

Assessment of the Proposed Navajo Nation Constitution¹

Executive Summary. The Office of Navajo Government Development’s (ONGD’s) 113-page *Diyin Nohookáá’ Diné’é Bi Beehaz’ áanii Bitsé Silé’í* proposes a centralized government that puts corporate interests above the interests of local Navajo people. The proposal tries to seem legitimate by using Diné Fundamental Law language. The document describes a government made up of legislative, executive, and judicial “houses” that would have no power because they would be dominated by a fourth “Stability House” made up of unelected people. Traditional leaders, medicine people, and grassroots advocates who do not have college degrees or other formal Western-style qualifications may not serve in government.³ Going forward, "Local Governance Entities" would be given the job of providing health, safety, and welfare to the people but would not have the money to perform these services. An individual rights section recognizes the right to life, but Navajos cannot oppose economic projects that threaten their life or health. An Investor Bill of Rights gives corporations first access to roads, utilities, and other infrastructure; local families must wait their turn. Finally, a provision would allow non-Navajos to purchase trust land and remove it from the Tribe’s ownership.

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¹ This assessment, based on a version of ONGD’s proposal retrieved from its website on March 29, 2026, was provided by Meegan Moriarty, special advisor to the Diné Nihi Keyah Project

² [Navajo Government Development Proposal](#) last accessed Mar. 29, 2026.

³ Articles XV, XVI.

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Unelected Stability House Dominates Proposed Government

The Stability House

The proposal concentrates power in the Stability House, a body that lacks direct public accountability. The Stability House is made up of Navajos chosen from individuals elected to serve the local government entities.⁴ These individuals would not be directly elected by

⁴ Article XIV.

the people but **nonetheless have the power to veto any legislation passed by the people's elected legislative representatives.**⁵ The Legislative House has not been granted power to override the veto. Additionally, the Stability House can void existing laws that it deems inconsistent with the constitution. As with other government positions, the **members must have a bachelor's degree and "sufficient years of prior work experience in a supervisory capacity."**⁶ These requirements result in a government of elites; **those who have cultural wisdom and leadership skills will be disqualified from leadership.**

Stability House Can Remove Any Elected Official. The Stability House's power to remove any elected official effectively erases separation of powers. Its government anti-corruption director can investigate allegations of government corruption by elected officials. The House can remove the president and legislator for cause reviewable by the courts. Its anti-corruption board can remove a Supreme Court Justice if the Justice has lost the "confidence of the Diné."⁷ The Stability House and the Legislative House have the power to create, amend, or abolish judicial offices and programs.⁸

Stability House Defines "Corruption" and Can Use It Against Opponents. The Stability House oversees all key accountability offices—the [Inspector General](#), Anti-Corruption Board, and Public Regulatory Commission. **There is no accountability office to investigate corruption in the Stability House.** The Stability House also has the authority to create anti-corruption laws, policies, procedures and regulations through the Anti-Corruption Board. The Stability House to define "corruption" then use that definition to remove its political opponents.

The Legislative House

Weak Legislative House Meets for Only 30 Days Per Year. The democratically elected Legislative House appears to be designed to be weak. It meets for only 30 days per year,⁹ ensuring that it cannot effectively oversee the budget or the Executive branch. Since the President has 10 days to review a bill, the Legislative House could be out of session if the president vetoes the bill. Legislators would have to wait until next year's session to try to override it with a two-thirds vote.¹⁰ Because of the one-month session, the president likely will govern by executive orders for 11 months of the year.

⁵ Article XIV, §1406.

⁶ Article XII, §1201. Minimum Qualification of all Elected Officials.

⁷ Article XVII, § 1714.

⁸ Article XVII, §1704.

⁹ Article XV, §1502.

¹⁰ Article XVI, §1608.

Power to Pass Laws Severely Limited. The Legislature's powers to enact laws is severely limited. While it can "raise revenues," the business tax rate is capped at the rates of "neighboring states." If a state lowers taxes to attract business, the Navajo Nation is constitutionally forced to reduce the Navajo Nation tax rate, resulting in revenue loss and a deliberate choice to give up its sovereign right to set its own economic policy.¹¹ Further, the legislature is not granted authority to regulate the environment, labor standards, or natural resource extraction. With no legislative power to regulate against industrial pollution, set minimum wage and workplace safety standards, enact labor laws, or regulate the extraction and conservation of natural resources, the proposal leaves a regulatory vacuum that favors industrial interests. Further, the Investor Bill of Rights bars the government from impairing contracts or interfering with business management.¹²

Many legislatures serve to check the power of the executive branch. The proposal does not provide the Legislature with the explicit power to investigate executive departments, subpoena documents, compel officials to testify or remove an executive. It also lacks the explicit power to confirm or reject the President's cabinet.

The legislature cannot enact laws that conflict with "laws established by referendum or initiative," and any law passed by public initiative cannot be amended for 20 years.¹³ As a result, the government is blocked from fixing technical errors, responding to economic shifts, or updating obsolete regulations for that period. Legislative action taken without a quorum is "void from the beginning."¹⁴ If a technical error is found in a vote count years later, every law, contract, or budget passed during that session could instantly become void, creating legal chaos.

The Judicial House

Court Powers Reduced. The proposal would diminish the role of the courts by opening the door to political intimidation and abolishing the finality of judicial decisions. Judicial salaries are controlled by the Legislature, and Justices can be removed for "losing the public trust."¹⁵

Further, the Legislature or a public initiative can modify, rescind, or clarify any final Supreme Court decision.¹⁶ The Supreme Court does not have the final word on what a law means. If the court rules against the government, the Legislature can simply vote to cancel

¹¹ Article XV, §1510.

¹² Article VIII, §§ 805,822.

¹³ Article VI, §605, Article XI, §1107.

¹⁴ Article XV, §1510.

¹⁵ Article XVII, §§1711, 1714.

¹⁶ Article XVII, §1705.

that victory. The Supreme Court essentially is acting as an advisory body rather than a co-equal branch of government.

The proposal also labels free legal services for the poor as "involuntary servitude" and "slavery," preventing the courts from providing access to counsel to indigent tribal members. As a result, the justice system is two-tiered.¹⁷

Local Government Entities

Local Entities Lack Money to Provide Required Services. The proposal charges local entities with providing broad services including supplying broadband and electricity and providing emergency response services and police power. However, the proposal fails to provide a clear means to fund these services. While the local government entity could impose a sales tax, the tax must be approved by the "Navajo Nation Council," which will no longer exist. If the proposal instead intended the Legislative House to approve the sales tax, that branch inconveniently only operates for one month per year.

The proposal sets a quorum of only 25 community members to enact ordinances and budgets.¹⁸ As a result, in a community of thousands, 25 people could pass a law that affects everyone. The proposal also requires a majority of all community members to approve a budget amendment.¹⁹ This threshold may be an impossible hurdle and very inconsistent with the 25-person quorum requirement to create the budget. Entities also have the power to acquire property by eminent domain with a quorum of 25 people.²⁰ Potentially, these 25 people could target an individual and vote to take that person's property for public use.

Local Government Act Repealed. The current Navajo Local Governance Act (Title 26) would be superseded if the proposal is enacted.²¹ Without a phase-in period, decades of established land-use procedures would be voided, and existing chapter contracts and employment procedures including employee handbooks, would suddenly be in question, leading to potential lawsuits and administrative chaos.

¹⁷ Article VII, §704.

¹⁸ Article XVIII, §1802.

¹⁹ Article XVIII, §1801.

²⁰ Article XVIII, §1802.

²¹ Article XVIII, §1803.

Prioritization of Capital Over Community

Needs of Corporations Come Before Needs of Navajo Families. The Investor Bill of Rights (Article VIII) prioritizes corporate interests over the needs of Navajo families. Corporations are granted a constitutional right to infrastructure and utilities "without undue delay," which may prioritize a mine's water and power needs over those of local households.²² By capping taxes at the rates of neighboring states, Navajo Nation loses the power to set its own economic policy, potentially bankrupting social services to match Arizona or New Mexico's tax cuts.²³

Alcohol, Other Commodities Permitted in States Would Be Legal on Navajo Nation. While it purports to protect trust lands, the language legalizing "commodities" that are legal in "three of the four corners states" could potentially override local community standards regarding what is allowed on the land (e.g., alcohol, certain types of industrial waste, or specific crops).²⁴ The provision barring the government from impairing contracts could be interpreted to prevent the passing of new environmental or safety laws if they have an impact on a company's profit margin.²⁵

Article VIII, §818 grants "equality of rights" regardless of whether an investor is Navajo or non-Navajo. This grant could undermine Navajo Preference laws. Individual Navajo entrepreneurs may lose the "right of first refusal" or protected status intended to help tribal members build wealth within their own nation. Navajo Preference laws could also be undermined by a provision in another section. Article VI §604, which links affirmative action directly to equal protection in the U.S. Bill of Rights, could open the door for non-Navajos to sue the Nation in federal court.

Article VIII, §814 would grant investors the right to "express a position and be heard on matters of policy" effectively codifying corporate lobbying. This provision could drown out the voices of individual community members who do not have the financial resources to influence policy at the same level as a large corporation.

Navajo Health Not Protected. Perhaps most offensive, the people are granted the right to "independently procure clean air, safe drinking water, nourishment and a safe and sanitary shelter." However, recognition "of the right to life shall not be construed or interpreted as an individual entitlement or create a justification to oppose and prevent

²² Article VIII, § 816.

²³ Article VIII, § 817.

²⁴ Article VIII, § 807.

²⁵ Article VIII, §§ 805, 822.

public or economic projects.”²⁶ Under this proposal, it appears the function of government is to support corporations and investors, not the Navajo people.

Disenfranchisement Through Educational Requirements

Traditional Elders, Grassroots Leaders Without Western Degrees May Not Be Elected. The rigid qualification barriers in the proposal create an elite governance class and disenfranchise Navajos with leadership skills who lack formal degrees. By requiring Bachelors or Masters degrees for nearly all offices including for the offices of the president and the twenty-four legislators, the constitution disenfranchises traditional elders, cultural practitioners, and grassroots leaders who lack Western academic credentials.²⁷ The proposal requires the Chief Fiscal Officer to be a Certified Financial Analyst (CFA) rather than a certified public accountant.²⁸ Since that designation is rare, there may not be an available person who is qualified for that position. Furthermore, various sections including Article XIX, Section 7, Section 8, Section 9, and Section 22 require masters degrees or Doctorates.

Further, the powers and authorities of the bureaucracy as described in the constitutional proposal are exempt from the initiative process.²⁹ According to the proposal, the people have the "Right to Initiative;" however, they are barred from reforming the very government offices that manage their lives and resources except through the Article XX initiative process. Under that process, the proposal must pass by a vote of sixty-six percent of at least sixty percent of the registered voters.

Bureaucratic Inefficiency Built In

The proposed Article XIX establishes a massive, multi-departmental administrative structure that, while intended to create specialized leadership, contains systemic issues regarding legal redundancy, separation of powers, operational feasibility and overlap of oversight functions. For instance, Article XIX, Section 3 establishes an Executive Management and Budget Officer with Inspector General authority, while Article XIX, Section 5 establishes a Chief Auditor and Inspector General, and Article XIX, Section 32/33 establishes a Chief Anti-Corruption Officer. This overlapping authority between three different offices creates jurisdictional chaos regarding who has final investigative say.

²⁶ Article VII, §702.

²⁷ Article XV, XVI.

²⁸ Article XIX, § 1.

²⁹ Article VI, § 605.

Similarly, the Chief Fiscal Officer in Article XIX, Section 1 and the Chief Accounting and Records Officer in Article XIX, Section 4 share nearly identical duties concerning fiscal integrity and monitoring spending, which leads to bureaucratic bloat and conflicting directives.

A significant executive-legal conflict exists in Article XIX, Section 1.C.1 and Article XIX, Section 2.C.1, which state that the Chief Legal Officer shall have administrative and supervisory control of all staff within the department. This drafting error grants the Chief Legal Officer—the Nation's lawyer—supervisory control over finance and tax staff, destroying the independence of those departments and creating a conflict of interest. Additionally, the proposal leads to the hyper-politicization of technical roles because almost every position, including the Chief Fiscal Officer in Article XIX, Section 1, the Chief of Public Safety in Article XIX, Section 19 (formerly section 20), and the Water Engineer in Article XIX, Section 24 (formerly section 25), is an elected position. Making positions subject to election risks prioritizing political popularity over technical expertise. Critical roles like the Chief of Police could be subject to recall for making unpopular but legally necessary decisions.

There is also an encroachment on legislative power, as seen in Article XIX, Section 8.F.2.I, where officers are given the power to unilaterally create necessary subsidiary programs or enact regulations with the force of law. This encroachment bypasses the Legislative House and breaks the system of checks and balances. Finally, there are contradictions in final authority, as many sections grant an officer exclusive authority while Article XIX, Section 1.D.1 notes they are assigned projects by the President, creating an unclear chain of command between the voters and the executive.

Initiative/Referendum Provisions

Inconsistent Initiative and Referendum Provisions. The initiative provisions are riddled with legal inconsistencies, internal contradictions, and problems that would make the government difficult to administer. There is a lack of uniformity regarding what constitutes a "win" for an initiative or recall. This creates a legal opening for any election result to be challenged in court. For example:

- Article XI §1107 requires 52% of the popular vote for an initiative to pass. However, Article VI §605(A) states that an initiative only needs 50% plus 1.
- Article XII, §1204(B) requires a 52% vote to successfully recall an official, while Article VI §610 simply says a "majority vote" (which is typically 50% + 1).

- Article XX(D) requires a 66% vote in favor to amend the constitution but also requires that at least 60% of all registered voters actually cast a ballot. Historically, in many Navajo Nation elections, voter turnout does not reach 60%, meaning this provision could make it mathematically impossible to ever amend the document, even with unanimous support from those who do show up.

The proposal simultaneously "reserves" rights to the people while "exempting" almost every practical matter from those same rights. For example, Article VI, §610 says the people reserve the right to remove officials via initiative. However, Article VI, §605(D) explicitly states that the "exercise of powers and authorities granted to public officials... shall be exempted from the referendum/initiative process." Further, Article VI, §605(E) and (F) list so many exemptions (budgets, trust funds, land zoning, utility acquisition, commercial codes) that the "Legislative Initiative" power is stripped of its most important functions. It leaves the public with the right to pass laws only on minor matters.

Harmful Laws Cannot Be Amended for 20 Years. Article XI §1107 and §605(A) state that a law created by initiative cannot be amended for 20 years. If an initiative is passed that contains a technical error, a harmful economic consequence, or becomes obsolete due to new technology, the Nation is legally barred from fixing it for two decades unless they use the cumbersome referendum process (which itself may be restricted by other clauses).

Article VII, §716 allows for the "deletion or abridgment" of "Navajo Nation Freedoms and Rights" by a 66% initiative. However, fundamental human rights are generally considered "inalienable." By allowing a majority (66%) to vote away the rights of a minority (34%), this provision contradicts the very concept of a "Bill of Rights," which is intended to protect individuals *from* the will of the majority.

Article XVIII, §1808 allows local governance entities to acquire property by eminent domain via local initiative. However, this provision conflicts with Article VI, §605(F), which exempts the "acquisition of property" from the initiative process. It is unclear whether a local community can vote to take land if the central provision says property acquisition is exempt from such votes.

Article XI, §1107 states that a person who is registered to vote may be purged from a register of eligible voters after not voting in three consecutive Navajo Nation elections. This penalty seems unduly harsh.

Selling Tribal Trust Lands

The proposed Navajo Nation constitution includes a mechanism for the alienation of tribal trust lands.³⁰ The proposal distinguishes between routine land actions and the permanent conveyance of large tracts. To convey in fee simple more than 5,000 acres of trust lands into non-Navajo ownership, the transaction must be approved by a three-fourths (75%) vote of registered voter who voted in the previous regular election. By explicitly naming the process for selling parcels over 5,000 acres, the document implicitly suggests that parcels smaller than 5,000 acres might be sold under a lower threshold or through standard legislative action, which could lead to loss of tribal land.

K'é – Duties

Unclear Laws Could Lead to Loss of Liberty and Privacy. While the K'é - Duties in Article V may represent Navajo values and social expectations, codifying them as enforceable constitutional duties presents several significant legal and civil rights issues. In a constitutional context, a duty implies a mandate that, if unfulfilled, could lead to state-imposed penalties or loss of rights. There are several primary problems and inconsistencies with this section, starting with vague and unenforceable standards. Many of these provisions use subjective language that is difficult to define legally, which can lead to arbitrary enforcement. For example, the duty to not inflict undue harm on all beings in Article V, Section 505 is extremely broad. Without a strict definition for all beings or Diné, which could include insects or spiritual entities, an individual could be sued or prosecuted for standard activities like farming or pest control. Furthermore, while not in this specific article, the document relies on concepts like good moral character in Article VIII, Section 802 and the concept of losing public trust. Without specific criteria, these are vague laws that generally do not give people fair notice of what is actually illegal.

There are also concerns regarding the infringement on individual liberty and privacy. Article V, Section 504 requires every person to obtain an education and receive a certification of success, which may conflict with parental rights and religious freedoms. It leaves no room for alternative traditional teachings, homeschooling, or individuals with severe cognitive disabilities who may not be able to achieve such certification. Additionally, Article V, Section 510 requires citizens to report and disclose information relating to any crime, which effectively mandates reporting and could potentially conflict with the privilege against self-incrimination. If an individual is involved in a crime or is a close family member

³⁰ Article II, § 210.

of a suspect, this duty might force them to testify against their own interests or families, representing a significant departure from standard due process.

Civil liability and property risk are also heightened under these provisions. While holding public servants accountable is a positive goal, Article V, Section 508 makes them personally accountable for a breach of the duty of care, which could prevent individuals from wanting to serve in government by removing the standard qualified immunity that protects officials from being personally bankrupted by administrative mistakes. Similarly, Article V, Section 506 codifies the maintenance and care of property and livestock as a constitutional duty. This means a bad winter or a sudden drought that harms a herd could technically be interpreted as a constitutional violation by the owner, leading to potential land or property seizure.

Furthermore, there are direct conflicts with the Investor Bill of Rights found in Article VIII. While Article V, Section 505 mandates a duty to not harm the environment, Article VIII, Section 812 grants investors the right to manufacture, generate, and process products. If a mine or factory causes any environmental impact, it is unclear if the investor is in violation of their Article V duty or protected by their Article VIII right. Article V, Section 507 also requires being fair in business and not lying, cheating, or stealing. If an investor uses aggressive but legal marketing, a local citizen could claim a violation of the duty of fairness, leading to endless litigation over what fair means in a profit-driven market. Finally, Article V, Section 511 addresses constitutional deadlocks by stating individuals must be accountable for the consequences of intoxication. While meant to address substance abuse, this is typically a criminal law matter rather than a constitutional one, and its inclusion here could be used to justify harsher punishments or the denial of other civil rights simply because a person was intoxicated.

Subordination to the U.S. Constitution

A portion of this "Navajo Constitution" is dedicated to affirming the United States Constitution rather than Navajo sovereignty. By embedding the U.S. Supremacy Clause (Article II, §207) and the Commerce Clause (Article II, §206) so deeply into the foundation of Navajo law, the document may inadvertently limit the Navajo Nation's ability to assert Sovereign Immunity or independent legal authority. It frames Navajo power as a "gift" from the U.S. rather than an inherent right.

Commercialization of Culture

Article VI, §605 prohibits recording or performing ceremonial rituals for "commercial purposes" or "public display." While intended to protect sacred knowledge, the phrasing is so broad it could criminalize Navajo artists, filmmakers, or educators who include elements of culture in their work for a general audience. It also places the government in the position of deciding what constitutes a "public display."

Summary

Empowering Corporations and Window Rock. This proposed constitution does not empower the Navajo people; it empowers a shielded administrative class and external corporate interests while stripping the Judiciary and Legislature of their ability to protect the Diné. This proposed constitution represents a radical departure from democratic norms and traditional Diné governance. While it uses the language of "Rule by the People," the structural reality of the document creates a "Fourth Branch" of government with absolute oversight, establishes a nearly unchangeable bureaucracy, and subordinates the Navajo Judiciary to legislative whim. Furthermore, it codifies an "Investor Bill of Rights" that prioritizes corporate capital over the basic needs of Navajo families.