%20120907%20Follow%20up%20to%20Hawaii%20Trip.pdf

However, to date the Navajo people remain unaware how much each individual Council delegate receives in total annual compensation or how much each disperses in discretionary funds, and information is not forthcoming from the Speaker's office.

Making delegate compensation records and discretionary fund records available to the public and the press would be welcome.

Council gives nearly \$2 million to delegates, session ends up as spendfest

Gallup Independent, Aug. 28, 2007

www.gallupindependent.com/2007/august/082807jch_nvjospsndfst.html

Despite the Speaker's office policy on public information, when the Navajo Times attempted to get information from the Speaker's office, it was turned away.

“The Navajo Times attempted to speak with Vicky Cecil and Val Begay on Monday but Joshua Lavar Butler, Morgan's communication director, prevented the Times reporter from entering their office or speaking directly with them. Butler also refused to accept a copy of the documents on which the Times was seeking comment.”

Legislative relatives received \$100,000

Navajo Times, Oct. 8, 2009

www.navajotimes.com/politics/2009/1009/100809slush.php

Point 3. Openness and transparency has been a problem for the Legislative Branch, according to the Council's 2001 report, *Lawmaking and Oversight Efficiency Study; Increasing the Efficiency of the Navajo Nation Council and Standing Committees*:

“Transparency of government is a major component of advanced governments. The Navajo Nation needs to promote public involvement even at the expense of the comfort level of the delegates.”

The report expressed doubt that Navajo Nation Council delegates will make the necessary changes to bring greater efficiency to their lawmaking process, or that they will implement the report's recommendations.

“The likelihood that the current delegates would vote for such changes, however, is doubtful,” the report concludes. “The unwillingness of delegates to change their attitude towards their responsibilities may be the number one barrier to more effective and efficient lawmaking on the Nation.”

President Shirley has said this report provides enough data from the Council for Navajo voters to confidently vote to reduce its size.

Point 4. This website statement is inaccurate to state that most governments pay their legislators for meetings. Arizona representatives are paid a \$24,000-a-year salary and receive per diem but are not paid to attend meetings as Council delegates are. New Mexico state representatives are unpaid but receive per diem.

Legislative Salaries Per State

www.empirecenter.org/html/legislative_salaries.cfm

Voters to decide legislator pay, Prop. 300 calls for 25% hike, to \$30,000

Oct. 20, 2008

www.azcentral.com/news/election/legislature/articles/2008/10/20/20081020payraise1020.html

25. Are Council delegates paid more than any other Navajo Nation employee, including the President?

No, the President receives a base salary of \$55,000 a year. In addition, the President also receives housing, tribal vehicles to use as personal vehicles, executive protection, usage of the tribal plane for business and personal travel, cell phones and paid trips. The Navajo Vice President receives a base salary of \$45,000, in addition to the perks mentioned above as well. Staff within the Office of the President are well compensated with many making far more than an elected Council delegate, such as the President's Chief of Staff and the President's press officer, who both make more than \$85,000 a year.

TASK FORCE RESPONSE:

Although the question is irrelevant to the issue of government reform, Council delegates are paid more than most tribal employees, with many making more than the President.

According to the July 10, 2008, Navajo Times, 58 of the 88 Council delegates made more than \$50,000 a year in 2007. That amounts to \$2.9 million in compensation for those delegates. If the Council is reduced to 24 delegates but each was paid \$50,000 a year, the cost would be \$1.2 million annually, or \$1.7 million less than the 58 delegates received.

Several delegates made more than \$70,000 in 2007. Among them:

- Mariano Lake, Smith Lake Council Delegate Young Jeff Tom, Sr., made \$77,759.
- Sweetwater Council Delegate Woody Lee made \$76,169.
- Tachee, Blue Gap, Whippoorwill Council Delegate Raymond Joe, who sponsored legislation to place President Shirley on administrative leave, made \$71,455.
- Jeddito, Low Mountain, Steamboat Council Delegate Larry Noble received \$66,129.
- Dennehotso Council Delegate Katherine Benally was the lowest paid in 2007 with \$39,769.

The Navajo Times reported the salaries for each delegate in its July 10, 2008, edition.

26. Is the petition initiative to reduce the Navajo Council being put on the ballot as a grassroots effort as the Navajo President implies?

KEEPTHE88.COM:

No, the petition initiative to reduce the Council is not a grassroots effort and it has never been. The initiative is being managed and pushed by paid Navajo Nation employees from the Office of the President using tribal dollars. This is the Navajo people's money and they need to tell the President and his staff, "We do not want our money utilized in this way."

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TASK FORCE RESPONSE:

By definition, any Navajo initiative election is a grassroots effort. The Council reduction initiative process is a grassroots movement in the truest sense and it has been gaining momentum for 10 years.

Point 1. In 2000, the grassroots organization Diné for Better Government had one issue it was passionate about – reducing the size of the Navajo Nation Council. Its leaders included former Crystal Chapter delegate and current director of the Navajo Election Administration Edison Wauneka, who now opposes efforts to conduct a special government reform election because his office is under the control of the Speaker's office.

Delegate to sue over pay raise

Gallup Independent, Aug. 2, 2000

www.gallupindependent.com/1999-2001/8-02-00.html#anchor2

OPVP Chief of Staff Patrick Sandoval says allegation of interference is without basis, designed to have office appear acting in bad faith

OPVP, Oct. 9, 2009

www.navajo.org/News%20Releases/George%20Hardeen/Oct09/091009pres%20OPVP%20Chief%20of%20Staff%20says%20accusation%20of%20interference%20baseless.%20for%20Oct.%2009.pdf

OPVP Chief of Staff Patrick Sandoval says Legislative Counsel trying to change initiative to have voters affirm Council as 'governing body

OPVP, Oct. 13, 2009

www.navajo.org/News%20Releases/George%20Hardeen/Oct09/091013pres%20OPVP%20Chief%20of%20Staff%20says%20Leg%20Counsel%20trying%20to%20change%20vote%20language.%20for%20Oct.%2013.pdf

The organization gained members and strength after the Council voted delegates \$10,000 pay raises in August 2000. Its members successfully sued to have the pay raises reversed.

Judy v. White, No. SC-CV-35-02 (Navajo 08/02/2004)

National Tribal Justice Resource Center

www.tribalresourcecenter.org/opinions/opfolder/2004.NANN.0000007.htm

Tribal Council sneaks in pay raise

Gallup Independent, July 21, 2000

www.gallupindependent.com/1999-2001/7-21-00.html#anchor3

Navajos decry lack of reform, group wants smaller council

Gallup Independent, Dec. 29, 2000

www.gallupindependent.com/1999-2001/12-29-00.html#anchor2

Diné court overturns \$10,000 pay raise

Gallup Independent, Aug. 5, 2004

www.gallupindependent.com/2004/08aug04/080504raises.html

Point 2. In 2002, Diné for Better Government supported presidential candidate Joe Shirley, Jr., who was swept into office thanks largely to his strong positions to seek a reduction of the Council and government reform.

Diné reform group: AG ought to be elected

Gallup Independent, Oct. 28, 2003

<http://web.archive.org/web/20040223012017/www.gallupindependent.com/10-28-03dinereformgroupago.html>

Point 3. Again in 2006, President Shirley campaigned on seeking government reform because the voices of the people in the Sept. 5, 2000, referendum went unheard, and because the people's 26 recommendations for government reform following a Statutory Reform Convention at Red Rock State Park in 2002 were ignored.

Since then, Speaker Morgan and the Council have done nothing to bring about government reform but abolished the Navajo Government Development Commission in December 2007.

Point 4. Although the Initiative Petition Committee that formed in May 2008 is represented in official documents by President Shirley, dozens of Navajo people were petition carriers and thousands more signed petitions to hold an election to vote on the two initiative questions.

Had President Shirley not acted to launch the Presidential Task Force on Government Reform in April 2008, the will of the people would have remained unfulfilled.

Point 5. While the President's staff supports the two initiatives, most of the work mentioned by this website statement involves fending off legal challenges from the Speaker's office, the Office of Legislative Counsel and the Navajo Election Administration.

Point 6. Resistance to the initiatives has been continuous since May 19, 2008, when the Speaker filed a challenge to them with the Office of Hearings and Appeals. According to his attorney, Steve Boos, the Speaker's intention was to block or delay the initiative process.

Although the challenge was denied, other legal challenges occurred and culminated on Oct. 26, 2009, when the Council placed President Shirley on administrative leave without official allegation or charge following a five-hour-long executive session.

Point 7. President Shirley is authorized by Navajo law under Title 1, Section 3, of the Navajo Nation Code to inform the Navajo people about the government reform initiatives. This permits him to have his staff assist him, and to seek the people's input. Diné Fundamental Law calls upon the leader of the Navajo Nation to communicate with and to seek guidance from the Navajo people. It requires him to use his experience and wisdom to act in the people's best interests, which President Shirley and his staff are doing, as affirmed by the public.

It is unreasonable to expect a President to conduct the Navajo people's business without the assistance of his staff. Under the law, activities related to the President's initiatives are allowed when they are authorized by the President.

[27. Is the power of the Legislative Branch continuing to grow and is it creating an impractical imbalance between the government branches?](#)

KEEPTHE88.COM:

No, the power of the Legislative Branch is not continuing to grow and it is not creating an impractical imbalance between the government branches. Since 1989, the Navajo Nation Council was delegated the authority to oversee the Navajo people's government to prevent one person from accumulating too much power. The Navajo people should not allow the toppling of the balance of power we currently have with the three branch governmental system. The Navajo people need to preserve their voice in their government and not allow the Navajo President to silence their voice. Prevent a monopoly of power and oppose Council reduction and the line item veto authority.

TASK FORCE RESPONSE:

The power of the Legislative Branch has grown tremendously since 1989, as Speaker Morgan acknowledged on Aug. 13, 2008.

Memorandum of Agreement, Aug. 13, 2008

www.navajo.org/News%20Releases/George%20Hardeen/Aug08/080813presGovernment%20Reform%20Agreement.pdf

In signing the Aug. 13, 2008, memorandum of agreement with President Shirley, both Speaker Morgan and his Chief of Staff James Davis acknowledged how the power

of government has grown and is now concentrated in the Legislative Branch.

"Because this temporary government structure was never re-examined as stated in and intended by CD-68-89, the government structure created by that resolution had the unintended effect of concentrating power in the hands of a single entity, the Legislative Branch, in a manner that the Navajo Nation Council had actually sought to avoid in 1989."

Memorandum of Agreement, Aug. 13, 2008

www.navajo.org/News%20Releases/George%20Hardeen/Aug08/080813presGovernment%20Reform%20Agreement.pdf

President, Speaker agree to work together on government reform

Office of the Speaker, Aug. 13, 2008

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Aug08/President%20and%20Speaker%20of%20the%20Navajo%20Nation%20agree%20to%20work%20together%20on%20government%20reform.pdf

The people's voice will be silenced *only if* the Speaker's office and Council is successful in preventing a duly-called special election on the government reform initiatives from being held.

Shirley's idea of small council draws criticism

Gallup Independent, May 8, 2008

www.gallupindependent.com/2008/May/050708shirley.html

It is an indisputable fact and widely-held public opinion among Navajos and tribal employees that the power, costs, reach, and apparent impunity of the Navajo Nation Council has continued to grow steadily since the creation of the three-branch government in 1989. (See response to question 23). This has been documented in countless news accounts and is also thoroughly recorded in the Navajo Nation Council's own reports:

- **The 2001 "Lawmaking and Oversight Efficiency Study; Increasing the Efficiency of the Navajo Nation Council and Standing Committees"** found that the Council is significantly more expensive than other legislatures but is better paid, has attendance problems although delegates sit on other governmental bodies, and has the highest percentage of representation per constituent in the country.
- **The 2005 "Final Report to the Navajo Nation Council Subcommittee on Legislative Branch Effectiveness"** exposed Council ineffectiveness, found it has poor legislative record-keeping, found delegates are prevented from dealing with issues

that should be heard by the full Council, and noted that oversight committees spend more than half their time micro-managing the executive branch.

<http://www.ongd.navajo.org/files/frnc.pdf>

• **The 2008 “Navajo Nation Constitutional Feasibility and Government Reform Project”** stated, “At the whims of the Council, the executive is, more or less, at the mercy of the legislative.”

www.ongd.navajo.org/files/dpiStudyReport.pdf

28. Would a reduced Council free up millions of dollars in financial resources that are now being used for the expenses and operation of the Council?

KEEPTHE88.COM:

No, a reduced Council would not free up millions of dollars in financial resources that are now being used for the expenses and operation of the Council. Who is to say a 24 member Council would not spend the same amount of money as an 88 member Council with most of the money going to the Nation’s 110 Chapters? Instead, the Navajo people should be informed of the millions, upon millions of dollars written off by the Executive Branch through failed business deals. These millions could have been utilized for the benefit of the Navajo people. The Navajo President fails to recognize wasteful spending and written off dollars within his own operation of the Executive Branch. To explain a scenario, hypothetically speaking, a 5% financial waste of the Legislative Branch would be a little more than \$1 million. Now, a 5% financial waste on the Executive Branch would be 25 times more at \$25 million on average. With this scenario, the Navajo people should be questioning wasteful spending by the Executive Branch and the Office of the President.

TASK FORCE RESPONSE:

Council reduction will allow millions of dollars to become available for uses other than the Council’s stipends, travel and discretionary spending.

Council gives nearly \$2 million to delegates, session ends up as spendfest
Gallup Independent, Aug. 28, 2007
www.gallupindependent.com/2007/august/082807jch_nvjospondfst.html

OMB Director Dominic Beyer expressed concern that if the Council appropriated \$9.7 million from the Personnel Lapse Fund – which it did – chapters would receive a total of \$69.6 million in FY2009 and the Nation would be in deficit.

Point 1. The Navajo Nation Council permits delegates to receive interest-free loans from the Navajo Nation. Because some delegates neglected to report these loans

as income, the Internal Revenue Service is now seeking \$2 million in payment on back taxes which the Navajo Nation will have to pay.

This is an example of a personal financial benefit delegates receive that is unavailable to other Navajo citizens, and a lack of fiduciary responsibility.

Point 2. Calculated at \$25,000 for 87 delegates before benefits and deferred compensation, the immediate cost savings for delegate salaries alone will be more than \$1.6 million a year, or \$6.4 million over a four-year term should the Council be reduced to 24 delegates. Speaker Morgan received \$87,411 in 2007.

The annual salaries for 87 delegates will be reduced from \$2.2 million a year to \$600,000 for an immediate savings. These figures *do not* take into account the significant additional cost for meeting stipends, which often double or triple a delegate’s pay, or travel expenses which amount to millions of dollars a year.

29. Would the reduction of Council change the current three branch government?

KEEPTHE88.COM:

Yes, Council reduction would change the current three branch government, specifically the balance of power. Although the three branch government would be in place, the balance of power will be gone. The Navajo President would have supreme power over the other two branches of government and we cannot afford to be governed by just one person.

TASK FORCE RESPONSE:

Council reduction will not change the current three-branch government.

Point 1. It is erroneous that reducing the Council or granting presidential line item veto authority will result in the Navajo Nation being governed by just one person, i.e., the President. This website statement presents no information to substantiate the assertion.

Point 2. This website statement is incorrect to state that Council reduction will result in granting the President “supreme power over the other two branches of government.”

In its July 22, 2008, opinion, the Navajo Nation Supreme Court stated:

“If approved by Navajo voters, the Initiative Petitions would reduce the number of Navajo Nation Council delegates from 88 to 24 and **expand the powers of the President by giving him line-item veto authority.**”

The Court opinion states unequivocally that *the only effect* of approving line item veto authority will be to “expand the powers of the President,” not grant him supreme power.

In the Matter of Two Initiative Petitions
Navajo Nation Supreme Court, July 22, 2008
No. SC-CV-41-08

www.navajocourts.org/NNCourtOpinions2008/05In%20the%20Matter%20of%20Two%20Initiative%20Petitions%20filed%20by%20the%20Navajo%20Nation%20President%20Joe%20Shirley%20Jr.pdf

The Court also notes:

“Importantly, the assumption within the certified question is that the Navajo People have the power to amend the size of the Navajo Nation Council. The parties and (the Office of Hearings and Appeals) agree on this point. The Court readily agrees as well. On this, there can be no dispute. Under Fundamental Law, the Navajo People, as well as the Council, may make laws for the good of the community; the People’s authority to make laws is not delegated to them by the Council. The referendum and initiative processes are modern acknowledgments of this authority.”

Point 3. For explanation why this is not remotely considered by the initiatives, see responses to questions 12, 13, 14, 23 and 27.

30. Would the reduction of Council and the line item veto authority cause the Legislative and Executive Branches the ability to work together in true cooperation on budgetary matters?

KEEPTHE88.COM:

No, the reduction of Council and the line item veto authority would not cause the two branches to work together in true cooperation on budgetary matters. The Navajo President chooses not to work with the Council and has decided instead to work against the Council while criticizing the Navajo peoples’ most fundamental voice in their government—their Council.

TASK FORCE RESPONSE:

Reduction of the Council and line item veto authority will have the positive effect of causing greater cooperation and improve the working relationship between the Executive and Legislative Branches.

Point 1. When the President vetoes a spending measure, citing either the waiver of the Appropriations Act, a recommendation from the Office of Management and Budget, excessive spending, or the burdening of legislation with unanticipated “riders” from the floor that bypass the normal approval process and eliminate any opportunity for prior review, the Council often overrides his veto.

Delegates manipulate rules for override
Navajo Times, July 23, 2009

<http://www.navajotimes.com/politics/2009/0709/072309override.php>

Knowing that the President could “line out” excessive spending riders and sign the remainder of the legislation into law will give incentive to Council delegates to discuss such spending measures prior to their introduction as “emergencies.” That will improve the efficiency of the Council and the overall effectiveness of Navajo government.

President Shirley’s criticism of the Council in his veto messages is limited to its repeated waiving of the Appropriations Act, its draining of the Undesignated Unreserved Fund Balance, and its unfair use of floor rules to attach supplemental spending measures to other legislation as emergencies when they are not emergencies.

Council delegates have agreed with this.

“I think we can all agree that at some point in time the constant digging at the Undesignated Fund will hurt the Nation,” Budget and Finance Committee Chairman LoRenzo Bates told the Council in 2007. “When it comes to the Unreserved, Undesignated Fund we have a definite spending pattern and it’s nothing we should be proud of.”

**Panel mulls line item veto,
Power would help president curb overspending of UUF**
March 27, 2007

www.gallupindependent.com/2007/march/032707jch_lineitemveto.html

Making appropriations as emergencies to avoid committee review is a violation of Title 2, Section 164 A, 7, a.:

“Matters constituting an emergency shall be limited to the cessation of law enforcement services, disaster relief services, fire protection services, or other direct services required as an entitlement under Navajo Nation or federal law or which directly threaten the sovereignty of the Navajo Nation.”

Point 2. On March 6, 2008, after the Council passed legislation 60-10 to spend \$17 million in supplement appropriations when only \$1 million was sought by the Department of Emergency Management for a weather-related emergency, Office of Management and Budget Director Dominic Beyal wrote:

“OMB repeats the recommendation that the Navajo government follow applicable laws and policies, and not waive them, so sound, prudent and planned budget decisions addressing essential priorities can be made. It is unfortunate that the government now makes it a regular practice to bypass the laws which are there to promote fair, just, and wise budget decisions.”

Shirley's veto impacts direct services to Navajo people
Office of the Speaker, March 4, 2008

www.navajo.org/News%20Releases/Joshua%20Lavar%20Butler/Mar08/031108.VetoResponse.pdf

Navajo OKs spending \$17 million on projects
Gallup Independent, March 5, 2008

www.gallupindependent.com/2008/March/030508jch_spndngprjcts.html

31. Would the reduction of Council stop repeated raids of the Undesignated, Unreserved Fund and other trust fund accounts as the Navajo President claims?

KEEPTHE88.COM:

No, Council reduction would not stop repeated use of the Undesignated, Unreserved Fund or other trust fund accounts. The Navajo people should know the majority of funds Council takes from these funds go back to all 110 Navajo Chapters to be used for direct services of the Navajo people. The Navajo President signs many of these funding appropriation bills as well, funneling millions of dollars into the budget for the Office of the President, but nobody knows how their funds are being utilized. Currently, the Office of the President does not have any kind of policy or procedure in place to govern discretionary funds, but the Office of the Speaker and the Navajo Council has plans in place.

TASK FORCE RESPONSE:

It is refreshing that this website statement acknowledges “repeated raids of the Undesignated, Unreserved Fund.” Regardless of where funds from these raids go, the way the Council often depletes them bybypasses Navajo law.

It has long been President Shirley’s position that the Council acts irresponsibly in the way it appropriates funds from the UUFB.

“We are simply not a lawless nation by which a majority of the Council can waive all of the Navajo Nation laws. I urge the Navajo Nation Council to uphold and respect the laws that the Council has enacted and not simply abandon and discard them. I am extremely concerned that our continued expenditure of these funds for non-emergency supplemental appropriations will compromise the Navajo Nation’s ability to adequately address true emergencies should they arise.”

President Shirley’s veto message to Speaker Morgan.

July 31, 2006

[www.navajo.org/images/pdf%20releases/George%20Hardeen/aug06/Navajo%20President%20Joe%20Shirley,%20Jr.,%20vetoes%20\\$11%20million%20appropriation%20to%20give%20\\$100,000%20to%20every%20chapter.pdf](http://www.navajo.org/images/pdf%20releases/George%20Hardeen/aug06/Navajo%20President%20Joe%20Shirley,%20Jr.,%20vetoes%20$11%20million%20appropriation%20to%20give%20$100,000%20to%20every%20chapter.pdf)

By tribal law, the UUFB is supposed to be maintained at 10 percent of the prior year General Fund budget.

Presidential line item veto authority will certainly be able to put a stop to “raids” of the Undesignated Unreserved Fund Balance.

Delegates want big money

Gallup Independent, Jan. 14, 2008

www.gallupindependent.com/2008/January/011408kh_bigmney.html

However, it is likely that a smaller, better-educated, more astute Council will also put a stop to the practice of draining the UUFB because of increased cooperation with the President.

This website statement inaccurately states that “nobody” knows how President Shirley’s discretionary funds are used. All discretionary fund disbursements for the President’s office are made by Office of the Controller. By contrast, the Speaker’s office issues its own discretionary fund checks and access to its records has been prohibited to date.

32. Why does the Navajo President say Council repeatedly waives Navajo Nation laws when he also encourages it as well?

KEEPTHE88.COM:

That is true. The Navajo President says Council repeatedly waives laws when he also encourages it as well. For example, the Navajo President encouraged the waiving of Navajo laws when he was pushing the Nation to borrow \$500 million dollars for capital projects and when he advocated for the approval of the Desert Rock Energy Project.

TASK FORCE RESPONSE:

President Shirley has consistently asked the Council to either refrain from waiving the Appropriations Act or to amend the law.

“We need to mind the affairs of our government through the rule of law. We cannot enact laws and then not follow them. We have done that too many times by waiving the laws that have been put into place, and conducting business as if there are no laws, especially where Navajo Nation funds are involved.”

President Shirley, State of the Navajo Nation Address
April 21, 2008

[www.navajo.org/News%20Releases/George%20Hardeen/Apr08/President%20Shirley%20State%20of%20Navajo%20Nation%20April%202021%202008%20%20\(2\).pdf](http://www.navajo.org/News%20Releases/George%20Hardeen/Apr08/President%20Shirley%20State%20of%20Navajo%20Nation%20April%202021%202008%20%20(2).pdf)

The same economic principle to stimulate the national economy now employed by the federal government through the American Recovery and Reinvestment Act could have been used on the Navajo Nation in 2004.

Unfortunately, the Navajo Nation Council missed an opportunity to bring employment to the Navajo Nation and make infrastructure improvements at chapters across the Navajo Nation when interest rates were attractive. An economic stimulus of that magnitude would have justified a waiver of the Appropriations Act, which would have occurred only after going through the normal tribal approval process.

33. How can the Navajo Nation government be compared to state and federal legislatures, this is the bases the Navajo President uses when pushing the reduction of Council?

KEEPTHE88.COM:

No, the Navajo Nation government should not be compared to state and federal legislatures. The Navajo Nation is unique in many ways. We are a unique people with a unique type of government and the Navajo people

should not be forced into adopting a system that they do not agree with. The Navajo Nation has unique needs and there is absolutely no way our tribal legislature can be compared to governments of a metropolis or a state government. It is true the Navajo Council through Speaker Lawrence T. Morgan initiated the study to gauge its effectiveness and to use the study to help improve services to the Navajo People. Instead, the Navajo President has used the study to continually criticize the Navajo Council as being ineffective. A similar study has not been done yet on the Executive Branch to gauge their effectiveness. The Navajo people have complained about the underperformance, overrepresentation and the inefficiency of the Executive Branch and the Office of the President. The Navajo people need to encourage a similar study of the Executive Branch. The Legislative Branch initiated a study titled, “Final Report to the Navajo Nation Council Subcommittee on Legislative Branch Effectiveness,” to gauge its effectiveness and to use as a tool to improve services for the Navajo Nation government, but why does the Navajo President use it to continually criticize the Council?

TASK FORCE RESPONSE:

Despite cultural and language differences, the Navajo Nation Council can easily be compared to state legislatures, and has been by its own contractor, the National Conference of State Legislatures.

Point 1. The Navajo Nation Council operates with laws, rules and procedures similar to those of state legislatures of comparable size:

- It passes laws.
- It functions with a Speaker’s office and a Legislative Counsel.
- Its members are assigned to oversight committees.
- In 2005, it elevated the Division of Diné Education to a department to be comparable to state departments of education.
- The Navajo Nation holds elections for Council delegates as states do for representatives.
- The Navajo Nation executes memoranda of agreement with states, and signs agreements with states.

When the Council sought to improve its own effectiveness, it contracted with the National Conference of State Legislatures to produce the 2005 *“Final Report to the Navajo Nation Council Subcommittee on Legislative Branch Effectiveness.”*

The National Conference is an organization that serves the legislators and the staff of states, commonwealths and territories. Its objectives are to improve the quality and effectiveness of state legislatures, promote policy innovation among state legislatures and ensure state legislatures have a cohesive voice in the federal system. When it performed this service for the Navajo Nation Council, at no time was a distinction expressed that the Navajo legislature was operationally unlike those of states.

The report is online at the Navajo Government Development Office website: www.ongd.navajo.org/reports.html

Point 2. An earlier study commissioned by the Council, the November 2001 report *“Lawmaking and Oversight Efficiency Study; Increasing the Efficiency of the Navajo Nation Council and Standing Committees,”* also compares the Navajo Nation Council to state, county and city governments.

To assert that the Navajo Nation Council “should not be compared to state and federal legislatures” ignores obvious facts.

Point 3. It is Council oversight committees’ responsibility to gauge the effectiveness of the Executive Branch and its nine divisions, three departments, three commissions, its Office of Management and Budget, and Environmental Protection Agency.

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