



Contact: Rose Whitehair
Judicial Liaison Officer
Administrative Office of the Courts
Navajo Nation Judicial Branch
928-871-7018 (office)
928-871-6761 (fax)
928-206-7253 (cell)
Email: RWhitehair@Navajo.org
<http://www.navajocourts.org/>

FOR IMMEDIATE RELEASE
June 23, 2010

Legislation No. 0359-10 relating to the Judiciary

Yesterday, the Judiciary Committee of the Navajo Nation Council recommended Legislation No. 0359-10 for vote by the Council. This legislation purports to ask the public via referendum whether they want the present system of appointed justices and judges to be changed to that of elected justices and judges. However, the brief wording of the referendum does not present the full scope of the proposed changes the legislation has in store for the judiciary. This legislation will not simply ask the people whether judges should be elected. Instead, it will increase the Judiciary Committee's exclusive powers over the Judicial Branch.

The Judicial Branch was not notified that this proposed legislation would be presented prior to the Judiciary Committee's special meeting. We have offered our assistance in the legislative efforts to reform the judicial selection process. However, to this day, the overview provided by the Judicial Branch has not been discussed, and the Branch has not been allowed the opportunity to offer suggestions or input.

The American Bar Association has completed exhaustive studies which conclude that the election of judges diminishes both the power and integrity of the judiciary. In many instances, state legislatures have turned to the election of judges immediately following controversial court decisions. The ABA studies found that the election of judges is costly in terms of resources and fairness. The process tends to politicize the dispute resolution process and compromise the independence of judges, who become dependent on financial donors. It also ensures that only those with sufficient resources will seek judicial office, regardless of their professional qualifications.

The People deserve to know there is an alternative. We can place the task of selecting and evaluating judges in the hands of an independent commission comprised of a cross-section of the public, rather than in the hands of the Council. States that have previously experimented with the election of judges are now moving away from elections to "merit selection" by neutral commissions. Across the United States, merit selection by an independent commission, rather than outright election of judges, has been found to be a better method to ensure judges serve the people.

The 35-page proposed legislation amends Titles 2, 7 and 11 of the Navajo Nation Code affecting retirement, supervisory duties, oaths of office, terms of office, removal and placement of judges and justices, petition challenges and hearing decisions. It is not simply putting a "yes/no" on the upcoming ballot; it has the potential to change the entire structure of the Judicial Branch.

We encourage the public to read the full proposed legislation available on the following website <http://www.navajocourts.org/>