

Navajo Nation LGA Post Certification
The Path Forward in Self-Governance
A policy analysis of the Navajo Nation Local Governance Act



SLIDE NOTES

Prepared for
Speaker Lawrence Morgan
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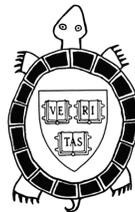
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CONTENTS

NOTE: The following document is a companion to a separate slide presentation. This document includes the slides and notes that clarify and explains the content on the slides. It follows the order of the slide presentation, although in some cases additional slides are included. The appendices provide additional information.

PRIMARY FINDINGS	1
1. CONTEXT	2
2. BEST PRACTICES IN DECENTRALIZATION	5
3. CHALLENGES OF LGA POST-CERTIFICATION	10
4. REQUIREMENTS FOR POST-CERTIFICATION REFORM	17
5. OPTIONS FOR THE PATH FORWARD	22
6. NEXT STEPS.....	25
APPENDICES.....	29
I. History of LGA reform and experience of certified chapters	
II. Case studies of decentralization	



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PRIMARY FINDINGS

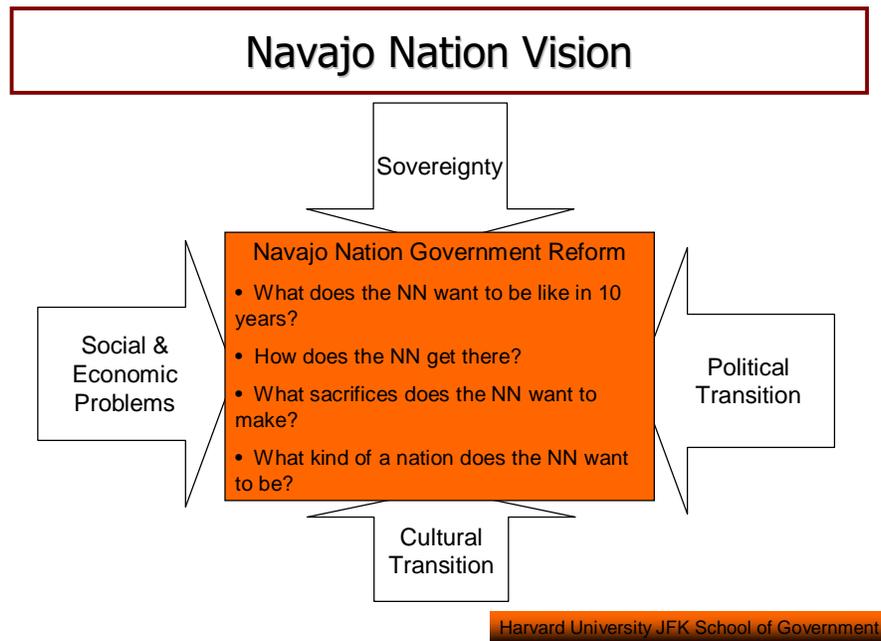
Primary Findings

- Change is required for LGA success
- Navajo Nation leadership must
 - Drive legislative change
 - Designate single change team
 - Choose 1 of 4 options for reform
- All branches and chapters must support the effort

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Our primary findings are described above. The rest of this document explains these findings in more detail

1. CONTEXT

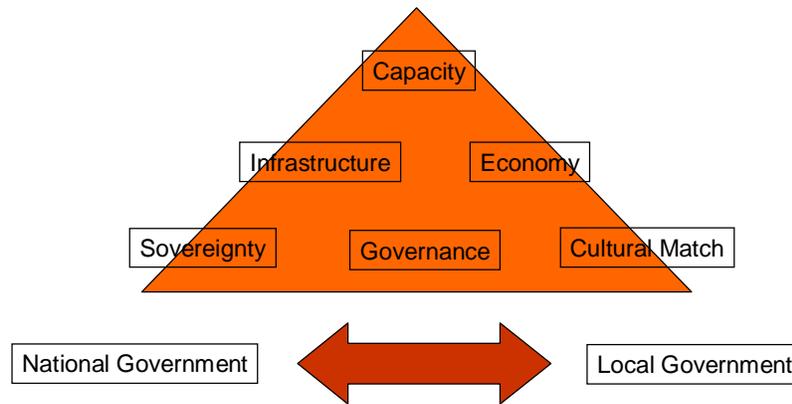


The Navajo Nation is undergoing significant cultural, political, and socio-economic transformation. All these forces of transformation pressure the Navajo Nation government to provide realistic positive changes that can include assessing governance structure, service delivery, other operations, or finance. In addition, these forces pressure the Navajo Nation leadership to provide a vision for its booming population.

- With employment entrenched at 50 percent or more, the Navajo people are demanding different types of employment instead of earning wages just from ranching and government work.
- The Navajo people are no longer just living in scattered clan clusters across the vast land the size of West Virginia. They are moving from rural areas to planned housing tracts around developing towns.
- With the booming population, mostly under 25 years of age, there is a rising demand for jobs. Yet there is tremendous opportunity at hand!

The Local Governance Act (LGA) is important as one part of how the Nation responds to these changes. Like the constitutional reform initiatives and statutory reform amendments developed with chapters by the Office of Navajo Government Development, LGA helps the Navajo Nation continue the process of defining its own sovereign future, otherwise known as “Nation Building”. Neither LGA nor any of these other single efforts will solve every problem facing the Navajo Nation. However, as part of a continuous “Nation Building” strategy, local governance can help the Navajo Nation shape a positive future.

Navajo Nation Building



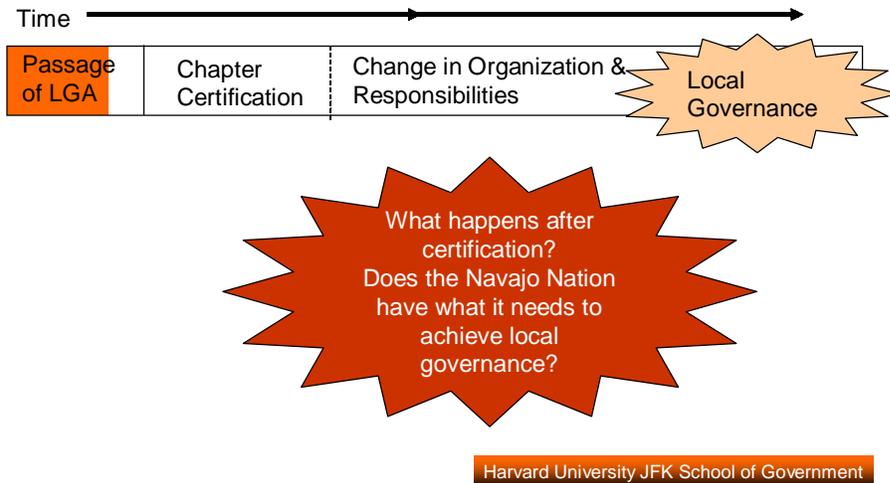
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Nation building is only as real and practical as its implementation. With many challenges facing the Navajo Nation, Navajo leadership must explore creative solutions to address the problems and issues as a result of changing socio-economic conditions of its growing population.

Joseph Kalt, director of the Harvard Project on American Indian Economic Development, has found in his research three important tenets of a nation building strategy: **cultural match, capable institution, and sovereignty**. Cultural match is alignment between a nation's current governance structure and its traditional governance ideas and practices. A nation building strategy based on cultural match, capable institution, and sovereignty can create capable tribal organizations, a robust economy, and flexible management capacity.

Local governance is the part of a successful nation building strategy that creates a balance between an effective national government and efficient service-delivery local government. A clear, practical understanding of roles and responsibilities provides the foundation for a government that responds to all of its members' needs, from dealing with the federal government to negotiating agreements with states to assessing local service needs and providing timely, effective service delivery.

Start of Long Process Toward Local Governance



This document focuses on one part of the Navajo Nation's transition toward local governance: the LGA's process of post-certification. Post-certification is when LGA-certified chapters take on new responsibilities now held by the Navajo Nation Government.

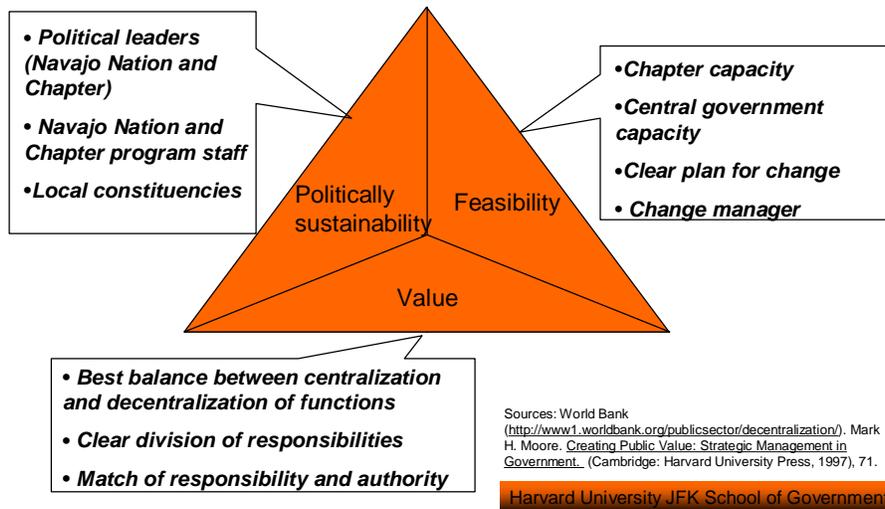
The Navajo Nation is arriving at the post-certification phase after a lengthy road toward local governance. Ten years ago, Navajo leaders first began advocating for a return to local governance at the chapter level, the Navajo Nation Council then passed a monumental law that re-establishes local governance at the community level. Now five years later, only two of 110 Chapters are certified and have entered the post-certification phase. Although most other chapters are close to certification, it may take several more years for all chapters to be certified.

Like the previous phases of the Navajo Nation's path toward local governance, post-certification is likely to be a lengthy process of change at both the chapter and nation level. It is also likely to be the most important part of the process, because it is during the post-certification phase that chapter governments and the Navajo Nation government will define how their new management roles operate in practice.

Because of the importance and length of this post-certification process, it will be critical for the Navajo Nation to define and manage the change well. The goal of this study has been to analyze the strengths and weaknesses of the current post-certification process

2. BEST PRACTICES IN DECENTRALIZATION

A Successful Local Governance Strategy



A review of other countries' decentralization programs and other public sector reform efforts points to several "best practices" for a local governance strategy.

General best practices for reform

A successful government reform strategy has three characteristics. First, it has value for users, clients, or the public. The "beneficiaries" of the strategy are better off because of it. Second, it is operationally feasible. The implementers of the strategy have the human, financial, or other resources needed to make it happen. Third, it is politically sustainable. The agency responsible for the strategy is "able to continually attract both authority and money."¹

All three elements are necessary for a successful reform strategy. If a strategy is not operationally feasible or politically sustainable, reformers will not be able to implement it. If a strategy has political and operational support but no value, reformers may be able to implement it, but will do little to improve its citizens' lives.

Best practices for local governance reform

In the context of a local governance reform, other countries' experiences show that there are several "best practices" for value, feasibility, and sustainability. (See appendix for details of specific case studies.)

1. Value

For any government program or service, central management offers certain benefits and

¹ Mark H. Moore. *Creating Public Value: Strategic Management in Government*. (Cambridge: Harvard University Press, 1997), 71.

VALUE, FEASIBILITY, AND SUSTAINABILITY FOR 638 CONTRACTING

The American Indian Self-Determination and Education Assistance Act of 1975 (P.L. 638) enables tribes to use federal funds to manage health care programs previously managed by the Indian Health Services. Tribes can choose to accept P.L. 638 contracts and receive the same amount of money that IHS would have received to manage the health care services, or they can elect to have IHS continue to provide care. A study by Alyce S. Adams examines how tribes choose whether or not to use 638 contracts for health care. She finds that of 107 federally recognized tribes, only 25 accepted contracts for tribally managed health care between 1980 and 1995. Value, operational feasibility and political sustainability of the 638 strategy was a critical difference between the tribes that “638”-ed health care (i.e. accepted PL 638 contracts) and those that did not. Those that had begun tribal management of health care tended to differ from other tribes in the following ways.

Value

Tribes that 638-ed tended to have lower federal appropriations per person in 1980 than the tribes that did not switch. Adams hypothesizes that tribes with higher appropriations were receiving better care from IHS and thus did not think 638-ing would be very valuable; they were satisfied with their current service

Operational feasibility

Tribes that 638-ed tended to have lower poverty rates than other tribes. Adams suggests that these tribes had more money to cover the costs of starting and running their own health services and thus were less worried about possible shortfalls in the 638 contract budget.

Political sustainability

Adams suggests that a large political hurdle to 638 contracts has been IHS employees’ fear of losing their jobs, despite amendments to the original act that guaranteed employment for them. To support this idea, Adams finds that the tribes that were less concerned about this issue were more likely to switch to 638 contracting. The tribes that switched tended to have a lower percentage of workers employed by the federal government and fewer Indian managers in IHS offices.

Source: Alyce Adams. “The Road Not Taken: How Tribes Choose Between Tribal and Indian Health Service

decentralization offers others. A valuable local governance strategy balances these two sets of benefits by defining the “best” split of responsibility between central and local governments. A valuable local governance strategy also matches responsibility and authority in a manner that enables local governments that are responsible for a given task to carry out that task with a minimum number of approvals from other levels of government.

2. Feasibility

Decentralization requires comprehensive change across all levels of government. Designing, managing, and administering government programs or services requires specific skills. Local governments that undertake new responsibilities will need to acquire these specific skills. They may also require significant financial resources to start-up and operate new programs. Central governments, on the other hand, will need to exchange program management skills for expertise in supporting local governments. Finally, any large change will require difficult changes in organizational culture. A feasible local governance strategy recognizes and addresses these changing needs.

3. Sustainability

Local governance requires the political support of both local citizens and the central government. Central government support is often the most difficult to gain because decentralization often means a loss in responsibility for central government employees. These employees may be reluctant to give up power or worry about losing their jobs.

Value: Centralization vs. Decentralization

Centralized government	Decentralized government
<p>General benefits</p> <ul style="list-style-type: none"> • Consistent standards and regulations • Distribution of benefits • Economic efficiency <p>Navajo-Specific Benefits</p> <ul style="list-style-type: none"> • Coordination of interactions with U.S. government 	<p>General benefits</p> <ul style="list-style-type: none"> • Adaptation & response to local needs • Local decision-making • Learning through local experimentation • Economic efficiency <p>Navajo-Specific Benefits</p> <ul style="list-style-type: none"> • Match with historical tradition of local governance

Source: John D. Donahue. *Disunited States: What's At Stake As Washington Fades and the States Take the Lead*. (New York: Basic Books, 1997), 38-55.

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Both operational feasibility and political sustainability are extremely challenging parts of a local governance strategy. However, the strategy's value is often the most difficult to define.

There are tradeoffs between centralized and decentralized (or local) management. Central management enables coordination of standards and the sharing of costs. In Indian Country, centralization also allows the coordination of communication with the U.S. government. Local management exchanges those benefits for others. Decentralization enables adaptation to local needs. Additionally, if local governments create different models for the same program, they can learn from the results of each other's experiments. Finally, for the Navajo Nation, decentralization approaches traditions of local authority.²

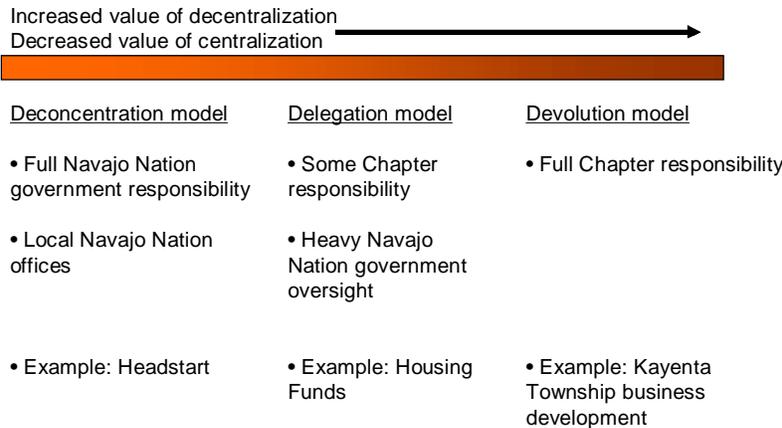
A valuable local governance strategy finds an appropriate balance between these two sets of advantages. The "right" model often varies across government functions. A study of decentralization efforts in Uganda and the Philippines illustrates the point. Both countries decentralized health services to better respond to local needs. In many cases, local authorities were better able to evaluate their citizens' needs. However, the study found that local management hampered the delivery of some services like immunization that had benefits that reached beyond local governments' jurisdiction. These services demanded coordination only the central government could provide.³ The most effective decentralization strategy in this case was one that kept some health services centralized and decentralized others.

² John D. Donahue. *Disunited States: What's At Stake As Washington Fades and the States Take the Lead*. (New York: Basic Books, 1997), 38-55.

³ Source: World Bank. "Decentralization and Governance: Dopes Decentralization Improve Public Service Delivery?". *PREM Notes, number 55*. June 2001.

<<http://www1.worldbank.org/publicsector/decentralization/premnote55.pdf>>. Accessed 1 March 2003.

Value: Degrees of Decentralization



Source: : Jennie Litvack, et. Al. *Rethinking Decentralization in Developing Countries.* The World Bank. 1998. <http://www1.worldbank.org/publicsector/decentralization/%20newRethinkingDece.pdf>. Accessed 14 April 2003. 4-5.

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Even for programs that are decentralized, it is likely that the model of decentralization will vary. “Decentralization” is a broad term that refers to the transfer of some government functions from a central government to local governments. There are three models of decentralization. The most extreme form of decentralization involves the transfer of all authority for one set of services or programs to local governments. This is called devolution. Devolution means that a local government has full responsibility and authority for a certain service program. However, devolution is not the only form of decentralization.

There are two other, intermediate forms of decentralization known as “deconcentration” and “delegation”.⁴ These forms of decentralization give local governments some control and input but not full responsibility. The Navajo Nation has experience with all three forms of decentralization.

⁴ Jennie Litvack, et. al *Rethinking Decentralization in Developing Countries.* The World Bank. 1998. <http://www1.worldbank.org/publicsector/decentralization/%20newRethinkingDece.pdf>. Accessed 14 April 2003. 4-5.

Central and Local Government Roles

	Central Government	Local Government
Treaty Maker	<ul style="list-style-type: none"> • Treaties; Agreements • Negotiations with US Gov't and States 	<ul style="list-style-type: none"> • Taxation • Land Management • Service Delivery
Grant Maker	<ul style="list-style-type: none"> • Contracts • Negotiations with US Gov't and States • Some Taxation (Fuel Excise Tax, etc) • Grants to Chapters 	<ul style="list-style-type: none"> • Some Taxation • Some Service Delivery
Authority	<ul style="list-style-type: none"> • Treaty and Agreements • Negotiations • Program Design & Delivery 	<ul style="list-style-type: none"> • Input Ideas to Central Gov't • Limited Assistance with Service Delivery

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Decisions about which programs should be managed locally and which should be managed centrally can be tied to a guiding vision for the Navajo Nation and the role of its central government. As the slide above describes, several roles are possible for the Navajo Nation central and chapter governments.

The Navajo Nation could decide that the central government should only act as a “treaty maker”, playing a coordinating role with the U.S. government, while chapters manage and fund most programs individually. Alternatively, the central government could function as a “grant maker” to chapters, whose primary role is to distribute funds to programs primarily managed by the chapters. Finally, the Navajo Nation could maintain a highly centralized government and hand over little authority to chapters.

Deciding which role is most appropriate is part of the Navajo Nation’s process of “Nation Building”. It must determine which guiding vision best fits the needs of the Navajo people.

3. CHALLENGES OF LGA POST-CERTIFICATION

Challenges of LGA

- Value: Unclear value
- Feasibility: Large change required
- Sustainability: Little incentive to change

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The analysis of the LGA post-certification process revealed three primary challenges to its success. The primary challenge is that the value of the LGA strategy is unclear. Two other challenges complicate the situation. The change required is large and will not be easy. Additionally, the current strategy gives most Navajo Nation government officials little incentive to support and promote this large change. Below, these challenges are described in more detail.

Value: Unclear Value

- No clear division of responsibilities between Window Rock and Chapter responsibilities
 - Specific authorities: leases, property, agreements for provision of goods/services
 - Non-specific clauses: “contracts or subcontracts” for funds and programs
- No strong local or national vision of benefits of local governance
- Strong constraints on decentralization
 - TCDC approval on ordinances and governmental form
 - Navajo Tax Commission tax code for Chapter taxes
 - Detailed job descriptions of Chapter officials
- Threatened tax loss for smaller chapters
 - Loss of shared revenue when all chapters certified

Source: Local Governance Act, interviews.

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The Navajo Nation faces four challenges to the value of its local governance strategy.

Challenge 1: No clear division between Window Rock and central responsibilities. The World Bank, in its experiences with decentralization projects in many developing countries, has found that the key to success is a clear definition of which responsibilities belong to which government.⁵ However, the Local Governance Act does not clearly define a new split of responsibilities between the Window Rock government and the chapter governments. The Act gives certified chapters the opportunity to “subcontract” any government service. It does not define which services which part of services this subcontracting should entail. Additionally, the Act leaves it to the chapters to decide whether they want to subcontract any services at all, or take advantage of the other new authorities designated in the act.

This lack of clarity limits the value of the Navajo Nation’s decentralization strategy in several ways. First, it creates an uncertainty about the value of local governance. No government official can clearly describe what service chapters will provide under the Local Governance Act and how Navajo Nation members will benefit. The closest anyone can get to describing the value of LGA is with general terms like “local empowerment”. Using the terms of the Local Governance Support Center employee, there is no clear picture of the “green pasture” that follows LGA certification.

The lack of clarity in the LGA also positions chapters for a painful decentralization process. The certified chapters report that they have found Window Rock officials reluctant to release

⁵ World Bank. Decentralization Toolkit. <http://www1.worldbank.org/publicsector/decentralization/toolkit.htm>. Accessed 14 April 2003.

responsibilities when confronted a request to subcontract. With no clear split of responsibilities, such antagonistic negotiations will continue.

Finally, the lack of clarity means that the Navajo Nation will lose some of the benefits of both centralization or decentralization. The flexibility in the LGA means that one chapter could take on land management, while another chapter could take on HeadStart management. The decentralization will be piecemeal. As a result, there is high chance of duplication of responsibilities. Additionally, chapters will not be able to share their experiences and learn from each other if they are each managing different programs. Centrally, if each chapter is free to petition to subcontract any program at any time, Window Rock program offices will have a difficult time coordinating their service provision.

Challenge 2: No strong local or national vision of benefits of local governance. The division of responsibilities continues to be unclear in part because there is no guiding vision for local governance. Some Window Rock and Chapter officials strongly advocate the advancement of local governance, but they speak mostly of Chapter certification. Chapter officials who speak of post-certification speak of local economic development, direct grant requests to the U.S. government, or higher pay for Chapter staff. They are common in their high hopes for local governance, but their visions are not consistent. There is no framework for the Nation of “what” local governance is and “why” is it important. Without a common vision, it is difficult to achieve a common benefit.

Challenge 3: Strong constraints on decentralization. The Local Governance Act aims to significantly increase Chapters’ authority. However, it is important to note that the Local Governance Act places multiple constraints on this authority. Additionally, the Act (and related legislation) specifically defines the organization responsibilities of chapter governments and chapter officials. It also requires Chapter governments to gain legislative or executive approval of contracts for funds and certain ordinances.

These constraints are not alone problematic. However, they mean that in many cases “local governance” is not really local. If very local governance is important, central guidelines or approval requirements should be minimized. Navajo Nation approval does not promote local authority and responsibility. Similarly, Navajo Nation mandates about *how* chapters must fulfill their responsibilities do not promote independent thinking and experimentation among chapters.

Challenge 4: Threatened tax loss for small chapters. Under the new tax distribution plan, tax revenue is distributed among all chapters. Half of the money is distributed evenly among the chapters. The other half is distributed according to chapters’ population. Some chapters receive more money than they collect in revenues. Others receive less.

LGA will change this situation. When chapters become certified, they are entitled to keep all Navajo sales tax revenue collected from their chapters instead of pooling it for distribution among all chapters. So chapters that make more tax revenue than they receive in the current distribution will benefit. These chapters tend to be the bigger chapters. However, many chapters will not benefit. Chapters that make less than they receive in the current distribution will lose revenue, unless they receive other compensation. These chapters tend to be the smaller chapters.

Value: The Kayenta Township Example

	Local Governance Act	Kayenta Township Regulation
Delegation of Responsibilities and Approvals	<ul style="list-style-type: none"> • 9 specific authorities • 4 very flexible authorities 	<ul style="list-style-type: none"> • 4 specific, related authorities
Window Rock Approval	<ul style="list-style-type: none"> • Approval for many funding and operational decisions 	<ul style="list-style-type: none"> • No approval required for most decisions • 5-year revisions of land use plan
Job descriptions	<ul style="list-style-type: none"> • Descriptions for all chapter officials 	<ul style="list-style-type: none"> • Description of Kayenta Planning Board • No specific job descriptions

Source: Local Governance Act and CN-86-85 establishing Kayenta Township Pilot Project.

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The lack of clear value in the LGA contrasts with the clearly defined value in the legislation that created the Kayenta Township. Unlike the LGA, the legislation that established the Kayenta Township Pilot Project clearly defines the limits of the Township’s authorities. It then enables the Township to exercise those authorities under one sole condition: 5-year updates on the Land Use Plan. Unlike the LGA, it does not describe in any detail how the Township will accomplish its goals or use its authorities. Furthermore, it does not require Window Rock approval of decisions made according to the Act.

Under this shorter, simpler, and clearer local governance legislation, the Kayenta Township has governed itself for 5 years. It has used its new authority to attract numerous new businesses through a streamlined leasing process and raised tax revenue that can support future development projects. It has additionally built a form of governance that has attracted skilled professionals back to the reservation to participate in what they feel is an exciting opportunity to create change on the reservation. One Kayenta Township staff member said, “I’ve worked for private companies. I wanted to be part of this because I really wanted to show my talents”. Another staff member said in her hometown progress is slow; she moved to Kayenta because she felt like the new model allowed her to truly make a difference for the Navajo Nation.

Feasibility: Large Change Required

- Large changes required in approach toward government
 - Chapters' political culture and skills
 - Vision for community vs. regulation dependence
 - Self-reliance vs. grant dependence
 - Navajo Nation's political culture and skills
 - Partnership vs. micromanagement
 - Support vs. mandates
- Lack of skills for local governance in some chapters
 - Strategic planning
 - Program management
 - Knowledge of current law
- Unclear resource needs until division of responsibilities is clear

Source: Local Governance Act, interviews

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The Navajo Nation faces three challenges to the feasibility of the LGA.

Challenge 1: Large changes required in approach toward government.

Since the 1920s, when the U.S. Government required the Navajo Nation to create one single national government, the Navajo Nation has become accustomed to a strongly centralized government. Moving toward local governance will require a large change. Instead of depending on Window Rock employees to guide and fund government programs, chapters will begin to create, implement, and perhaps fund their own programs. In Window Rock, some offices will transition from direct program management to chapter support.

At the most basic level, this transition will require technical changes in the skills of government employees and the rules that govern them. However, technical change will not be enough. Chapter and Window Rock government offices will also need to adapt their organizational cultures: the design of their organizations or their methods of managing employees.

Challenge 2: Lack of skills for local governance in some chapters. Many chapters have never before planned strategically or managed service programs. Even the chapters most advanced in the LGA process are worried about acquiring these new skills. As one chapter manager said about program management, "We're an infant. We don't have expertise." The Office of Navajo Government Development has planned to hire consultants to assist chapters in strategic planning. It will be critical to address not only strategic planning, but also the other skills chapters need to increase their responsibilities and accountability.

Challenge 3: Unclear resource needs until division of responsibilities is clear

It is impossible to analyze the human and financial resources needed to implement local governance because the extent of change required is not clear.

Sustainability: Little Incentive to Change

- Unclear job future for government employees until division of responsibilities is clear
- Difficulty of promoting idea whose value is not clear
- Lack of consistent champion

Source: Local Governance Act, interviews

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The LGA's post-certification process also faces challenges to political sustainability. Although the current Speaker, Lawrence Morgan, and other political leaders have voiced their strong support for the advancement of local governance, they may find that Window Rock officials are reluctant to lend their support to the initiative for the following reasons.

Challenge 1: Unclear job future for government employees until the division of responsibilities is clear. As chapter responsibilities increase, it is possible that some Window Rock jobs will disappear. This possibility encourages Window Rock employees to stall rather than support local governance because they are scared of its consequences. One Window Rock program staff member said in an interview, "I'm not sure about LGA. I'll probably lose my job."

The lack of clarity about local governance increases this fear. With no clear division of responsibilities between Navajo Nation and chapter governments, all Navajo Nation program employees may worry that theirs will be the ones transferred to chapter governments.

Challenge 2: Difficulty of promoting idea whose value is not clear.

Challenge 3: Lack of consistent champion.

LGA has no consistent political supporter. Political support for LGA wavers across administrations. LGA also lacks a clear non-political champion. Both the Division of Community Development and the Office of Navajo Government Development are responsible for promoting and supporting local governance. However, neither is clearly accountable for the progress of LGA. There is no single, consistent voice in charge of defining and championing the next phase of local governance.

Results

Uncertainty

"We do not know what Local Governance will bring to us."

"We know what we want to do, but the LGA does not give us all the authority we need"

Loss of Solidarity

"We will subcontract the Window Rock employee that covers our chapter and two other Chapters. The other Chapters will have to figure out how to cover their area."

Over-focus on 5 Management Systems

"Local Governance is getting certified"

No Momentum

Source: Interviews with Chapter officials and staff. Quotes are representative, not direct.

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The challenges to the value, feasibility, and sustainability of LGA have stalled the Navajo Nation's progress toward local governance. As the slide above describes, chapters are uncertain about where local governance is headed, and have become overly focused on the requirements of the five-management systems. To successfully implement local governance, the Navajo Nation will need to address these challenges with changes in how it manages and designs the post-certification process. The rest of this document suggests how the Navajo Nation could better advance the post-certification process.

4. REQUIREMENTS FOR POST-CERTIFICATION REFORM

Priority Areas for Reform

- Clarify division of responsibilities
- Pursue comprehensive decentralization
 - Authority and responsibility matched; no extra approval processes
 - Funds and responsibility matched
- Give key employees incentive to promote change
 - Clear value
 - Necessary resources
 - Job protection as needed

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Three areas of reform will address the challenges described above and put the Navajo Nation on the path toward success with local governance.

Reform 1: Clarify division of responsibilities. The Navajo Nation must define which responsibilities will belong to chapters and which will belong to the Navajo Nation government. Without this reform, the post-certification process will be a shot in the dark for the Navajo Nation. It could progress quickly and result in improved governance for the Navajo Nation. However, it could also progress extremely slowly and never meaningfully improve the Navajo Nation's governance. A clear division of responsibilities will give value to the local governance strategy, enable officials to analyze the strategy's resource needs, and clarify the impact on Window Rock jobs.

Reform 2: Pursue comprehensive decentralization. A key to success in dividing responsibilities is the match of authority, accountability, and responsibility. If different people hold authority, accountability, and responsibility for a task, it is likely that either too many people or no one will perform the task. The match of accountability and responsibility ensures that agencies have an incentive to perform their work and perform it well. The match of responsibility and authority ensures that agencies can complete their work efficiently.

There are several ways to link authority, accountability, and responsibility. The easiest way to match responsibility and authority is by eliminating unnecessary layers of approval. The easiest way to provide accountability is by requiring transparent, comparative information. Funding can also be a powerful tool for linking authority, accountability, and responsibility. A chapter that raises some of its own revenues and/or spends its own money has greater authority and an

additional source of accountability.

Reform 3: Give key employees incentive to promote change. The implementation of local governance requires many employees to change. Without their support, post-certification will not progress. The Navajo Nation can encourage employees' support by providing the resources needed to implement local governance, giving job protection to those whose jobs are threatened, or by providing other incentives to change.

Principles for Change Process

- Change law
 - Define new split of responsibilities
 - Clarify/define process for decentralization
 - Cover possibilities in all chapters
- Develop timeline and plan for post-certification decentralization
- Designate single manager and team accountable for implementation
 - Process management
 - Technical support to chapters
 - Monitoring and feedback
- Address all aspects of change (technical, cultural, financial, etc)
- Share experience & knowledge among chapters

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The reforms described above will involve considerable change for the Navajo Nation. It is important not to underestimate the magnitude and the difficulty of this change. The Navajo Nation government houses over 400 programs, from tribal organizations to externally-funded programs. In addition, there are 110 chapter organizations that function, for the most part, independently of each other. All entities will be fundamentally affected by the post-certification process. As the post-certification process advances, these entities' organizations, from their management structure to their service delivery methods, will be subject to change. Although little of this organizational change has taken place yet, it has already created significant anxiety.

It is imperative that the Navajo Nation consciously manages this change. In both the private and public sectors, research has found that organizations that respond proactively to change have a far better chance of realizing a vision. The Navajo Nation leadership must provide the leadership for creating and maintaining a positive change for the organizations. While there's no guarantee of a smooth transition to local governance, the following principles will help guide productive LGA change process.

Principle 1: Change the law. Many of the challenges of the post-certification process stem from the wording of the current Local Governance Act. The LGA, for example, does not clearly define the split of responsibilities between the chapters and the Navajo Nation government or describe the process for shifting these responsibilities. To address these challenges, the Navajo Nation must change the law that created them. A revised and clarified law will become the touchstone for a revised and clarified post-certification process.

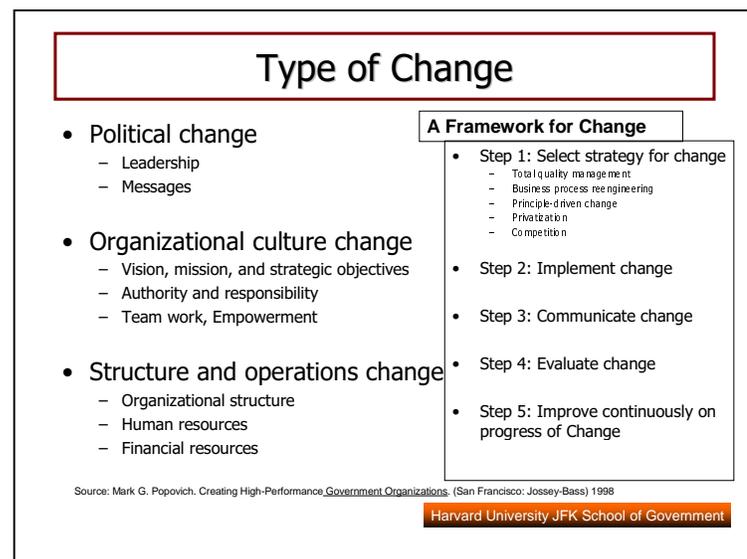
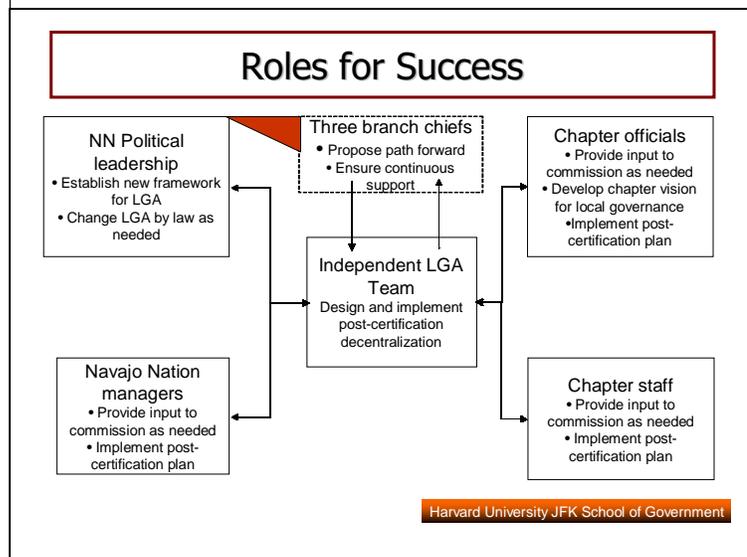
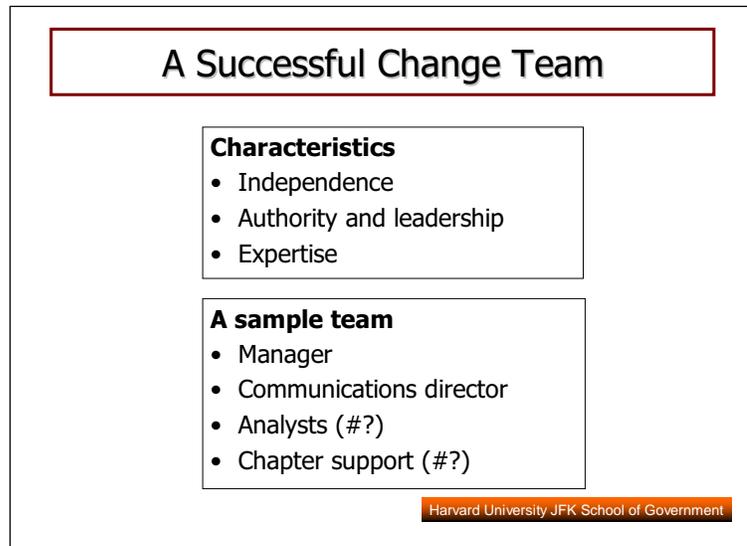
Principle 2: Develop a timeline and plan for post-certification decentralization. The transition toward local governance will be a long process. A comprehensive timeline and workplan of responsibilities and resources will ensure efficient advancement.

This plan should include four key aspects of change implementation: creating a change strategy, implementing the change, communicating the change, and, most importantly, improving continuously on the change.⁶

Principle 3: Designate single manager and team accountable for implementation. To ensure success, the Navajo Nation needs one person responsible and accountable for the post-certification plan. The LGA responsibilities of the TCDC, Office of Navajo Government Development, and Division of Community Development should be combined into one office that is placed in a position sheltered from political influence. This new team will be responsible for promoting and managing the local governance plan. It will provide technical support to chapters, and monitor progress.

This team will need to be politically independent to ensure its ability to manage a change process that will last across political administrations. However, it will also need the authority and leadership needed to promote its ideas across the three branches of government.

In addition to one clearly identified manager, the change team would likely need a communications staff to coordinate information-sharing among the 3 branches of government and the chapters, analysts responsible for determining the resource requirements associated



⁶ Mark G. Popovich. Creating High-Performance Government Organizations. (San Francisco: Jossey-Bass) 1998.

with decentralization, and technical staff that provide ongoing support to chapters through the transition process (see “A Successful Change Team” slide).

Such a team would be responsible for managing the transition toward local governance. However, it could not operate alone. The Navajo Nation political leadership, and in particular the three branch chiefs, would need to use formal channels like legislation and informal channels to endow the team with political legitimacy and a mission. Navajo Nation managers, Chapter officials, and Chapter staff would be responsible for providing input to the team and implementing the post-certification plan that the team develops (see “Roles for Success” slide).

Principle 4: Address all aspects of change. The transition toward local governance will require many types of change (see “Type of Change” slide). It may require new political messages from leadership. It will also likely require a change in organizational culture at both the central and local levels of government, and changes in the organizational structures and operations of government.

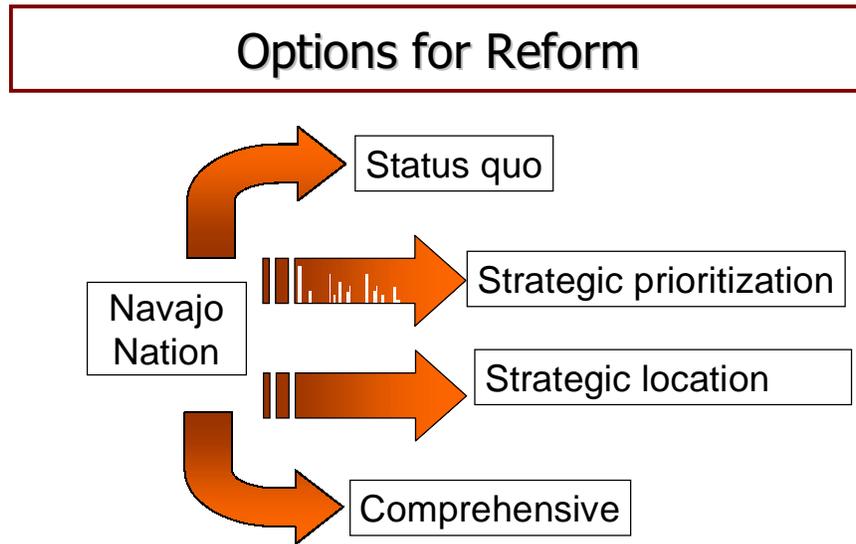
The literature on how organizations change is extensive and includes many different frameworks for describing and managing change. The most critical elements for the Navajo Nation will be managing all types of change that local governance will entail. Research in Latin America has shown that many government reformists forget to focus on the “softer” side of change—organizational culture and management.⁷ A successful transition toward local governance will require attention not only to financial and human resource needs, but also to elements of organizational design like the relationship between chapter officials and chapter staff or the interactions between chapter governments and the Tribal Council.

Principle 5: Share experience and knowledge among chapters

As chapters begin taking on new responsibilities, they will rapidly learn which practices work best in varying contexts. Sharing these “lessons learned” will ensure that chapters do not need to reinvent the wheel and that resources are used efficiently. The team responsible for managing and coordinating the transition toward local governance should organize meetings, publish bulletins, or seek other methods for chapters to share their experiences.

⁷ Merilee Grindle. “The Social Agenda and The Politics of Reform in Latin America.” Social Development in Latin America: The Politics of Reform. Ed. Joseph Tulchin, et. al. (Boulder: Lynne Rienner Publishers, 2000). 46.

5. OPTIONS FOR THE PATH FORWARD



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There are four options for implementing the principles of reform and the change process described above. The following slides describe these options in more detail.

Options for Reform (Detail)

	Status quo	Comprehensive	Strategic prioritization	Strategic location
Decentralization of Program Areas	<ul style="list-style-type: none"> • 1 at a time • In order of chapter request • To chapters that request 	<ul style="list-style-type: none"> • All at once • To all chapters 	<ul style="list-style-type: none"> • 1 at a time • In order of Navajo Nation priority • To all chapters 	<ul style="list-style-type: none"> • 1 at a time • In order of Navajo Nation priority • To certain chapters, as planned by Navajo Nation
Political Challenges	High	High	Medium	Medium
Resources for Transition	<ul style="list-style-type: none"> • Medium • Spread over time 	<ul style="list-style-type: none"> • High • Concentrated 	<ul style="list-style-type: none"> • Medium • Spread over time 	<ul style="list-style-type: none"> • Medium • Focused • Spread over time
Source of Change	Executive and Chapters	Legislative and Executive	Legislative	Legislative

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There are four options for the Navajo Nation to enact the needed reform of the LGA process:

- **Status Quo:** The current post-certification process with chapters able to subcontract or contract Navajo Nation programs in no specific priority or order.
- **Comprehensive:** A post-certification process that will clarify in one decision which parts of programs chapters will manage, for all government programs. Legislative change will enact this one-time decentralization of programs. This is similar to the LGA Task Force’s earlier attempts to review the central and local portions of all government programs.
- **Strategic Prioritization:** A post-certification process that will decentralize specific programs in order of Navajo Nation priorities. Legislative change will describe which specific programs should be decentralized and when.
- **Strategic Location:** A post-certification process that will decentralize specific programs *to specific chapters* in order of Navajo Nation priorities. Legislative change will describe which specific programs should be decentralized, when, and to which chapters.

In considering the options, Navajo leadership must consider the significant elements that can impede or promote post-certification implementation: political challenges, resources for transitions, and the source of change. Status Quo and Comprehensive options have been used in some form by the Navajo Nation to decentralize programs. While these options could be enhanced for better implementation, they still involve considerable uncertainty. In addition, these options have thus far faced significant organizational, political, and strategic obstacles. Strategic Prioritization and Strategic Location options, on the other hand, would be a significant change from the current LGA process. These options would create a post-certification process based on a national strategy of program and possibly geographic priorities. While decentralization will not occur overnight, these options provide the opportunity for central government to focus all resources toward a clear, strategic plan. Moreover, such a strategic plan could be easily incorporated into the Navajo Nation’s overall strategy of nation building.

Comparison of Options

	Status Quo	Comprehensive	Strategic prioritization	Strategic location
Pros	<ul style="list-style-type: none"> • No legislative change • No time pressure 	<ul style="list-style-type: none"> • Complete picture of governmental responsibilities • Integration of new Chapter responsibilities 	<ul style="list-style-type: none"> • Strategic focus on priority areas • Faster implementation in priority areas • Minimized political battles 	<ul style="list-style-type: none"> • Strategic focus on priority program areas and chapters • Faster implementation in priority areas • Focused resources on areas with biggest "payoff"
Cons	<ul style="list-style-type: none"> • Ongoing political battles • Ongoing confusion • Slow reform 	<ul style="list-style-type: none"> • Lengthy, political change process • Coordination of all government offices required • Previous effort (LGA Task Force) failed 	<ul style="list-style-type: none"> • Legislative change required • Large change in implementation plan 	<ul style="list-style-type: none"> • Continued central control of implementation pace • Not all chapters benefit at once

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In comparing the four options, the Navajo Nation must weigh their positive and negative aspects. Considerable review must be made to assess the significant factors that impede or strengthen the implementation of any one of the options.

Some common positive themes among the options include timing, integration, lessen political pressures, and focused approach. Some common negative themes include political battles, ongoing confusion, slow implementation, significant change, and central control.

The "Status Quo" option provides a continued process of certification with no planned, focus approach to decentralization and little time pressure on reform efforts. The "Comprehensive" option was attempted before but with no minimal results because of the scope of the change required.

Strategic Prioritization and Strategic Location options provide more deliberate and focused approaches with acceptable, planned change. These options also will give the Navajo Nation the flexibility to shape the decentralization process according to changing budget constraints and the Nation's other ongoing strategic planning.

6. NEXT STEPS

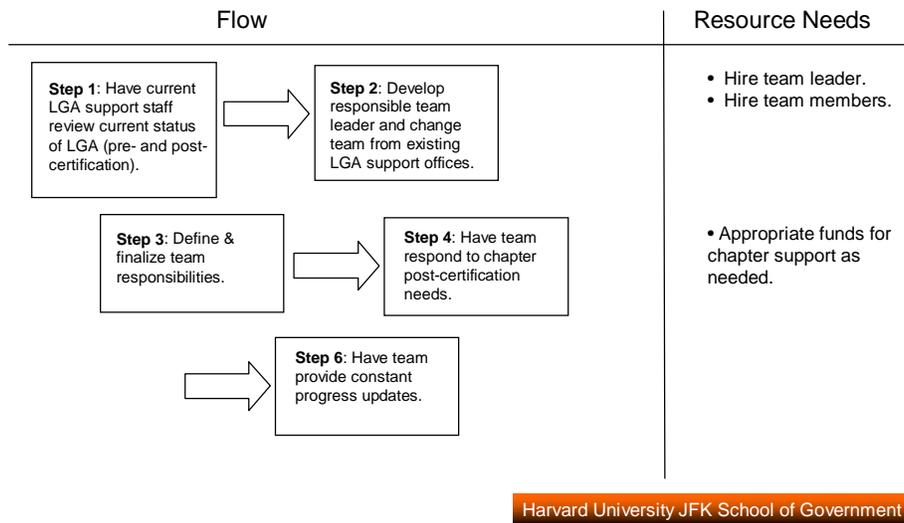
Next Steps

1. Choose option for reform
2. Pass law to stop current post-certification process
3. Choose team to manage reform

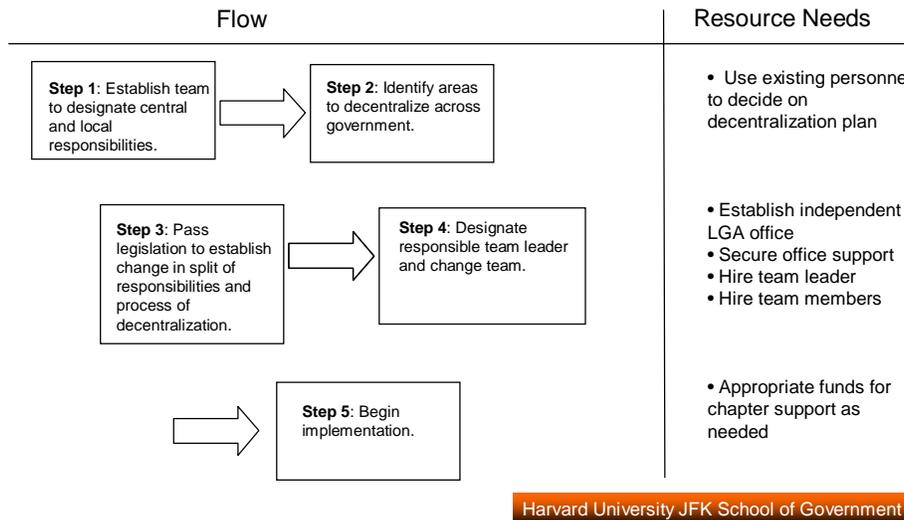
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This document has described the challenges impeding the progress of the post-certification process and four options for addressing them. There are three immediate next steps for the Navajo Nation: choose an option for reform, stop the current post-certification process, and designate a team to design and manage the new post-certification process. The slides that follow describe in more detail the next steps needed for each of the four reform options.

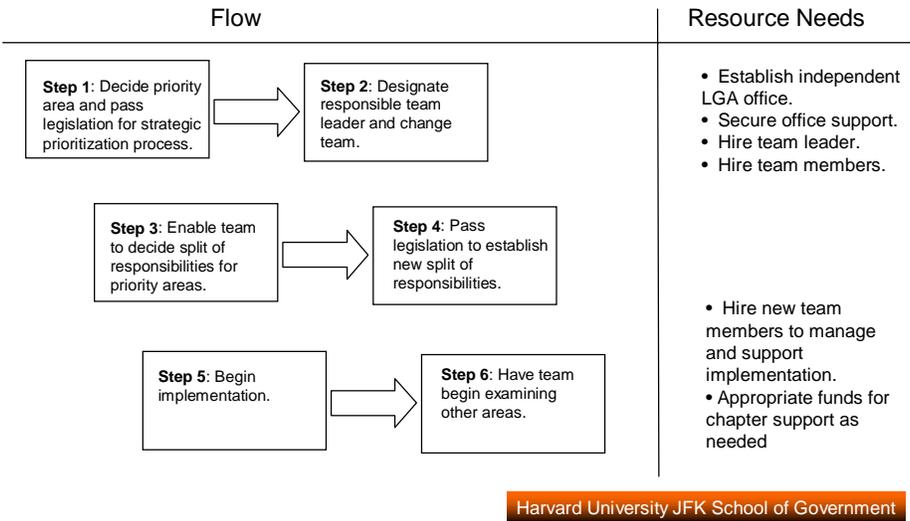
Status Quo: Next Steps



Comprehensive: Next Steps

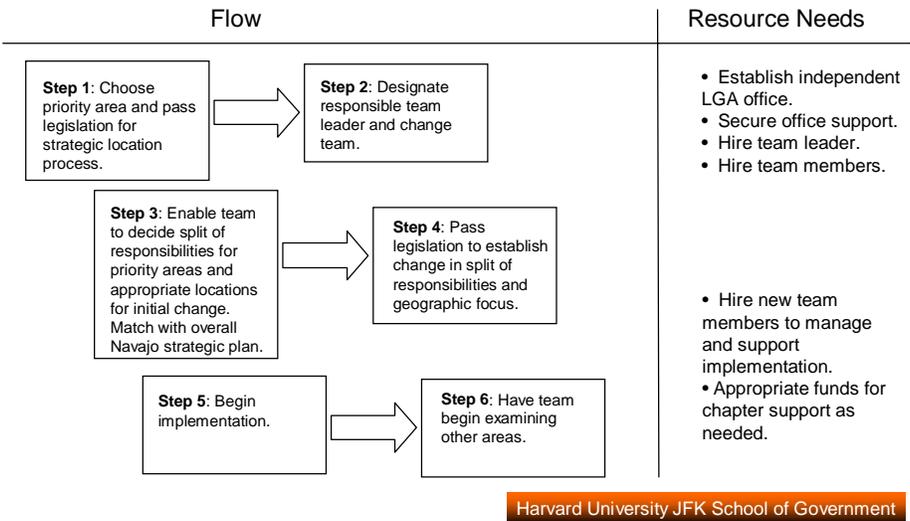


Strategic Prioritization: Next Steps



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Strategic Location: Next Steps



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Choosing Priorities for Decentralization

- VALUE: What area will benefit most through local management?
- FEASIBILITY: What area is easiest to transfer to local management?
- SUSTAINABILITY: What area of local management do people already support?



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If the Navajo Nation chooses the strategic prioritization or strategic location option, it will need to decide which programs to decentralize first. The slide above outlines some initial principles for choosing programs to decentralize first. The Navajo Nation should consider the value, feasibility, and sustainability of any given decentralization effort. Conversations with Navajo chapter officials and staff suggest that land management may be a key area for early reform. The lengthy bureaucratic procedures that are tied to land management now have slowed economic growth on the Navajo Nation. The Kayenta Township has shown the opportunity for attracting businesses when some elements of land management are handled locally, and other chapter officials have expressed their desire for a quicker, more flexible land management process.

APPENDICES

APPENIDX 1: BRIEF HISTORY OF LGA IMPLEMENTATION

In recent history, the Navajo Nation has developed a government that can be described as a 3-branch government with executive, legislative, and judicial branches. Although there is current movement on the Navajo Nation to improve on central government, there is also substantial movement throughout the 110 local government chapters for local governance.

L.G.A. Implementation in 1998

When the law was passed in 1998 by the Navajo Nation Council, there was a realization at the central government that not only will there be local governance at the chapters, but significant financial support had to be identified to get the law adopted. In addition, there was significant confusion at the central government about what effect LGA would have on the overall central government operations.

At the same time, there was growing chapter and political pressure to show progress of LGA. Shonto Chapter, the first chapter to be certified, was from the start one of the outspoken advocates of LGA, or for that matter, local governance, to help Shonto achieve local development of economic initiatives, usually the impetus for local governance.

Leadership Approach

When LGA was passed, President Kelsey A. Begaye was also newly elected to lead the Navajo Nation. One of his platform issues was local governance for chapters. During this same time, the Navajo Nation Council elected Speaker Edward T. Begay to lead the legislative branch. Like the President, Speaker Begay made it known from the start his support for local governance.

In 2000, President Kelsey A. Begaye convened all his cabinet level executive directors to an LGA Task Force with the charge of decentralizing all the appropriate functions to local program management and implementation. While the opportunity was at hand for a unified approach to implementing LGA, the objective became quite elusive to these managers and directors in the next 2 years of team work.

Challenges of Task Force

For over 2 years, the executive directors met routinely to map out and identify governmental functions that could be implemented at the chapter level. After several months of work, the remaining directors started to lapse into lackluster performance in decentralizing the functions.

There were significant challenges to this once excited group of managers intend on making “a difference” for the communities across the Navajo Nation: unclear programmatic support for decentralization, no identified funding specific for this devolution, no executive leadership participation in any of the meetings or decisions, and no decision on “core government

functions” that would remain with central government such as budget or finance functions.

In the closing months of President Begaye’s administration in 2002, the LGA Task Force dissolved with no real results and little progress on LGA. The only significant result from over 2 years of work was the identification of programs that could be decentralized to local chapter management.

Certified Chapter Experience

In the meantime, Shonto Chapter continued to struggle with being the only certified chapter in 2002, only to be followed by Nahat’ah Dzil as the other chapter certifying in 2003. Shonto Chapter was the first in realizing that LGA was not the “gold at the end of the rainbow.” That is, while a vision of true local governance is still possible, Shonto Chapter had to work through numerous setbacks while getting certified and by the challenges of post-certification.

More than any of the other 109 chapters, Shonto has gained valuable devolution experience with central government. During the time of LGA Task Force, executive branch members met with chapter officials to understand some of the challenges. At the urging of Shonto Chapter, the Navajo Nation Council, soon after its certification, develop the LGA Trust Fund to help certified chapters with start-up funds for operations. This one-time grant of \$160,000 normally goes for bringing on individuals with accounting, planning, or management experience to help the newly certified chapter address the initial obstacles.

Nahat’ah Dzil, located in Sanders, New Mexico, is bordered by a stream of economic opportunity, the Interstate 40. Because of this locality, Nahat’ah Dzil is moving forward quickly to get certified for local governance. An interesting impetus, besides economic development, is the idea of subcontracting state and federal programs at the community level for this certified chapter.

Before contracting though, Nahat’ah Dzil is looking forward to creating the capacity to move forward post-certification in a planned, well-executed approach. The chapter, using consultants and making time for it, developed a comprehensive strategic plan and is implementing the plan.

A unique chapter as a result of the Navajo-Hopi relocation act, this chapter is not mired in hesitation, but resolved in using its uniqueness and resilience to use LGA as a way to develop economic prosperity.

Another interesting aspect of this chapter is the capacity of the human resources within the chapter. Because of relocation act benefits, many community members armed with college education have been able to pursue very good employment opportunities near or on the Navajo Nation.

This educational expertise has also been a driving force in certification for the chapter. The chapter manager is attending college in a nearby border town to pursue her teaching aspirations. Even then, she has been a strong advocate for the chapter, from developing long-term strategic planning to creating partnerships with nearby cities to provide police services.

SHONTO CHAPTER EXPERIENCE

Shonto Chapter President Joe Holgate has been a strong advocate for local governance for over 10 years. Because of his dedication, his chapter was the first to become LGA-certified. Despite some initial major obstacles for certification, Joe is excited about the post-certification possibilities, such as an economic initiative at the withdrawn 17-acre chapter land that is set up for economic development including a shopping plaza, a Laundromat, and small businesses.

He has consistently worked with his administration team to work with the community to create employment, structure development, and economic initiatives using LGA. While some initial challenges were related to significant organizational change, Shonto Chapter has been able to make progress in working with central government in dealing with system and procedure setbacks.

Chapter officials & staff expressed the following sentiments:

“We are excited about what’s ahead for Shonto Chapter. There are numerous opportunities for the chapter to develop, to be able to create local opportunity through LGA.”

“Some non-certified chapters are asking to change LGA without experiencing LGA. Let’s give LGA a chance. If more chapters get certified, maybe together we can modify the law to help us, to help the local communities.”

“Unfortunately, some of the key lawmakers are unfamiliar with LGA. Most (division) directors do not want to get involved. Sometimes we are treated (by central government) like we can no longer depend on Window Rock. We’re still a part of the Nation.”

“We don’t have funds to cover the chapter staff we need. People think when you’re certified you don’t need help.”

“We are trying to secure professional people (to help us). The expertise is just too far away. Another important matter is that the BIA is still in the background. The Nation needs to address this. How can we get the Nation to approve leases without taking it to the BIA for approval? Why can’t the Nation do that? Are we really sovereign?”

“Central government is not treating LGA as priority.”

“We want young people to be in charge of our programs and direct our destiny. Let’s work together to create this healthy environment.”

“Being certified, we’re supposed to be able to give you a wish list.”

NAHAT'AH DZIL EXPERIENCE

Located near I-40, Nahat'ah Dzil Chapter has big dreams, from currently finalizing a truck stop economic plaza to small business development to a casino. With significant traffic along I40, Nahat'ah Dzil hopes to capture the market and use the revenues to fund basic services such as police enforcement, program management, and service delivery to the elderly and youth.

Cecil Nez, Nahat'ah Dzil Chapter President, has been working hard with his staff in dealing with the change for the chapter before and after certification. Now that the chapter is certified, he is excited about what is possible with LGA. He has been working with a proactive staff to address some the initial challenges in LGA post-certification. One of the first goal the chapter accomplished was developing a strategic plan, which has been the basis for LGA development.

Chapter officials and staff expressed the following sentiments:

“We have to make sure that our books are accounted for to the penny.”

“The chapters need to discuss and share costs. We have no problem in sharing experience and knowledge (with other chapters).”

“Our chapter had a strategic planning that includes vision, mission, and a lot of planning. We spent many days developing this plan. Now we are implementing the plan.”

“Subcontracting is what we want to do (even though) it is a long shot. We also want to get the lease and tax revenues for our plans.”

“We have a vision (for our community). We want to help our senior citizens. We want to have a nursing home here. We want to have a jail here. We want to resolve the issues here. We want to have a police station. We want scholarships for our students. We need facilities for our youth. This will create our government, our employment.”

APPENDIX II: LESSONS LEARNED FROM CASE STUDIES OF DECENTRALIZATION

Cases reviewed

- Medicaid devolution from federal to state governments
- Welfare reform in Florida
- Mexican education devolution
- Decentralization of health and education in the Philippines and Uganda
- 638 health contracting by Native American tribes (included earlier in booklet)

Key conclusions

- Decentralization sometimes, but does not always, result in improved delivery of services.
- The financial and human resources of the local government affect its ability/willingness to take on new services.
 - Financial cost of start-up
 - Financial cost of ongoing management
 - Knowledge and expertise required
- Local units respond to incentives in decentralization plans when they decide whether or not to participate.
 - Matching funds for some areas, not others
 - Flexibility in process, if not results
 - Penalties for failure to implement well versus cost of not implementing at all
- Local experimentation can increase the value of decentralization process, if information is shared among local units.
- Central governments may retain significant control over local governments, even in decentralization programs. This retained control results in the following:
 - Disadvantage: Limited ability of local governments to innovate and improve services
 - Advantage: Increased control over financial accounts when local governments lack skills
- The structure of a decentralization plan may also determine willingness of central government to let go of services.
 - Fear of lost jobs
 - Adherence to rules

Details of case studies

1. Medicaid

Sources: Robert Hurley and Stephen Zuckerman. "Medicaid Managed Care: State Flexibility in Action". Urban Institute. March 2002. John Holahan and Mary Beth Pohl. "States as Innovators in Low-Income Health Coverage". Urban Institute. June 2002.

Medicaid -- healthcare for low-income individuals -- is a joint federal-state program, mostly managed by states and partially funded federally. States must comply with many federal regulations, but have several key areas in which to innovate. First, states can apply for short-term

waivers of federal requirements in order to experiment with programs that would expand coverage without costing more. Second, the welfare reform of 1996 and several laws passed since have given states have option to adopt more liberal eligibility requirements than those mandated by the federal government. Third, a 1997 addition to the Social Security Act created a category of federal matching funds for states that expand coverage to children.

States have exercised these options in a variety of ways. Since 1996, some have not extended coverage to families beyond the levels covered by the old federal welfare program, Aid to Families of Dependent Children. Others have extended coverage to children through the matching funds program, but not done much to extend coverage to parents. Still others have significantly expanded coverage to both parents and children.

In a study conducted for the Urban Institute, John Holahan and Mary Beth Pohl find that only 13 states have used these reform opportunities to extend their insurance coverage significantly beyond the federal minimum. The study suggests several key determinants of states' level of innovation and expansion of coverage. The states that applied for waivers and exhibited the most innovation tended to "have higher incomes, [have] higher educations levels, [be] more urban, [be] less politically conservative, but have lower federal matching rates" than the other states (34).

Holahan and Pohl conclude that states' ability to innovate may be limited by their resources. Additionally, the structure of the devolution plan shapes states' desire to innovate. They suggest that incentives like a higher federal matching rate would allow for more flexibility and lower costs to states.

In a separate study for the Urban Institute, Hurley and Zuckerman examine states' use of waivers to initiate managed care Medicaid programs. They find that states have been able to innovate using waivers from federal requirements. Nevertheless, at times they have struggled to address the new challenges of designing and managing a system whose needs were quite differ from the federally-mandated model. States "floundered" in several new areas of needed expertise, like rate-setting and writing contracts with health plans (23). However, in some cases outside contractors were a source of new human resources, in areas that were unfamiliar to state government staff. In other cases, states were able to learn quickly from each others' mistakes (22-24).

3. Welfare (AFDC/TANF)

Source: Robin Rogers-Dillon. "Federal constraints and State Innovation: Lessons From Florida's Family Transition Program". Journal of Policy Analysis and Management. 18(2): 327-332.

Aid to Families with Dependent Children was the cornerstone of the pre-1996 welfare system. It was highly centrally managed, and states often complained that federal rules prevented innovation. Nevertheless, states were able to apply for waivers for programs that would not cost the federal government additional money.

In 1993, Florida created the first welfare program in the U.S. in which benefits would be cut off after a certain time limit. To implement the program, they applied for a waiver from federal rules.

The waiver process involved rounds of political discussions about the appropriateness of the program. According to Robin Rogers-Dillon's study of the waiver, the federal government felt comfortable granting it only after the Florida state legislature added new provisions to ensure job placement after the two- to three-year time limit on welfare benefits. The new provisions addressed the federal government concerns about cutting people off from assistance entirely after two-three years.

Rogers-Dillon argues that although the waiver process was difficult, in this case it successfully allowed for innovation because of several characteristics of the process. First, she argues that the process encouraged innovation by focusing on ensuring results rather than dictating process. After agreeing on outcomes with federal officials, Florida had substantial freedom to implement its program as it saw fit. Second, she argues that the process shaped where innovation would occur by attaching funding to those areas. Florida innovated in the area of time-limited welfare, for which federal funds were available, rather than post-time-limit assistance, for which federal funds were not available under the AFDC plan. Third, she argues that media attention also helped focus Florida's efforts on the time-limited welfare reform, rather than post-time-limit assistance. (329-330).

4. Basic education in Mexico

Source: Gustavo Merino Juárez. Federalism and the Policy Process: Using Basic Education as a Test Case of Decentralization in Mexico. Thesis. Harvard University. October 1999.

In 1992, Mexico transferred from the national to the state governments "responsibility for the provision of basic education services (grades 1 through 9) and teacher training" (4). The federal government retained many policy-making powers, including the power to write education plans, choose textbooks, and decide on the school calendar. But the states gained authority over much of the education system's physical assets and human resources (42).

Gustavo Merino Juárez studied how state funding of education changed before and after the reform. He found that after decentralization, states tended to devote a greater portion of their state budgets to education (90). However, this result varied across states. Prior to decentralization, funding for education seemed based not on socio-economic characteristics of a state, but on the historical split of federal and local funds in a given state. After decentralization, the situation remained much the same. Merino Juárez finds that "four years after the reform, the single most important factor affecting the level of education expenditures per capita at the state level was the relative structure of spending between the federal and state government" (104). Total educational spending seemed to be determined much as it had been before. Merino Juárez also found that states' decisions about whether or not to increase state funding were not correlated with expected socio-economic factors, like educational level or population growth.

Merino Juárez attributes this strong tie to federal funding decisions to rigidities in the

decentralization act. The decentralization program changed the way the federal government gave assistance to states, by mandating cash transfers instead of in-kind donations. But it did not change much the piece-meal approach to decisions about how much money each state would get. After the decentralization, funding decisions were based mostly on that states' history of assistance from the federal government (70-75). Additionally, because much of the federal money came in the form of matching funds for specific programs, states found themselves spending the federal money exactly as the federal government would have before the decentralization program began (121).

5. Decentralization of health and education in Uganda and the Philippines

Source: World Bank. "Decentralization and Governance: Does Decentralization Improve Public Service Delivery?". PREM Notes, number 55. June 2001.

<<http://www1.worldbank.org/publicsector/decentralization/premnote55.pdf>>. Accessed 1 March 2003.

Uganda and the Philippines both decentralized some portions of their health and education services in the 1990s. A study by the University of Maryland evaluated whether the decentralization improved the quality of service received. They found that decentralization programs produced some benefits, but were not able to realize all the benefits promised due to the following:

- **Strict limits on decentralization.** Although local governments gained some new authority, the central governments in both countries retained strong control over the financing and design of health and education services. They felt such control was necessary because of weak local government capacity for financial management. Decentralization was viewed as a gradual process.
- **Need for retained centralization of some services.** It turned out that the central government was better able to manage some services that were decentralized, like immunization and communicable disease control. These services were "public goods with interjurisdictional spillovers". Their effects crossed local government boundaries. The central government could better manage these widespread effects than individual local governments.

6. 638 health contracting by Native American tribes

Source: Alyce Adams. "The Road Not Taken: How Tribes Choose Between Tribal and Indian Health Service Management of Health Care Resources." American Indian Culture and Research Journal. 24.3 (2000): 21-38.

The American Indian Self-Determination and Education Assistance Act of 1975 (P.L. 638) enables tribes to use federal funds to manage health care programs previously managed by the Indian Health Services. Tribes can choose to accept P.L. 638 contracts and receive the same amount of money that IHS would have received to manage the health care services, or they can elect to have IHS continue to provide care.

A study by Alyce S. Adams examines how tribes choose whether or not to use 638 contracts for health care. She finds that of 107 federally recognized tribes, only 25 accepted contracts for tribally managed health care between 1980 and 1995. Value, operational feasibility and political sustainability of the 638 strategy was a critical difference between the tribes that “638”-ed health care and those that did not. Those that had begun tribal management of health care tended to differ from other tribes in the following ways.

Value

Tribes that 638-ed tended to have lower federal appropriations per person in 1980 than the tribes that did not switch. Adams hypothesizes that tribes with higher appropriations were receiving better care from IHS and thus did not think 638-ing would be very valuable; they were satisfied with their current service

Operational feasibility

Tribes that 638-ed tended to have lower poverty rates than other tribes. Adams suggests that these tribes had more money to cover the costs of starting and running their own health services and thus were less worried about possible shortfalls in the 638 contract budget.

Political sustainability

Adams suggests that a large political hurdle to 638 contracts has been IHS employees’ fear of losing their jobs, despite amendments to the original act that guaranteed employment for them. To support this idea, Adams finds that that tribes where this concern was smaller were more likely to switch to 638 contracting. The tribes that switched tended to have a lower percentage of workers employed by the federal government. They also had fewer Indian managers in IHS offices.