

RESOLUTION OF THE
TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE
OF THE NAVAJO NATION COUNCIL

Recommending Establishment of the Local
Governance Trust Fund

WHEREAS:

1. The Transportation and Community Development Committee of the Navajo Nation Council is delegated extensive authority regarding the implementation of the Local Governance Act, pursuant to Title 26 of the Navajo Nation Code; and

2. On April 27, 1998, the Navajo Nation Council enacted the Local Governance Act, 26 N.N.C. Section 1, et seq., through Resolution CAP-34-98; and

3. The Local Governance Act is legislation of historical magnitude that greatly expands the ability of chapters to choose their own form of government and make their own decisions about matters of local concern. It will ultimately have the effect of greatly reducing the influence of the central Navajo Nation Government over the chapters and governance at the chapter level; and

4. The Navajo Nation Council recognized that the transition into full implementation of the Local Governance Act would require the financial support of the Navajo Nation Government. At Resolved Paragraph Four of Resolution CAP-34-98 the Navajo Nation Council stated:

The Navajo Nation Council further recognizes that appropriations are needed to finance the local governance legislation. A permanent local governance trust fund shall be established to assist the Navajo Nation Chapters, subject to the availability of funds.

However, to date no legislation has been presented to establish such a trust fund; and

5. Implementation of the Local Governance Act has been slow during Fiscal Years 1999 and 2000. Only one chapter has become governance certified pursuant to the provisions of 26 N.N.C. Section 102. The delays in implementation of the Act may in part be the result of the fact that funding for this project has not been provided through the establishment of a local governance trust fund; and

6. Presentation and adoption of a local governance trust fund would be in the best interests of the Navajo Nation and People as it could be used as a means of encouraging chapters to become governance certified and exercise the expanded governmental authority conveyed to them by the Act. It would also comply with the directive of Resolved Clause Four of Resolution CAP-34-98 to establish such a fund; and

7. The Plan of Operation for the Local Governance Trust Fund contained in Exhibit One will establish a trust fund which will encourage chapters to become governance certified and will help speed full implementation of the Local Governance Act; and

8. A sufficient level of funding for the trust fund is critical if implementation of the Act is to succeed. It is therefore in the best interests of the Navajo Nation to waive the appropriation required by 12 N.N.C. Section 901 for Fiscal Year 2001 only and instead appropriate those monies as the initial contribution to the Local Governance Trust Fund.

NOW THEREFORE BE IT RESOLVED THAT:

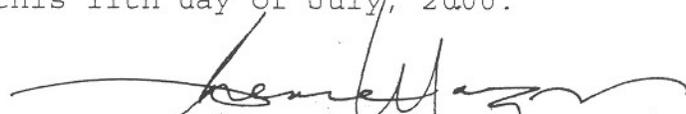
1. The Transportation and Community Development Committee of the Navajo Nation Council hereby recommends establishment of the Local Governance Trust Fund, as set forth in Exhibit One.

2. The Transportation and Community Development Committee of the Navajo Nation Council further recommends waiver of the appropriation required by 12 N.N.C. Section 901 for Fiscal Year 2001 only and recommends that those monies be appropriated as the initial contribution to the Local Governance Trust Fund.

3. The Transportation and Community Development Committee of the Navajo Nation Council recommends that \$160,000 be allocated to Shonto Chapter as they are already governance certified pursuant to Resolution TCDCS-98-99.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Transportation and Community Development Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present, and the same was passed by a vote of 4 in favor, 0 opposed, and 0 abstained, this 11th day of July, 2000.



Lawrence T. Morgan
Chairperson
Transportation and Community
Development Committee of the
Navajo Nation Council

Motion: Joe Salt
Second: Alfred L. Yazzie

EXHIBIT ONE

12 N.N.C. section 1159, *et seq.*

Navajo Nation
Local Governance Trust Fund

Section 1159. Purpose

The purpose of the Local Governance Trust Fund is to provide an incentive for chapters to attain governance certification, as well as allow them organizational funding so they can develop programs and services in line with their goals, the Local Governance Act and Navajo Nation policy. Additionally, the Fund will provide a continuing source of revenues to governance-certified chapters.

Section 1160. Establishment

There is established the "Navajo Nation Local Governance Trust Fund" (Fund) with an initial appropriation as approved by the Navajo Nation Council. Additional appropriations may be made from time to time by the Navajo Nation Council.

- A. Beginning in Fiscal Year 2002, each year the Navajo Nation Council shall budget a sum equal to at least two (2) percent (%) of any and all projected revenue of the Navajo Nation, including, but not limited to, revenues received from taxes, oil and gas mining/minerals, timber, land rentals, right of way payments, interest/dividends, gain on sale of securities and other revenue producing activities for transfer to the Fund; this provision shall terminate at the end of Fiscal Year 2006.
- B. Beginning in Fiscal Year 2007, the Fund shall annually receive fifty percent (50%) of the income available from the Navajo Nation Permanent fund pursuant to 12 N.N.C. section 905.
- C. Any monies deposited into the fund, plus accrued interest, shall be used only as provided in the Fund plan of operation.

Section 1161. Fund Management

All amounts of money deposited in the Fund shall be invested as soon as is reasonably practical in accordance with the following provisions:

- A. The Fund shall be invested in accordance with the degree of care exercised by reasonable and prudent managers of large investments and invested to produce maximum growth with a reasonably high degree of safety.
- B. The management of investments shall be vested with the Investment Committee of the Navajo Nation. The Navajo Bond Financing and Investment Committee shall serve as technical advisors to the Investment Committee of the Navajo Nation. All investment objectives shall be approved by the Budget and Finance Committee of the Navajo Nation Council and appropriate investment agreements or contracts executed accordingly.

Section 1162. Definition of Principal and Income

- A. "Fund income" means all earnings (interest, dividends, etc.) generated by the fund principal.
- B. "Fund principal" means the initial deposit of monies by the Council, any additional Navajo Nation Council appropriations, and any contributions made by any other parties or entities.

Section 1163. Expenditure of Fund Principal

- A. An incentive program is established to assist chapters in becoming governance certified in the manner set forth in 26 N.N.C. section 102. Fund principal and interest may be expended for this program in the following manner:
 - 1. Each chapter which is, or becomes, governance certified, pursuant to 26 N.N.C. section 102 of the Local Governance Act, shall receive a grant of \$160,000 at the time of governance certification or, if already governance certified at the time of

adoption of the Fund, upon final adoption of the Fund legislation.

2. Incentive monies distributed to the chapters pursuant to this provision shall in no event exceed \$160,000 per chapter as a one-time grant.

B. With the exception of Fund principal designated in Paragraph A of this section, Fund principal shall not be expended except pursuant to a referendum adopted by two-thirds vote of all registered Navajo voters. The Navajo Nation Council may place such a "Referendum to Expend Fund Principal" on the ballot of any primary, general or special election by a two-thirds vote of the full membership of the Navajo Nation Council.

Section 1164. Expenditure of Fund income

Fund income shall be expended as follows:

A. Four percent (4%) of the average annual market value of the Fund shall be distributed annually to each governance-certified Navajo chapter based upon a formula recommended by the Transportation and Community Development Committee of the Navajo Nation Council and established by the Budget and Finance Committee of the Navajo Nation Council. The amount of funds to be distributed pursuant to this provision shall not exceed the total of Fund income, as determined by section 1161(B), then available in the Fund. In conformity with the Local Governance Act, 26 N.N.C. section 1, et seq., each governance certified chapter shall determine the most appropriate use of all funds received with the following exceptions:

1. Chapters may not use the distribution from this funds for per capita distributions.
2. Chapters may not use the distribution from this funds for the purchase of agricultural products for distribution or resale to chapter members.
3. Chapters may not use the distribution from this funds to pay for training or instructional expenses of chapter officials or chapter employees, including travel expenses incident to training or instruction.
4. Chapters may not use the distribution from this funds to pay stipends or meeting attendance fees to chapter officials or employees.

5. Chapters may not use the distribution from this funds to pay travel expenses of any kind to chapter officials or chapter employees.
 6. Chapters may not use the distribution from this funds to purchase motor vehicles for the use of chapter officials or employees.
- B. Of the four percent (4%) of the average annual market value to be distributed pursuant to sub-paragraph (A) of this section, 95% of the proceeds will be used for distribution to the chapters as set forth above and five percent (5%) will be used for administrative purposes as set forth in section 1166.

Section 1165. Annual Audited Report

The Fund shall be audited annually, and the Navajo Nation shall include the Fund in its annual audit and report. The report shall be distributed to the members of the Navajo Nation Council, governance-certified chapters and interested members of the Navajo public.

Section 1166. Amendments

Any section herein may be amended at the recommendation of the Transportation and Community Development Committee and adopted by a two-thirds vote of the full membership of the Navajo Nation Council, except that section 1162 may only be amended as provided for in section 1162(B).

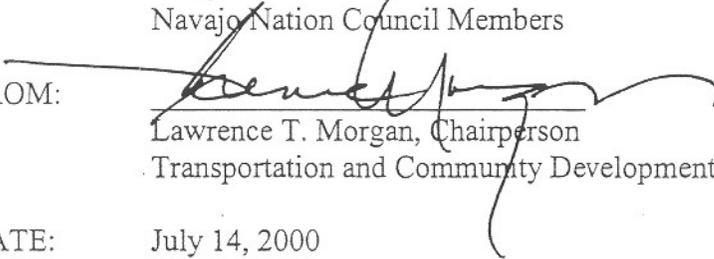
Section 1167. Expenses

All annual expenses directly associated with the administration and management of the Fund shall be paid from the fund income as approved by the Budget and Finance Committee of the Navajo Nation Council. Such expenses shall include investment advisory and management fees, audit costs and other related expenses, all pursuant to duly approved and executed contracts for such services.



MEMORANDUM

TO: Budget and Finance Committee Members
Navajo Nation Council Members

FROM: 
Lawrence T. Morgan, Chairperson
Transportation and Community Development Committee

DATE: July 14, 2000

SUBJECT: Local Governance Act Trust Fund, SAS#3839

The above referenced document was considered by the Transportation and Community Development Committee and was recommended to the Budget and Finance Committee and to the Navajo Nation Council to establish the Local Governance Trust Fund.

The Committee has several concerns that are as follows:

1. The proposed Trust Fund provisions makes references to a referendum vote. As currently written, there are restrictions on the funds. It is the Committee's belief that some autonomy should be given to the Navajo Nation Chapters so that there will be real social and economic growth at the local level.
2. The Committee's recommendation on the use of the Permanent Trust Fund proceeds should include proper planning. Currently, there are no plans for such use and therefore the Nation is not ready for it.
3. The provisions include the use of the funds of 90% allocation of the 4% market value. The Committee believes that the amount should be lower; however, would support the proposed amount leverage by the General Funds. By leveraging, it would allow the investment to grow to the point where it becomes self-sufficient.
4. The Navajo Nation should look to other mechanism other than the current investment firm retained by the Nation. The Navajo Nation should explore establishing an enterprise to have the

Navajo Nation firm present the proposed set aside for chapter local governance trust fund.

Consideration of the foregoing concerns and deliberation would assist in making a well-informed decision that would be in the best interest of the Nation.