



huu ay aht

ANCIENT SPIRIT, MODERN MIND

FINANCIAL ADMINISTRATION ACT

OFFICIAL CONSOLIDATION
Current to March 30, 2020

The Huu-ay-aht Legislature enacts this law to establish a comprehensive financial administration system for the effective and efficient management of Huu-ay-aht resources.

REGISTRY OF LAWS CERTIFICATION

I certify that the *Financial Administration Act* passed Third Reading in the Legislature on:

April 1, 2011


Chief Councillor Robert Dennis Sr.

I certify that the *Financial Administration Act* is enacted as law on:

April 1, 2011


Ta'yii Hawilth Derek Peters

I certify that the *Financial Administration Act* came into force on:

April 1, 2011


Law Clerk Connie Waddell

Certified True Copy

REGISTRY OF LAWS CERTIFICATION

Certified True Copy

I certify that the *Economic Development Act* passed Third Reading in the Legislature on:

Mch 28/2013

JRCook

Chief Councillor Jeff Cook

I certify that the *Economic Development Act* is enacted as law on:

Mch 28/2013

Derek Peters

Ta'yii Hawilth Derek Peters

The *Economic Development Act* came into force as set out below:

Sections of <i>Economic Development Act</i>	Date sections came into force <i>(and regulation number if by regulation)</i>	Signature of Law Clerk, Connie Waddell, certifying the date in force:
1 - 47, 49 - 54, 56	March 28/2013	<u>Debraal Smith</u>
48		
55		

REGISTRY OF LAWS CERTIFICATION

Certified True Copy

I certify that the *Miscellaneous Statutes Amendment Act, 2013* passed Third Reading in the Legislature on:

Mar 28/2013
Jeff Cook
Chief Councillor Jeff Cook

I certify that the *Miscellaneous Statutes Amendment Act, 2013* is enacted as law on:

Mar 28/2013
Derek Peters
Ta'yii Hawilth Derek Peters

I certify that the *Miscellaneous Statutes Amendment Act, 2013* came into force on:

Mar 28/2013
Connie Waddell
per Law Clerk Connie Waddell

REGISTRY OF LAWS CERTIFICATION

I certify that the *Financial Administration Act Amendment Act, 2014* passed Third Reading in the Legislature on:

March 31, 2014



Chief Councillor Jeffrey Cook

I certify that the *Financial Administration Act Amendment Act, 2014* is enacted as law on:

March 31, 2014



Ta'yii Hawilth Derek Peters

I certify that the *Financial Administration Act Amendment Act, 2014* came into force on:

December 18, 2014



Deputy Law Clerk Deborah Smith

REGISTRY OF LAWS CERTIFICATION

I certify that the *Enforcement Framework Amendment Act, 2015* passed Third Reading in the Legislature on:

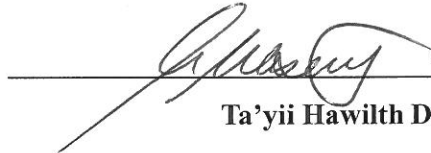
March 30, 2015



Chief Councillor Jeffrey Cook

I certify that the *Enforcement Framework Amendment Act, 2015* is enacted as law on:

March 30, 2015



Ta'yii Hawilth Derek Peters

I certify that the *Enforcement Framework Amendment Act, 2015* came into force on:

March 30, 2015



Deputy Law Clerk Deborah Smith

REGISTRY OF LAWS CERTIFICATION

I certify that the *Financial Administration Act Amendment Act, 2017* was passed by Executive Council on:


March 31, 2017



Chief Councillor, Robert Dennis

I certify that the *Financial Administration Act Amendment Act, 2017* is enacted as law on:

March 31, 2017



Ta'yii Hawilth, Derek Peters

I certify that the *Financial Administration Act Amendment Act, 2017* came into force on:

March 31, 2017



Law Clerk

REGISTRY OF LAWS CERTIFICATION

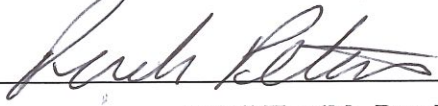
I certify that the *Financial Administration Act Amendment Act, 2019* was passed by Executive Council on:

march 22, 2019


Chief Councillor, Robert Dennis

I certify that the *Financial Administration Act Amendment Act, 2019* is enacted as law on:

march 22, 2019


Ta'yii Hawilth, Derek Peters

I certify that the *Financial Administration Act Amendment Act, 2019* came into force on:

march 22, 2019

CBauer
Coraleah Bauer, Law Clerk

REGISTRY OF LAWS CERTIFICATION

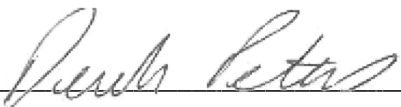
I certify that the *Financial Administration Act Amendment Act, 2020* was passed by Executive Council on:

March 30, 2020


Chief Councillor, Robert Dennis

I certify that the *Financial Administration Act Amendment Act, 2020* is enacted as law on:

March 30, 2020


Ta'yii Hawilth, Derek Peters

I certify that the *Financial Administration Act Amendment Act, 2020* came into force on:

March 30, 2020


Law Clerk, Coraleah Johnson

FINANCIAL ADMINISTRATION ACT

Contents

PART 1 – PURPOSE AND INTERPRETATION

- 1 Purpose
- 2 Application
- 3 Definitions
- 4 Conflict of laws

PART 2 – FINANCIAL GOVERNANCE

- 5 Roles and responsibilities
- 6 Finance Committee established
- 7 Powers and duties of Finance Committee
- 8 Economic Development Committee established
- 9 Powers and duties of Economic Development Committee
- 10 *Government Act* provisions apply

PART 3 – BUDGET CYCLE

- 11 Definitions
- 12 Fiscal year
- 13 Scope of budget
- 14 Budget cycle
- 15 Strategic plan
- 16 Budget forecast
- 17 Financial plan
- 18 Contents of financial plan
- 19 Budget surplus requirement
- 20 Budget Act
- 21 Monitor results – monthly reports
- 22 Monitor results – quarterly reports
- 23 Draft annual financial statements
- 24 Review by Finance Committee
- 25 Auditor's report
- 26 Annual report
- 27 Presentation to People's Assembly

PART 4 – ACCOUNTING AND AUDITING

Division 1 – Records

- 28 Adequate financial records requirement
- 29 Generally accepted accounting principles
- 30 Accounting policy
- 31 Consistency
- 32 Financial records ownership
- 33 Executive Director access

Division 2 – Auditor

- 34 Appointment of auditor
- 35 Auditor qualifications
- 36 Selecting an auditor
- 37 Auditor resignation
- 38 Interim auditor
- 39 Authority of auditor
- 40 Auditor authority to call meeting
- 41 Auditor power to examine

42 Auditor code of conduct

PART 5 – FUNDS, REVENUES AND EXPENDITURES

Division 1 - Funds

43 Consolidated government fund

44 General operating fund

45 Authorized revenues

Division 2 - Spending

46 No spending without spending authority

47 Budget line item is spending authority

48 Executive Council may restrict spending authorities

49 Amending budget line item

50 Special purpose fund spending authorities

51 Contingencies and new programs

52 Spending approval

Division 3 - Payments

53 Payment approval

54 Form of payments

55 Remission of revenue

PART 6 – STEWARDSHIP OF HUU-AY-AHT ASSETS

56 Executive Council responsible for stewardship of assets

57 HUU-ay-aht Development Corporation

58 HUU-ay-aht Settlement Trust

PART 7 – INVESTED WEALTH FUND

59 Definitions

60 Invested Wealth Fund established

61 Declaration of catastrophe

PART 8 – INVESTMENTS, LOANS AND DEBTS

62 Permitted investments

63 Loans, guarantees and indemnities

64 Interest on overdue accounts

65 Writing off debts

66 Forgiving debts

PART 9 – FINANCIAL AGREEMENTS

67 Executive Director authority to contract

68 Agreements must be authorized

69 Authority to borrow

70 Conditions for agreement with another government

PART 10 – GOVERNMENT POLICY REGULATIONS

Division 1 – Economic Development

71 Economic development policy regulation

Division 2 – Government Operations

72 Infrastructure policy regulation

73 Risk management policy regulation

74 Cash management policy regulation

75 Investment management policy regulation

76 Purchasing policy regulation

Division 3 – HUU-ay-aht Citizen Development

77 HUU-ay-aht citizen development policy

78 HUU-ah-aht Citizen Development Committee

79 Powers and duties of Huu-ay-aht Citizen Development Committee

Division 4 – Rental Housing

80 Definitions

81 Rental housing policy

82 Administration of rental housing

83 Housing legislation

Division 5 – Human Resources

84 Human resources policy regulation

Division 6 – Policy regulations review

85 Policy review every 5 years

PART 11 – ADMINISTRATION

86 Executive Director

87 Powers and duties of Executive Director

88 Staffing

89 Positions

90 Dismissal

PART 12 – OFFENCES AND PENALTIES

91 Failure to provide information

PART 13 – GENERAL

92 Debt collection

93 Power to make regulations

94 Periodic review of Act

95 No further effect

96 Amendments to this Act

PART 14 – TRANSITIONAL

97 Transitional - Budget Act

98 Transitional - Budget surplus requirement

99 Commencement

SCHEDULE

Note to Reader

The *Financial Administration Act* sets out a comprehensive system for the financial administration of the Huu-ay-aht government and other Huu-ay-aht bodies.

This Act establishes the financial administration roles and responsibilities of the Legislature, Executive Council and the Executive Director, as well as committees including the Finance Committee, the Economic Development Committee and the Huu-ay-aht Citizen Development Committee. For example, Executive Council is responsible for maintaining and preserving Huu-ay-aht wealth in its assets including land, invested wealth funds, buildings and equipment for present and future generations of Huu-ay-aht citizens.

The Huu-ay-aht fiscal year is April 1 to March 31. A Budget Act is required each year for government spending. Spending is not permitted unless spending authority is provided in a Huu-ay-aht Act.

The budget process is carried out year round and includes the adoption of a strategic plan which sets the direction for decision-making on allocating Huu-ay-aht resources, a budget forecast of expected revenues and expenditures, and a 3 year financial plan for achieving Huu-ay-aht goals identified in the strategic plan. Monitoring and reporting activities throughout the year provide important information to adjust the plans.

The auditor appointed under this Act audits the Huu-ay-aht year-end financial statements. Executive Council presents these financial statements and an annual report to the People's Assembly about 4 months after the end of each fiscal year.

Funds, including the general operating fund where all government revenue must be deposited, and the Invested Wealth Fund, a perpetual fund for investment revenue to support government spending, are established under this Act.

Several provisions in this Act establish Huu-ay-aht policies on economic development, human resources, Huu-ay-aht citizen development, and social housing, among others, by regulation.

In addition, the Huu-ay-aht Development Corporation is required under this Act to hold all of Huu-ay-aht's interests in Huu-ay-aht business enterprises. The Economic Development Committee members are its board of directors.

The Legislature enacts as follows:

PART 1 – PURPOSE AND INTERPRETATION

Purpose

- 1** The purpose of this Act is to establish a financial administration system for the Huu-ay-aht that is
 - (a) effective and efficient in the use of Huu-ay-aht financial resources,
 - (b) open, transparent and accountable to the People’s Assembly and Huu-ay-aht citizens, and
 - (c) based on standards comparable to those generally accepted for governments in Canada.

Application

- 2** This Act applies to the financial administration of government and other Huu-ay-aht bodies.

Definitions

- 3** In this Act:
 - “**agreement**” includes contract;
 - “**assets**” includes real property, physical assets, financial assets, intellectual property assets, human resource assets, investments in business enterprises and assets in any other form that are owned or controlled, directly or indirectly, by government or other Huu-ay-aht bodies;
 - “**audited financial information**” means financial information audited by the auditor appointed under section 34;
 - “**auditor**” means the auditor appointed under section 34, and includes
 - (a) a partnership of auditors carrying on the business of an auditor, and
 - (b) a corporation, or a partnership of corporations, carrying on the business of an auditor;
 - “**borrowing authority**” means an authorization in a Budget Act to borrow money;
 - “**Budget Act**” means an Act under section 20 enacted each fiscal year to provide spending and borrowing authority;
 - “**budget forecast**” means the budget forecast under section 16;
 - “**budget line item**” means a spending authority set out in a Budget Act for an operating purpose or to undertake a capital project;
 - “**capital project**” means the construction of a capital asset that will be owned or controlled by government;
 - “**consolidated government fund**” means the fund established under section 43;
 - “**contractor**” means a person under contract with a Huu-ay-aht body to perform work or services who is not
 - (a) a Huu-ay-aht employee, or
 - (b) exempt by regulation;

- “Executive Director”** means the Executive Director appointed under section 86;
- “Finance Committee”** means the committee established under section 6;
- “financial plan”** means the financial plan under section 17;
- “government”** means government as defined in the *Government Act*;
- “government employee”** means a Huu-ay-aht employee
- (a) employed by government, and
 - (b) other prescribed Huu-ay-aht employees;
- “Huu-ay-aht body”** means government and Huu-ay-aht public bodies;
HFNA 2/2013, s. 49(a).
- “Huu-ay-aht business enterprise”** means Huu-ay-aht business enterprise as defined in the *Economic Development Act*;
HFNA 2/2013, s. 49(b).
- “Huu-ay-aht employee”** means an individual employed by a Huu-ay-aht body and who is not exempt by regulation;
- “Huu-ay-aht Fiscal Financing Agreement”** means the Huu-ay-aht First Nations Fiscal Financing Agreement among the Huu-ay-aht, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of British Columbia, as deposited in the Registry of Laws and Official Records and includes amendments to that agreement made in accordance with it;
- “Huu-ay-aht Lands”** means Huu-ay-aht Lands as defined in the *Land Act*;
- “Huu-ay-aht legislation”** means Huu-ay-aht Acts and the regulations made under them;
- “Huu-ay-aht public body”** means any entity that is owned or controlled, directly or indirectly, by government except for a Huu-ay-aht business enterprise or an entity owned or controlled, directly or indirectly, by a Huu-ay-aht special investment body;
HFNA 2/2020, s. 1(a).
- “Huu-ay-aht special investment body”** means a Huu-ay-aht body prescribed by Executive Council under section 62.1(1);
HFNA 2/2020, s. 1(b).
- “Maa-nulth First Nations Tax Treatment Agreement”** means the Maa-nulth First Nations Tax Treatment Agreement among the Maa-nulth First Nations, Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of British Columbia, as deposited in the Registry of Laws and Official Records and includes amendments to that agreement made in accordance with it;
- “recommendation”** includes a recommendation under section 69 (5) of the *Government Act* and a report under section 69 (6) of that Act;
- “spending authority”** means an authorization in a Huu-ay-aht Act to spend money or incur an expenditure;
- “statutory spending authority”** means an authorization in a Huu-ay-aht Act other than a Budget Act to spend money or incur an expenditure.
HFNA 1/2019, s. 1(a).

Conflict of laws

- 4** If there is a conflict between this Act and any other HUU-ay-aht Act, other than the Constitution, this Act prevails unless the other HUU-ay-aht Act contains an express provision that it, or a provision of it, applies despite this Act.

PART 2 – FINANCIAL GOVERNANCE**Roles and responsibilities**

- 5** The financial administration system for the HUU-ay-aht includes the following financial administration roles and responsibilities:
- (a) the Legislature enacts HUU-ay-aht Acts including the annual Budget Act and establishes financial administration public policy;
 - (b) Executive Council
 - (i) is responsible for the financial administration of government whether or not a matter has been delegated to a public officer under HUU-ay-aht legislation,
 - (ii) establishes financial administration public policy,
 - (iii) makes financial administration decisions under HUU-ay-aht laws, and
 - (iv) enacts financial administration regulations;
 - (c) the People's Assembly
 - (i) holds the Legislature and Executive Council accountable for fulfilling their financial administration responsibilities, and
 - (ii) makes decisions specified under HUU-ay-aht laws;
 - (d) the Ha'wiih Council provides advice to Executive Council and the Legislature through a Ha'wiih Councillor on Executive Council and in the Legislature;
 - (e) the Finance Committee established under section 6
 - (i) provides recommendations to Executive Council,
 - (ii) oversees the management of the Invested Wealth Fund, and
 - (iii) is the trustee for the HUU-ay-aht Settlement Trust;
 - (f) [Repealed by HFNA 2/2013, s. 50(b)]
 - (g) the Executive Director
 - (i) administers government finance and operations, and
 - (ii) provides Executive Council and its committees with the information and advice needed to fulfill their roles under this Act.

HFNA 2/2013, s. 50(b).

Finance Committee established

- 6** (1) The Finance Committee is established, consisting of the following members:
- (a) a chair appointed by the Chief Councillor;
 - (b) 3 members appointed by Executive Council;
 - (c) the Executive Director.
- (2) A quorum of the Finance Committee must include either a member of Executive Council or the Executive Director.

- (3) The chair
 - (a) must call a regular meeting of the Finance Committee at least once each month, and
 - (b) may call additional meetings of the Finance Committee.
- (4) The Executive Director must provide the Finance Committee with the administrative support and the resources for engaging consultants, technical experts or other persons the Finance Committee reasonably requires to fulfill its responsibilities under this Act.

Powers and duties of Finance Committee

- 7 In addition to any other power or duty under Huu-ay-aht legislation, the Finance Committee has the power and duty to
 - (a) make recommendations to Executive Council on financial administration including those matters
 - (i) referred to the Finance Committee by Executive Council,
 - (ii) required under Huu-ay-aht legislation, or
 - (iii) that the Finance Committee decides should be brought to the attention of Executive Council,
 - (b) make decisions where required by Huu-ay-aht legislation, and
 - (c) direct administrative staff and any consultants, technical experts or other persons engaged to assist the Finance Committee to carry out its duties and responsibilities under this Act.

Repealed

- 8 [Repealed by HFNA 2/2013, s. 50(b).]

Repealed

- 9 [Repealed by HFNA 2/2013, s. 50(b).]

Government Act provisions apply

- 10 Part 6 of the *Government Act* applies to committees established under this Act.

PART 3 – BUDGET CYCLE

Definitions

- 11 In this Part:
 - “**3 year**” means the fiscal year the plan or forecast comes into force and the following 2 fiscal years;
 - “**financial plan**” means a 3 year financial plan.

Fiscal year

- 12 The fiscal year of government is the period from April 1 in one year to March 31 in the next year.

Scope of budget

- 13** (1) All of the operations and activities of government and other Huu-ay-aht bodies must be reported on in
- (a) the strategic plan required under section 15,
 - (b) the budget forecast required under section 16, and
 - (c) the financial plan required under section 17.
- (2) The financial statements at all stages of the budget process must be prepared on a consolidated basis to include government and other Huu-ay-aht bodies.

Budget cycle

- 14** The following table sets out the tasks for each stage of the budget cycle and the required monitoring activities:

TIME REQUIRED	BUDGET CYCLE TASKS		SECTION
November 30	Strategic Plan	Determine strategic plan setting out Huu-ay-aht priorities	15
January 31	Budget Forecast	Develop budget forecast as context for budget decisions	16
March 31	Financial Plan	Develop financial plan documenting budget decisions	17
March 31	Budget Act	Enact Budget Act to implement budget decisions	20
MONITORING ACTIVITIES			
Within 30 days of month end	Monthly Financial Report	Monitor actual financial results against budget and take action as needed	21
Within 30 days of end of quarter	Quarterly Financial Report	Quarterly financial statements published after Executive Council review	22
Before June 30	Draft Annual Financial Statements	Executive Director provides draft financial statements; Finance committee reviews draft financial statements	23, 24
Before July 10	Audited Annual Financial Statements	Auditor provides audited financial statements; Executive Council approves audited annual financial statements and auditor's report	25
Before July 15	Draft Annual report	Executive Director prepares draft annual report for Finance Committee review	26
Next session of People's Assembly	Annual Report	Executive Council adopts an annual report; Annual report and audited annual financial statements presented to People's Assembly	27

Strategic plan

- 15** (1) By November 30 each year, Executive Council must review the existing strategic plan and approve, for a 3 year time period,
- (a) the existing strategic plan, or
 - (b) a new or amended strategic plan.
- (2) Executive Council must consult with the Ha'wiih Council and Huu-ay-aht citizens

- before approving a strategic plan under subsection (1).
- (3) The strategic plan may, in addition to other matters, consider
 - (a) Huu-ay-aht citizen development, and
 - (b) Huu-ay-aht employment.
 - (4) Executive Council must publish the strategic plan as soon as practicable after it is approved.
 - (5) Executive Council may establish
 - (a) a process for reviewing the strategic plan and consulting with Ha'wiih Council and Huu-ay-aht citizens,
 - (b) the form and content of a strategic plan, and
 - (c) a committee to do any of the following:
 - (i) make recommendations to Executive Council on whether to approve the existing strategic plan, approve revisions to it or approve a new strategic plan;
 - (ii) prepare draft revisions to the strategic plan;
 - (iii) prepare a new draft strategic plan for consideration by Executive Council;
 - (iv) advise Executive Council on any other matter relating to the strategic plan as Executive Council considers necessary or advisable.
 - (6) Executive Council must approve a 3 year strategic plan on Effective Date.

Budget forecast

- 16**
- (1) By January 31 of each year, the Finance Committee must provide Executive Council with a 3 year budget forecast.
 - (2) The budget forecast under subsection (1) must set out all of the following information:
 - (a) a forecast of revenue from each revenue source, with no revenue policy changes;
 - (b) an estimate of non-discretionary capital and operating expenditures;
 - (c) options for revenue policy changes;
 - (d) options for changes to capital and operating expenditures;
 - (e) financial and operating implications for all options, including implications for cash balances, invested funds and borrowing requirements;
 - (f) recommendations made by the Finance Committee.

Financial plan

- 17**
- (1) Executive Council must consider the budget forecast provided under section 16 and make budget decisions to be included in a financial plan.
 - (2) The Finance Committee must prepare and recommend a draft financial plan incorporating the budget decisions made by Executive Council under subsection (1) and any other information provided by, or advice requested by, Executive Council for the financial plan.

- (3) By March 31 of each year, Executive Council must consider the draft financial plan under subsection (2), and approve a financial plan.
- (4) Executive Council must publish the financial plan under subsection (3) as soon as practicable after it is approved.

Contents of financial plan

- 18** A financial plan must set out all of the following information:
- (a) a summary of no more than 2 pages setting out the plan's most important information;
 - (b) a summary of budget decisions;
 - (c) an explanation of how the approved budget will contribute to the implementation of the strategic plan;
 - (d) a forecast of revenue from each revenue source for 3 years;
 - (e) an estimate of operating expenditure by budget line item for 3 years;
 - (f) an estimate of the excess of revenue over expenditure for 3 years, or if approved under section 19 (2), an estimate of the excess of expenditure over revenue for the periods approved;
 - (g) an estimate of capital spending by budget line item for 3 years;
 - (h) an estimate of the change in cash balances for 3 years, including a summary statement of sources and uses of cash;
 - (i) a forecast of the results for the Invested Wealth Fund for 3 years;
 - (j) an estimate of the balance sheet for 3 years;
 - (k) a statement of all material assumptions upon which the financial plan is based, including the sensitivity of the plan to changes in each assumption;
 - (l) any other matter Executive Council considers advisable.

Budget surplus requirement

- 19** (1) Executive Council must plan for an excess of revenue over expenditure in the consolidated government fund in each year of the financial plan.
- (2) Despite subsection (1), Executive Council may approve a financial plan where expenditures exceed revenues in one or more years of the financial plan if all of the following take place:
- (a) the Finance Committee prepares a draft report for Executive Council setting out all of the following:
 - (i) the reason for proposing an excess of expenditure over revenue;
 - (ii) the consequences of not approving the proposal; (iii) how the excess expenditure will be financed;
 - (iv) a plan to repay any debt incurred due to the excess expenditure;
 - (b) Executive Council
 - (i) considers the draft report under paragraph (a) and approves the report, with or without changes, for consideration of the People's Assembly,
 - (ii) provides public notice of the report under subparagraph (i),

- (iii) calls a session of the People's Assembly in accordance with the *Government Act*, presents the report to the People's Assembly and proposes a motion that
 - (A) specifies the maximum amount by which expenditure may exceed revenue in each of the years of the financial plan, and
 - (B) authorizes Executive Council to approve a financial plan that complies with clause (A);
- (c) the People's Assembly passes the motion under paragraph (b) (iii);
- (d) Executive Council approves a financial plan that complies with the resolution of the People's Assembly under paragraph (c).

Budget Act

- 20** (1) By March 31 of each year, the Legislature must enact a Budget Act consistent with the financial plan under section 17 (3) to create the spending authorities and borrowing authorities required for government and Huu-ay-aht public bodies to operate in the following fiscal year.
- (2) The Budget Act required under subsection (1) must
- (a) be entitled *Budget Act*,
 - (b) include the year of its enactment in its title, and
 - (c) come into force on April 1 in the year of its enactment.
- (3) The Budget Act format must be consistent with that set out in the Schedule.

Monitor results – monthly reports

- 21** The Executive Director must provide reports to Executive Council and the Finance Committee within 30 days of the end of each month, containing
- (a) a summary of all of the following for the previous month:
 - (i) revenues;
 - (ii) operating expenditures by budget line item;
 - (iii) capital spending by budget line item, and
 - (b) a comparison of the summary provided under paragraph (a) to the same month in the previous year and to the financial plan.

Monitor results – quarterly reports

- 22** (1) The Executive Director must provide financial statements to the Finance Committee within 30 days of the end of June, September and December each year setting out the quarterly results for those periods.
- (2) The quarterly financial statements under subsection (1) must include a comparison with
- (a) the same quarter in the previous year, and
 - (b) the financial plan.
- (3) The Finance Committee must consider the quarterly financial statements within 15 days of receiving them and provide those financial statements to Executive Council, together with any recommendations by the Finance Committee.
- (4) Executive Council must

- (a) consider those quarterly financial statements and any recommendations provided under subsection (3) at their next meeting, and
- (b) publish those quarterly financial statements as soon as practicable after that meeting.

Draft annual financial statements

- 23** (1) The Executive Director must provide draft annual financial statements to the Finance Committee within 45 days of the end of each fiscal year.
- (2) The financial statements under subsection (1) must include special purpose reports on all of the following:
- (a) expenditures provided under the contingencies and new programs budget line item established in accordance with section 51;
 - (b) the Invested Wealth Fund;
 - (c) financial reports required by any intergovernmental agreements containing financial components, including the HUU-ay-aht Fiscal Financing Agreement;
 - (d) capital projects;
 - (e) time-limited revenues and expenditures in each fund including
 - (i) revenues received in the fiscal year and unspent from previous fiscal years, and
 - (ii) expenditures funded by the time-limited revenues with an explanation of whether the expenditures were time-limited or ongoing expenditure obligations;
 - (f) the total amounts paid to, and the names of
 - (i) contractors who received in excess of \$ 20 000 in the fiscal year, and
 - (ii) other public officers who received in excess of \$ 40 000 in the fiscal year.
- (3) The amounts under subsection (2) (f) must be divided into the following categories, as applicable, in the special purpose report:
- (a) salary;
 - (b) honoraria;
 - (c) expenses;
 - (d) other payments.
- (4) Reports required under subsection (2) may be made as part of the notes to the financial statements.

Review by Finance Committee

- 24** Within 15 days of receiving the draft annual financial statements under section 23, the Finance Committee must consider them and provide them to Executive Council together with any recommendations.

Auditor's report

- 25** (1) The auditor must, subject to unavoidable delay,
- (a) complete an audit of the draft annual financial statements within 150 days of the fiscal year end, and

- (b) provide the audited annual financial statements and the auditor's report to Executive Council.
- (2) The audit under subsection (1) must be made in accordance with generally accepted auditing and assurance standards.
- (3) Within 10 days of receiving the audited annual financial statements and auditor's report under subsection (1), Executive Council must approve
 - (a) the audited annual financial statements, or
 - (b) the audited annual financial statements as amended by the auditor.

HFNA 3/2013, s. 3.

Annual report

- 26** (1) The Executive Director must provide a draft annual report to the Finance Committee within 15 days of Executive Council approving the audited annual financial statements.
- (2) The report under subsection (1) must set out all of the following:
- (a) a summary of the strategic plan;
 - (b) a description of the activities and operations of government and other Huu-ay-aht bodies over the past year and how those activities and operations have contributed to achieving the objectives of the strategic plan;
 - (c) the financial plan;
 - (d) the audited annual financial statements;
 - (e) interim financial statements for the most recent fiscal quarter for which statements are available;
 - (f) an annual report from each Huu-ay-aht public body describing its operations and activities for the past fiscal year in comparison to
 - (i) the strategic plan, and
 - (ii) the financial plan.

HFNA 2/2013, s. 51.

Presentation to People's Assembly

- 27** (1) The Finance Committee must review the report under section 26 and recommend the draft annual report, with any amendments the Finance Committee considers advisable, to Executive Council for approval.
- (2) After reviewing the recommendations under subsection (1), Executive Council must approve an annual report.
- (3) The annual report under subsection (2) must be
 - (a) published as soon as practicable after Executive Council approval, and
 - (b) presented by Executive Council to the People's Assembly at the first session of the People's Assembly after the report is published.

PART 4 – ACCOUNTING AND AUDITING

Division 1 – Records

Adequate financial records requirement

- 28** Government and other HUU-ay-aht bodies must keep financial records necessary to comply with this Act and must retain the financial records for at least 10 years.

Generally accepted accounting principles

- 29** (1) The audited financial information of government and other HUU-ay-aht bodies must be prepared in accordance with generally accepted accounting principles.
- (2) Every reasonable effort must be made to prepare unaudited financial information in accordance with generally accepted accounting principles after taking into account the practicality and cost of full compliance with those principles.

Accounting policy

- 30** Executive Council must, after considering any recommendations by the Finance Committee, approve an accounting policy for government and other HUU-ay-aht bodies, including the form of the financial information required, which may be different for different HUU-ay-aht bodies.

Consistency

- 31** Financial information reported under this Act must
- (a) include a comparison with financial information for the same period in the previous year, and
 - (b) be prepared on a consistent basis.

Financial records ownership

- 32** (1) Financial records produced by, for or on behalf of government or another HUU-ay-aht body are the property of the HUU-ay-aht regardless of who has custody of the financial records.
- (2) Any person who has custody of a financial record referred to in subsection (1) must upon request, provide it immediately to the Executive Director.

Executive Director access

- 33** (1) The Executive Director, or any person designated in writing by the Executive Director, may
- (a) inspect and copy, without notice, any records of government or other HUU-ay-aht bodies, and
 - (b) attend and be heard at any meeting of the government or other HUU-ay-aht bodies.
- (2) Despite subsection (1) (b), Executive Council may, by resolution, exclude the Executive Director from the part of a meeting where the agenda item discussed is the performance or compensation of the Executive Director.

Division 2 – Auditor

Appointment of auditor

- 34** Subject to this Division, an auditor must be appointed by the People’s Assembly called in accordance with the *Government Act*, at the first session of the People’s Assembly
- (a) each fiscal year, or
 - (b) after the auditor resigns or is otherwise unable to perform the duties of auditor.

Auditor qualifications

- 35**
- (1) An auditor must be a member of the Organization of Chartered Professional Accountants of British Columbia.
 - (2) If an auditor ceases to meet the qualifications under subsection (1), the auditor must resign immediately.
 - (3) The auditor must be independent of Huu-ay-aht citizens, public officers, government and other Huu-ay-aht bodies.
 - (4) If an auditor ceases to be independent, the auditor must immediately
 - (a) advise the Executive Director in writing of the circumstances, and
 - (b) eliminate the circumstances that resulted in a loss of independence or resign as auditor.

HFNA 1/2017, s. 1.

Selecting an auditor

- 36**
- (1) At least once every 4 years, the Finance Committee must undertake an open, transparent, merit-based process to identify and evaluate candidates for the position of auditor and make its recommendation to Executive Council.
 - (2) Before the session of the People’s Assembly referred to in section 34, Executive Council must
 - (a) identify, after considering any recommendation of the Finance Committee, a person qualified and willing to be the auditor, and
 - (b) provide notice of Executive Council’s intention to nominate that person in the notice required for the session of the People’s Assembly.
 - (3) An auditor may be nominated
 - (a) by a member of Executive Council who must nominate the person identified under subsection (2) (a), or
 - (b) by an eligible voter at the People’s Assembly.
 - (4) An individual making a nomination under subsection (3) must provide written confirmation to the People’s Assembly that the person nominated is
 - (a) qualified to be an auditor under section 35, and
 - (b) prepared to accept the appointment.
 - (5) An auditor is appointed by resolution of the People’s Assembly.
 - (6) If the People’s Assembly fails to appoint an auditor under subsection (5), Executive Council may appoint a qualified auditor.

- (7) An auditor may be reappointed without limit.

Auditor resignation

- 37** (1) An auditor may resign by submitting a letter of resignation to the Executive Director.
- (2) The Executive Director must give public notice of the auditor's resignation as soon as practicable.
- (3) The auditor's letter of resignation must be read by the Speaker at the next session of the People's Assembly after that auditor's resignation.

Interim auditor

- 38** (1) If an auditor resigns or is otherwise unable to perform the duties of auditor, Executive Council must appoint a qualified person to act as interim auditor within 45 days of the vacancy unless a new auditor is appointed earlier by the People's Assembly.
- (2) An interim auditor has the powers, duties and functions of the auditor.
- (3) An interim auditor may be appointed auditor by the People's Assembly.
- (4) The interim auditor holds office until
- (a) he or she is appointed auditor under subsection (3), or
 - (b) another person is appointed auditor by resolution of the People's Assembly under section 34.

Authority of auditor

- 39** (1) The auditor has the power and duty to
- (a) obtain, examine and copy any record of government or other Huu-ay-aht body,
 - (b) obtain access to any computer, other data processing equipment and software owned or used by a public officer, government or other Huu-ay-aht body for financial recording or reporting purposes,
 - (c) meet with, ask questions of, and request information, including notices of meetings, from
 - (i) members of Executive Council,
 - (ii) members of any committees of government or other Huu-ay-aht bodies,
 - (iii) the Executive Director, and
 - (iv) any other public officers, and
 - (d) attend and be heard at any meeting of Executive Council, any committee established by Executive Council, any board of directors of any Huu-ay-aht body, the People's Assembly or any other meeting where Huu-ay-aht financial administration may be discussed.
- (2) Despite subsection (1) (d), Executive Council or the Finance Committee may, by resolution, exclude the auditor from the part of a meeting where the agenda item discussed is the performance of the auditor or the nomination of a person for the position of auditor.

- (3) Any person who receives a request under subsection (1) from the auditor for
- (a) information
 - (b) access to records, or
 - (c) a meeting,
- must promptly comply with the auditor's request.

Auditor authority to call meeting

- 40** The auditor has the authority of chair to call a meeting in accordance with the *Government Act* of the following to discuss the auditor's concerns:
- (a) the Finance Committee;
 - (b) Executive Council.

Auditor power to examine

- 41** (1) An auditor has the power and duty to conduct the examinations necessary to prepare the reports required under this Act.
- (2) An auditor who receives information from a person whose right to disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information is obtained.

Auditor code of conduct

- 42** The auditor's exercise of his or her powers, duties and functions under this Act is
- (a) governed by
 - (i) the code of conduct of an auditor's professional association, and
 - (ii) this Act and regulations, and
 - (b) not governed by the *Code of Conduct and Conflict of Interest Act*.

PART 5 – FUNDS, REVENUES AND EXPENDITURES**Division 1 – Funds****Consolidated government fund**

- 43** The consolidated government fund is established, consisting of the general operating fund and all other funds.

General operating fund

- 44** (1) The general operating fund is established.
- (2) All government revenue must be accounted for in the general operating fund, except a revenue source dedicated under a *Huu-ay-aht Act* as the revenue source for another fund.

Authorized revenues

- 45** (1) Any revenue collected by government through a levy must be authorized by *Huu-ay-aht* legislation.

- (2) Levies may include
 - (a) taxes,
 - (b) fines and penalties,
 - (c) fees, and
 - (d) charges for the use or harvesting of natural resources.
- (3) Levies do not include
 - (a) contributions from other governments,
 - (b) payments resulting from the sale of goods, services or assets, and
 - (c) payments other than fees resulting from the granting or transferring of an interest in land.

Division 2 – Spending

No spending without spending authority

- 46** (1) An expenditure must not be incurred from any fund without spending authority set out in a Huu-ay-aht Act.
- (2) Money must not be paid out of any fund for a capital project without spending authority set out in a Huu-ay-aht Act.
- (3) Despite subsections (1) and (2), money received by the Huu-ay-aht
- (a) that is paid or collected in error, or
 - (b) for a purpose that is not fulfilled
- may be partly or fully refunded as Executive Council considers advisable.

Budget line item is spending authority

- 47** (1) A Budget Act must list and describe the purpose for each budget line item.
- (2) Each budget line item in a Budget Act is a separate spending authority.
- (3) Spending authority of a budget line item may only be used for the purpose described in a Budget Act.
- (4) If a budget line item indicates that the purpose is the same as a specified statutory spending authority, then despite the Budget Act, the statutory spending authority prevails.

Executive Council may restrict spending authorities

- 48** Executive Council may restrict or impose conditions on any spending authority and may remove or vary the restriction or condition.

Amending budget line item

- 49** A budget line item, and the spending authority it authorizes, may only be changed by the amendment of the Budget Act in accordance with the *Government Act*.

Special purpose fund spending authorities

- 50** (1) A fund may be established by a Huu-ay-aht Act to dedicate a specific revenue source for a particular purpose provided that the Huu-ay-aht Act specifies both the revenue source and the purpose for which an expenditure may be incurred or money may be spent from the fund.
- (2) If a Huu-ay-aht Act establishing a fund specifies that this subsection applies, the spending authority available for the fund is equal to the cumulative amount of revenue earned to date in the fund, less the cumulative amount of expenditure to date from the fund.

Contingencies and new programs

- 51** (1) A budget line item entitled “Contingencies and New Programs” may be included in a Budget Act with the following description of its purpose:
- To provide for expenditure or spending incurred for the purposes of other budget line items that are in excess of the amounts authorized by the budget line item spending authorities or statutory spending authorities. It also provides funding for new programs created after the beginning of the fiscal year and for natural disasters, emergency relief and the assistance of those in need as the result of an event that was not expected or where the timing of the event was not known in advance.*
- (2) Expenditures under the “Contingencies and New Programs” budget line item require Executive Council approval.
- (3) The Finance Committee must review expenditures contemplated under “Contingencies and New Programs” and provide recommendations to Executive Council.
- (4) Executive Council must consider the recommendations provided under subsection (3) before approving an expenditure under “Contingencies and New Programs”.

Spending approval

- 52** (1) Government must not make an expenditure unless an authorized person
- (a) confirms that
 - (i) the goods or services purchased are consistent with the purpose of the spending authority, and
 - (ii) the goods or services have been received, and
 - (b) approves the spending.
- (2) No other person or entity other than Executive Council may authorize a person to approve an expenditure under subsection (1).
- (3) The authorization to approve spending may be for
- (a) one or more specified spending authorities, and
 - (b) expenditures within specified limits.
- (4) An authorized person must exercise his or her spending approval authority consistent with Executive Council’s authorization under subsection (3).

Division 3 – Payments

Payment approval

- 53** (1) The Executive Director must designate one or more government employees as having the authority to approve payments on behalf of government.
- (2) Before approving a payment, a person under subsection (1), must be satisfied that the spending has been approved under section 52.
- (3) No person may both approve spending under section 52 and approve payment in respect of the same spending authority.

Form of payments

- 54** (1) Payments may be made by electronic transfer, cheque, draft, or similar instrument.
- (2) Cheques, drafts and other paper payment instruments for payments must be signed by the Executive Director and one of the following:
- (a) a member of Executive Council;
 - (b) a person authorized by resolution of Executive Council.

Remission of revenue

- 55** Executive Council may, by regulation, authorize any revenue that is owed or has been paid to the HUU-AY-AHT under a levy be remitted to a payor if
- (a) the Finance Committee considers and makes a recommendation on the matter, and
 - (b) after receiving and considering the Finance Committee's recommendation Executive Council considers it in the public interest to do so because of unfairness or undue hardship to the payor.

PART 6 – STEWARDSHIP OF HUU-AY-AHT ASSETS

Executive Council responsible for stewardship of assets

- 56** (1) Executive Council is responsible for ensuring that assets are maintained and preserved for the benefit of present and future generations of HUU-AY-AHT citizens.
- (2) Executive Council must not
- (a) dispose of real property except in accordance with *Land Act* and the regulations made under it, or
 - (b) acquire real property except in accordance with the applicable HUU-AY-AHT legislation.
- (3) Executive Council may, by resolution, authorize the disposal of assets valued at greater than \$10 000, other than real property.

Repealed

- 57** [Repealed by HFNA 2/2013, s. 50(b).]

Huu-ay-aht Settlement Trust

- 58** (1) As soon as practicable after Effective Date, Executive Council must enter into a trust agreement in accordance with this section and section 9 of the Maa-nulth First Nations Tax Treatment Agreement.
- (2) The trust agreement under subsection (1) must provide that the members of the Finance Committee are the trustees.

PART 7 – INVESTED WEALTH FUND**Definitions**

- 59** In this Part:
- “**FDDIPI**” means the Final Domestic Demand Implicit Price Index for Canada, series D100466, published regularly by Statistics Canada in Matrix 10512: Implicit Price Indexes, Gross Domestic Product, or its replacement series as specified by Statistics Canada;
- “**Time Limited Federal Funding payments**” means the time limited payments from Canada to the Huu-ay-aht under Table 2 of Schedule B in the Huu-ay-aht Fiscal Financing Agreement.

Invested Wealth Fund established

- 60** (1) The Invested Wealth Fund is established as a perpetual fund for the purpose of generating investment revenue to support expenditures of government and Huu-ay-aht public bodies.
- (2) Time Limited Federal Funding payments received by the Huu-ay-aht under the Huu-ay-aht Fiscal Financing Agreement must be deposited to the Invested Wealth Fund.
- (3) The target value of the Invested Wealth Fund after March 31, 2019 is \$11 907 910 multiplied by the ratio of FDDIPI as at the most recent quarter for which the index was published to FDDIPI as at the fourth quarter of 2004.
- (4) The dedicated revenue source of the Invested Wealth Fund is the revenue earned on its investments.
- (5) The Invested Wealth Fund must not be used as security for borrowing.
- (6) Funds may be transferred from the Invested Wealth Fund to the general operating fund if the transfer is authorized by
- (a) a resolution of Executive Council under subsection (8), and
 - (b) a spending authority established by a Budget Act.
- (7) Before Executive Council authorizes a transfer under subsection (8), the Finance Committee must provide Executive Council with its opinion on the maximum size of transfer from the Invested Wealth Fund, if any, that could be made, after which there would be a reasonable likelihood of achieving or maintaining the target value set out in subsection (3).
- (8) Executive Council may, after receiving the opinion of the Finance Committee, authorize a transfer from the Invested Wealth Fund to the general operating fund

of an amount less than or equal to the maximum amount, if any, that could be made, after which there would be a reasonable likelihood of achieving or maintaining the target value set out in subsection (3).

- (9) The costs of managing the Invested Wealth Fund may be paid from the fund under the authority of the statutory spending authority created by this subsection.

Declaration of catastrophe

- 61** (1) Despite section 60, some or all of the value in the Invested Wealth Fund may be transferred to the general operating fund if Executive Council declares a catastrophe under subsection (2).
- (2) Executive Council may declare a catastrophe if
- (a) an unexpected event deprives a significant number of Huu-ay-aht citizens of their immediate basic needs for food, shelter, health and safety,
 - (b) other funds are not sufficient to meet the immediate basic needs of Huu-ay-aht citizens, and
 - (c) Executive Council calls a session of the People's Assembly in accordance with the *Government Act* and at least 60% of eligible voters who vote, vote to declare a catastrophe and use the Invested Wealth Fund to meet the immediate basic needs of Huu-ay-aht citizens.
- (3) Funds transferred under subsection (1) may be cash, cash generated by the sale of fund assets or cash from borrowings secured by Invested Wealth Fund assets.
- (4) Executive Council's declaration of a catastrophe in accordance with this section establishes the statutory spending authority for the transfer of Invested Wealth Funds or the use of Invested Wealth Fund assets as security for borrowing.

PART 8 – INVESTMENTS, LOANS AND DEBTS

Permitted investments

- 62** (1) Money in a fund that is not immediately required to satisfy the obligations of government and other Huu-ay-aht bodies may, subject to the cash management policy regulation, be invested in, or retained as, any of the following:
- (a) cash;
 - (b) securities issued or guaranteed by Canada or a province of Canada, the United States of America, the European Union or a member country of the European Union;
 - (c) fixed deposits, notes, certificates, short term paper and investment certificates of, or guaranteed by a financial institution including swaps in United States of America currency;
 - (d) securities issued by a First Nations Finance Authority or by a local, municipal or regional government in Canada.
- (2) Money in a fund that has a legislated purpose of generating investment income, including the Invested Wealth Fund, may be invested in any of the following:
- (a) any investment permitted under subsection (1);

- (b) commercial paper issued by a Canadian company that is rated in the highest category by at least 2 recognized security-rating institutions;
 - (c) bonds, non-convertible debentures and convertible debentures;
 - (d) real property;
 - (e) mortgages and asset backed securities;
 - (f) common and preferred shares;
 - (g) income or unit trusts and similar investment instruments listed on a recognized stock exchange, so long as the instruments provide limited liability to unit holders;
 - (h) pooled funds, closed-end investment companies and other structured vehicles invested in any or all of the asset categories referred to in paragraphs (a) to (g);
 - (i) derivative financial, commodity or currency related instruments such as forward contracts, options, futures, or swaps, subject to these instruments only being used for hedging purposes.
- (3) Despite subsection (1), money in a fund other than the Invested Wealth Fund may be invested in a Huu-ay-aht business enterprise or other economic development project in accordance with the *Economic Development Act*.

HFNA 2/2013, s. 52.

Huu-ay-aht Special Investment Body

- 62.1** (1) Executive Council may prescribe a Huu-ay-aht body as a Huu-ay-aht special investment body and any conditions respecting that body following:
- (a) consultation with the H̄awiih̄ Council; and
 - (b) consideration of a recommendation by the Finance Committee.
- (2) A regulation under subsection (1) must be approved by the People's Assembly before coming into force.
- (3) The Finance Committee may only make a recommendation to Executive Council in respect of prescribing a Huu-ay-aht special investment body under subsection (1) after it has reviewed a report in respect of the special investment body that includes the following:
- (a) an assessment of the potential investment opportunity as compared to other potential investment opportunities in terms of likely return on investment, risks and sustainability;
 - (b) a description of the purpose of the nature of the potential investment opportunity, including a description of the interests or investments to be held or controlled by such body;
 - (c) the capital required to invest in the potential investment opportunity and the planned source of that capital;
 - (d) a description of the corporate structure for the potential investment opportunity or how the potential investment opportunity will otherwise be managed including associated costs and reporting requirements for such body;

- (e) an assessment of the possible risks facing the potential investment opportunity and possible action that should be taken to mitigate those risks;
 - (f) an outline of financial performance or other benefits from the potential investment opportunity, including employment and training targets, for the first 5 years;
 - (g) a description of any other requirements necessary to begin or complete the potential investment opportunity.
- (4) Executive Council may authorize the use of money in a fund other than the Invested Wealth Fund for the purposes of investing in a Huu-ay-aht special investment body.
- (5) The Executive Director may designate an individual to approve the payment of funds for the purposes of an investment authorized under subsection (4).
- (6) Government and other Huu-ay-aht bodies may borrow money for the purposes of investing in a Huu-ay-aht special investment body if the borrowing, including:
- (a) the maximum amount to be borrowed;
 - (b) the purpose of the borrowing;
 - (c) the security for the borrowing;
 - (d) the term of the borrowing; and
 - (e) the source of money to repay the borrowing
- is specifically set out in a regulation.
- (7) Government and Huu-ay-aht bodies may guarantee the debt of a Huu-ay-aht body if the borrowing in respect of which the debt is incurred is set out in a regulation under subsection (6).
- (8) A regulation under subsection (6) must be approved by the People's Assembly before coming into force.
- (9) A regulation approved by the People's Assembly under subsection (6) may provide that the indebtedness associated with some or all of the funds borrowed in accordance with the regulation will not count towards the aggregate amount specified under section 69(6).
- (10) Despite the *Government Act*, s. 89(2), Executive Council may direct that the report in respect of a regulation presented for approval of the People's Assembly under subsection (1) or (6) need not be provided to citizens at least 14 days in advance of consideration of the matter and may instead be provided to citizens at the session of the People's Assembly at which the matter is being considered.

HFNA 1/2019, s. 1(b).

Loans, guarantees and indemnities

- 63** (1) Executive Council may make a loan to a Huu-ay-aht citizen in accordance with a loan program established under a Huu-ay-aht Act.
- (2) Executive Council may guarantee a loan or provide an indemnity for one or more Huu-ay-aht citizens or an entity controlled by one or more Huu-ay-aht citizens, if

- (a) a loan guarantee program or indemnity program is established by a Huu-ay-aht Act,
 - (b) a fund is created to support the liability on loan guarantees or indemnities made under the Huu-ay-aht Act,
 - (c) the loan guarantee or indemnity granted complies with the loan guarantee or indemnity program under the Huu-ay-aht Act, and
 - (d) the fund under paragraph (b) has sufficient assets to support the loan guarantee or the indemnity along with other loan guarantees or indemnities granted by Executive Council under this subsection.
- (3) Executive Council may guarantee the loan or provide the indemnity to the individuals or entities referred to in subsection (2) and a third party.

Interest on overdue accounts

- 64** (1) Executive Council may, by regulation, require persons who owe or are liable to pay money to the Huu-ay-aht to pay interest on the money at a prescribed rate.
- (2) A rate prescribed under subsection (1) may be general or specific, and the interest is recoverable as a debt due to the Huu-ay-aht.
- (3) Regulations made under this section do not apply if another Huu-ay-aht Act or regulation requires or authorizes the imposition of interest on money owed to the Huu-ay-aht.

Definitions

64.1 In sections 65 to 66.4,

“**debt**” means an amount of money that is due and payable to the Huu-ay-aht;

“**debtor**” means the person who is required to pay a debt.

HFNA 1/2015, s. 3(a).

Writing off debts

- 65** (1) [this section repealed by HFNA 1/2015, s. 3(b)]
- (2) All or part of a debt may be written off if
- (a) the Finance Committee reviews and makes a recommendation about writing off the debt, and
 - (b) Executive Council after considering the Finance Committee recommendation under paragraph (a), approves, by resolution, writing off the debt.

HFNA 1/2015, s. 3(b).

Forgiving debts

- 66** All or part of a debt may be forgiven if
- (a) the Finance Committee reviews and makes a recommendation about forgiving the debt, and
 - (b) Executive Council after considering the Finance Committee recommendation under paragraph (a), approves, by regulation, forgiving the debt.

Notice required if no response to notice

- 66.1** At the end of the period established by a Huu-ay-aht legislation for the purposes of payment of a debt, if
- (a) the debtor has not paid the debt, and
 - (b) the debt is not the subject of an appeal to the Huu-ay-aht Tribunal,
- the Executive Director, or his or her delegate, may deliver in accordance with Huu-ay-aht law a notice to the debtor indicating the debt owing and how and where payment may be made.

HFNA 1/2015, s. 3(c).

Amounts owing enforced in court

- 66.2** (1) Subject to subsections (2) and (3), a debt may be recovered by the Executive Director, or his or her delegate, by filing a certificate in the prescribed form in the Supreme Court or Provincial Court.
- (2) A certificate under this section may not be filed in the Supreme Court or Provincial Court until 30 days after the date a notice is delivered to the debtor in accordance with section 66.1.
- (3) A certificate may not be filed under this section for a debt that has been owed to the Huu-ay-aht for more than two years.

HFNA 1/2015, s. 3(c).

Content of certificate

- 66.3** A certificate filed under section 66.2(1) must be signed by the Executive Director and must include the following information:
- (a) the name of the debtor;
 - (b) the details of the debt, including the date and circumstances of the debt, the date that the debt became due and payable and the total amount owing in respect of the debt;
 - (c) the amount of any penalty, surcharge, administrative recovery fee or other amount that applies to the debt; and
 - (d) a copy of the notice delivered to the debtor in accordance with section 66.1.

HFNA 1/2015, s. 3(c).

Effect of certificate

- 66.4** (1) A certificate filed under section 66.2(1) is of the same effect, and proceedings may be taken on it by the Huu-ay-aht, as if it were a judgment of the Supreme Court or Provincial Court, as the case may be, for the recovery of a debt in the amount stated in the certificate.
- (2) A certificate filed under section 66.2(1) is admissible in any proceedings to recover the certified debt without proof of the signature or authority of the Executive Director and is proof of the certified facts.

HFNA 1/2015, s. 3(c).

PART 9 – FINANCIAL AGREEMENTS

Executive Director authority to contract

- 67** Subject to spending authority, the Executive Director may enter into contracts in the name of the Huu-ay-aht as required for the administration of government or Huu-ay-aht public bodies, if
- (a) the payment under contract is less than a prescribed amount, or
 - (b) the Executive Director is authorized to do so by Executive Council.

Agreements must be authorized

- 68** (1) Every expenditure in excess of an amount prescribed by Executive Council in a fiscal year must be
- (a) authorized by a written agreement, or
 - (b) required by Huu-ay-aht legislation.
- (2) Every agreement providing for expenditure in excess of an amount prescribed by Executive Council in a fiscal year must be
- (a) specified in the description of a budget line item, or
 - (b) authorized by Executive Council.

HFNA 2/2014, ss. 1(a) and (b), HFNR 8/2013, s. 3(e)

Authority to borrow

- 69** (1) Government and other Huu-ay-aht bodies may borrow money, if
- (a) the borrowing is for a purpose set out in subsection (3) and has been authorized by a borrowing authority, or
 - (b) the borrowing, including
 - (i) the maximum amount to be borrowed,
 - (ii) the purpose of the borrowing,
 - (iii) the security for the borrowing,
 - (iv) the term of the borrowing and
 - (v) the source of money to repay the borrowingare specifically set out in a proposed Act, and the proposed Act is reviewed at a session of the People's Assembly before its enactment.
- (2) Money must not be borrowed unless
- (a) the Finance Committee has considered and made a recommendation on the borrowing, and
 - (b) after receiving the Finance Committee recommendation, Executive Council, by resolution, approves the borrowing.
- (3) Money may be borrowed and used for one or more of the following purposes under a borrowing authority:
- (a) to meet financial obligations if there is insufficient cash on hand;
 - (b) to make authorized expenditures in excess of expected revenues;
 - (c) to pay for the cost of approved government infrastructure capital projects;

- (d) to repay debt.
- (4) Executive Council may authorize the use of Huu-ay-aht assets specified in the resolution under subsection (2) as security for debt, subject to the requirements of Huu-ay-aht legislation related to the use of real property as security.
- (5) A member of Executive Council specified in a resolution made under subsection (2) may sign a debt instrument or security agreement.
- (6) The aggregate amount of money borrowed and loans guaranteed by the government and other Huu-ay-aht bodies must not exceed \$ 15 000 000, except as permitted under any regulation enacted under s. 62.1(9).

HFNA 1/2019, s. 1(c).

Conditions for agreement with another government

- 70**
- (1) Before entering into an agreement with another government,
 - (a) Executive Council must consult with the Ha'wiih Council and the Huu-ay-aht community,
 - (b) the agreement must be authorized by a Huu-ay-aht Act, and
 - (c) Executive Council must, by resolution, confirm that any conditions required by law to be met before signing the agreement have been met.
 - (2) The agreement under subsection (1) must be signed by a person designated as a signatory in the Huu-ay-aht Act.
 - (3) Any expenditure or payment required by an agreement under this section may be made under the statutory spending authority established under this subsection.

PART 10 – GOVERNMENT POLICY REGULATIONS

Division 1 – Economic Development

Repealed

- 71** [Repealed by HFNA 2/2013, s. 50(b).]

Division 2 – Government Operations

Infrastructure policy regulation

- 72**
- (1) Subject to this section, Executive Council must, by regulation, adopt a government infrastructure policy.
 - (2) Before the policy is adopted under subsection (1),
 - (a) the Finance Committee must develop a draft regulation setting out the government infrastructure policy, and
 - (b) Executive Council must consider the draft regulation under paragraph (a).
 - (3) The government infrastructure policy regulation must set out the following:
 - (a) the steps to be taken for the identification, planning, approval and construction of government infrastructure capital projects;

- (b) the policy for the purchase of land for government infrastructure or any purpose other than economic development;
- (c) a requirement that the life-cycle operating and maintenance costs and any revenues associated with the operation of the infrastructure be included in the project planning and be approved as part of the project approval;
- (d) a requirement that before Executive Council makes a decision on
 - (i) a government infrastructure capital project, or
 - (ii) a purchase of land for government infrastructure or any purpose other than economic development
 the Finance Committee provide Executive Council with a financial impact assessment of the project or purchase;
- (e) the standards for operation and maintenance of government infrastructure;
- (f) a requirement for a periodic inventory and assessment of government infrastructure;
- (g) any other matter Executive Council considers advisable.

Risk management policy regulation

- 73** (1) Subject to this section, Executive Council must, by regulation, adopt a government risk management policy.
- (2) Before the policy is adopted under subsection (1),
- (a) the Finance Committee must develop a draft regulation setting out the government risk management policy, and
 - (b) Executive Council must consider the draft regulation under paragraph (a).
- (3) A government risk management policy regulation must set out the following:
- (a) how risks to government will be identified;
 - (b) a requirement to determine and maintain adequate insurance coverage for those risks;
 - (c) how risks associated with litigation and other sources of risk will be monitored;
 - (d) how risks will be mitigated;
 - (e) any other matter Executive Council considers advisable.

Cash management policy regulation

- 74** (1) Subject to this section, Executive Council must, by regulation, adopt a government cash management policy.
- (2) Before the policy is adopted under subsection (1),
- (a) the Finance Committee must develop a draft regulation setting out the government cash management policy, and
 - (b) Executive Council must consider the draft regulation under paragraph (a).
- (3) A government cash management policy regulation must include the following:
- (a) a requirement to forecast sources and uses of cash by month;
 - (b) a requirement for a cash management plan for each fiscal year;

- (c) a requirement to determine adequate short term borrowing authority to meet all cash needs;
- (d) a requirement to minimize borrowing costs and investment returns;
- (e) any other matters Executive Council considers advisable.

Investment management policy regulation

- 75** (1) Subject to this section, Executive Council must, by regulation, adopt a government investment management policy.
- (2) The purpose of the policy referred to in subsection (1) is to establish an investment management framework as required by section 3.13 of the Huu-ay-aht First Nations Fiscal Financing Agreement.
- (3) Before a policy is adopted under subsection (1),
- (a) the Finance Committee must develop a draft regulation setting out the government investment management policy, and
 - (b) Executive Council must consider the draft regulation under paragraph (a).
- (4) The government investment management policy applies to
- (a) any fund established by a Huu-ay-aht Act for the purpose of generating investment income, including the Invested Wealth Fund, and
 - (b) funds held by the Huu-ay-aht Settlement Trust for the purpose of generating investment revenue, if provided for in the trust agreement.
- (5) A government investment management policy regulation must set out the following:
- (a) a requirement to forecast expected contributions to each fund referred to in subsection (4);
 - (b) a statement of investment policy, including fund goals, performance objectives, Huu-ay-aht tolerance for risk and target, minimum and maximum shares for defined asset classes and limitations on specific investments for each fund;
 - (c) a requirement to have an investment manager and investment custodian;
 - (d) a description of how the investment manager and investment custodian will be selected;
 - (e) the duties of the Finance Committee acting as the investment committee to oversee the performance of investment portfolios;
 - (f) the duties of an investment manager;
 - (g) the duties of an investment custodian;
 - (h) conflict of interest guidelines for investment management;
 - (i) reporting requirements of the investment manager and Finance Committee;
 - (j) any other provisions required for the establishment of an investment management framework as required by section 3.13 for Huu-ay-aht First Nations Fiscal Financing Agreement

Purchasing policy regulation

- 76** (1) Subject to this section, Executive Council must, by regulation, adopt a government purchasing policy.
- (2) Before the policy is adopted under subsection (1),
- (a) the Finance Committee must develop a draft regulation setting out the government purchasing policy, and
 - (b) Executive Council must consider the draft regulation under paragraph (a).
- (3) A government purchasing policy regulation must set out the following:
- (a) the types of purchases and transactions covered by the policy, which, except for those exempted by regulation, must include purchases of assets, goods and services with a value greater than \$25 000 in a fiscal year;
 - (b) the types of exemptions to the requirement to comply with the purchasing policy;
 - (c) one or more competitive purchasing processes that may be used to purchase goods and services, and the types of transactions that may be covered by each process;
 - (d) the evaluation process and criteria for proposals, bids, quotes or other responses received for government purchases;
 - (e) the amounts prescribed under section 68.

HFNA 2/2014, s. 1(c).

Division 3 – Huu-ay-aht Citizen Development**Huu-ay-aht citizen development policy**

- 77** (1) Within 1 year of Effective Date, Executive Council must, by regulation, adopt a Huu-ay-aht citizen development policy with the purpose of encouraging and enabling Huu-ay-aht citizens to reach their full potential.
- (2) Before a regulation is adopted under subsection (1),
- (a) the Huu-ay-aht Citizen Development Committee must consult with the Finance Committee on the policy,
 - (b) the Finance Committee in consultation with the Huu-ay-aht Citizen Development Committee must develop a draft regulation setting out the Huu-ay-aht citizen development policy, and
 - (c) Executive Council must consider the draft regulation under paragraph (b).
- (3) A regulation under subsection (1) must set out the following:
- (a) a description of how and when the current state of the Huu-ay-aht citizen population will be measured and compared with other relevant populations;
 - (b) the form and content of progress reports to Executive Council on Huu-ay-aht citizen development;
 - (c) a description of how government will encourage and enable Huu-ay-aht citizens to succeed in the following areas:
 - (i) preschool education;
 - (ii) kindergarten to grade 12 education;

- (iii) post secondary education, including apprenticeship and skills training offered by post secondary institutions;
- (iv) practical skills training and capacity development;
- (v) other prescribed areas Executive Council considers advisable.

Huu-ay-aht Citizen Development Committee

- 78** (1) The Huu-ay-aht Citizen Development Committee may be established, consisting of
- (a) a chair appointed by the Chief Councillor, and
 - (b) at least 3 and no more than 5 members appointed by Executive Council.
- (2) The purpose of the Huu-ay-aht Citizen Development Committee is to assist Executive Council to encourage and enable Huu-ay-aht citizens to reach their full potential and to ensure citizens can meet basic needs.

Powers and duties of Huu-ay-aht Citizen Development Committee

- 79** (1) The Huu-ay-aht Citizen Development Committee has the power and duty to
- (a) consider any matter related to Huu-ay-aht citizen development,
 - (b) identify and review mechanisms to enhance Huu-ay-aht citizen development, and
 - (c) monitor and review the status of the Huu-ay-aht citizen population in comparison with other relevant populations in terms of indicators of citizen development.
- (2) The Executive Director must provide the Huu-ay-aht Citizenship Development Committee with the administrative support and the resources for engaging consultants, technical experts and other persons the Huu-ay-aht Citizenship Development Committee reasonably requires to fulfill its responsibilities under this Act.

Division 4 – Rental Housing

Definitions

- 80** In this Division:
- “**market housing**” means rental housing that is rented at market rates;
 - “**rental housing**” means housing owned by a Huu-ay-aht body or an independent not-for-profit entity under section 82;
 - “**social housing**” means rental housing subsidized by government.

Rental housing policy

- 81** (1) Within 1 year of Effective Date, Executive Council must, by regulation, adopt a rental housing policy with the purpose of ensuring those Huu-ay-aht citizens in need of shelter are accommodated while encouraging and enabling their individual self-reliance.
- (2) Before a regulation is adopted under subsection (1),
- (a) the Huu-ay-aht Citizen Development Committee must consult with the

- Finance Committee on the rental housing policy,
- (b) the Finance Committee in consultation with the Huu-ay-aht Citizen Development Committee must develop a draft regulation setting out the rental housing policy, and
 - (c) Executive Council must consider the draft regulation developed under paragraph (b).
- (3) A rental housing policy regulation must set out the following:
- (a) the eligibility criteria for receiving social housing;
 - (b) the criteria for choosing who may occupy
 - (i) social housing units, and
 - (ii) market housing;
 - (c) the basis upon which those occupying social housing pay rent;
 - (d) the responsibilities and obligations of those occupying social housing;
 - (e) the basis for determining the stock of social housing required;
 - (f) the basis upon which unneeded social housing will be converted to market housing;
 - (g) the form of rental agreements for social housing and market housing;
 - (h) any other matters Executive Council considers advisable.

Administration of rental housing

- 82** (1) After enacting a regulation under section 81, Executive Council must
- (a) take the necessary steps for the Legislature to create a Huu-ay-aht public body to administer rental housing, or
 - (b) by regulation, authorize government to enter into a contract with an independent not-for-profit entity to administer rental housing.
- (2) Before Executive Council may enter into a contract under subsection (1) (b), the Finance Committee must consider the contract and make its recommendations to Executive Council.
- (3) The Huu-ay-aht public body or independent not-for-profit entity under subsection (1) must
- (a) administer the social and market housing in accordance with the regulation under section 81, and
 - (b) report to Executive Council by May 15 each year, on all aspects of the administration of social housing for the previous fiscal year.

Housing legislation

- 83** (1) Within 1 year of Effective Date, Executive Council must develop housing legislation governing the disposition of residential leases and other interests under the *Land Act*.
- (2) Before recommending housing legislation for enactment, Executive Council must
- (a) consult with Huu-ay-aht citizens,
 - (b) seek recommendations from the Finance Committee, and
 - (c) consult with other persons, organizations, housing experts, and authorities

Executive Council considers advisable.

- (3) Housing legislation must set out the following:
 - (a) eligibility criteria for residential leases;
 - (b) the form and content of ground leases for residential housing lots;
 - (c) any other matters Executive Council considers advisable.

Division 5 – Human Resources

Human resources policy regulation

- 84** (1) Executive Council must, by regulation, adopt a government human resources policy.
- (2) Before the policy is adopted under subsection (1),
- (a) the Finance Committee must develop a draft regulation setting out the government human resources policy, and
 - (b) Executive Council must consider the draft regulation under paragraph (a).
- (3) A regulation under subsection (1) must set out the following:
- (a) the names of government departments, their functions and an organizational chart showing those departments;
 - (b) the framework for determining salary and benefits paid to government employees, including definitions of the various job levels that may be assigned to government employee positions;
 - (c) policies related to
 - (i) employment,
 - (ii) employee benefits and wage and salary administration,
 - (iii) working conditions,
 - (iv) leave,
 - (v) performance management,
 - (vi) professional development,
 - (vii) occupational health and safety, and
 - (viii) other workplace policies;
 - (d) any exemptions from the application of the policy;
 - (e) any other matters Executive Council considers advisable.
- (4) The salary range for every job level established under the human resources policy regulation must be determined at least every 5 years through a process that compares Huu-ay-aht positions with comparable positions in similar organizations, including local governments of a similar size and other First Nations.
- (5) The first salary review under subsection (4) must be completed as soon as practicable after Effective Date.

Division 6 – Policy Regulations Review

Policy review every 5 years

- 85** (1) Subject to this section, the Finance Committee must review the policy regulations under this Part at least every 5 years, and
- (a) report the results of the review, and
 - (b) make any recommendations for amendments to regulations to Executive Council.
- (2) The Finance Committee must review
- (a) [Repealed by HFNA 2/2013, s. 50(b)]
 - (b) the Huu-ay-aht citizen development policy regulation in consultation with the Huu-ay-aht Citizen Development Committee.

HFNA 2/2013, s. 50(b).

PART 11 – ADMINISTRATION

Executive Director

- 86** (1) Executive Council must appoint an Executive Director as the senior administrative officer of government.
- (2) The Executive Director is accountable to Executive Council for the exercise of his or her powers, duties and functions.

Powers and duties of Executive Director

- 87** (1) The Executive Director has the power and duty to do all of the following:
- (a) administer government finances and operations;
 - (b) ensure the efficient and effective operation of government;
 - (c) establish and implement administrative policies, practices and procedures necessary to effectively implement
 - (i) Huu-ay-aht laws,
 - (ii) government policies and programs, and
 - (iii) contracts and agreements entered into on behalf of the Huu-ay-aht;
 - (d) administer human resource policies;
 - (e) provide Executive Council and committees with the information and advice needed to fulfill their roles under Huu-ay-aht law;
 - (f) ensure that decisions of Executive Council are implemented;
 - (g) supervise and manage government employees;
 - (h) hold government contractors accountable for meeting their contractual obligations;
 - (i) perform any other duties and responsibilities assigned to the Executive Director by Executive Council or the Legislature or required under Huu-ay-aht law.

- (2) The Executive Director may, in writing, delegate any of his or her powers, duties or functions under Huu-ay-aht legislation but that delegation does not relieve the Executive Director from the responsibility of ensuring the delegated powers duties and functions are properly carried out.
- (3) If the Executive Director makes a delegation under subsection (2), a reference in this section to the Executive Director includes a reference to a delegate of the Executive Director.

Staffing

- 88**
- (1) Huu-ay-aht employees may only be hired after a merit based hiring process.
 - (2) If there are 2 or more equally qualified and capable applicants for a position, preference may be given to a Huu-ay-aht citizen.
 - (3) Executive Council may only fill a vacancy in the position of Executive Director after the position has been advertised in accordance with the human resources policy regulation.
 - (4) The Executive Director may fill a vacant position for a government employee by
 - (a) promoting a Huu-ay-aht employee,
 - (b) asking a Huu-ay-aht employee at the same job level to move to the position, or
 - (c) hiring another person after the position has been advertised in accordance with the human resources policy regulation.

Positions

- 89**
- (1) The Executive Director must establish the number and job level of all government employee positions and assign those positions to government departments.
 - (2) The positions established under subsection (1) must
 - (a) include detailed job descriptions,
 - (b) have job levels consistent with the functions of the positions,
 - (c) be consistent with the structure of departments set out in the human resources policy regulation, and
 - (d) be consistent with the spending authority for the departments to which the positions are assigned.

Dismissal

- 90**
- (1) Executive Council may dismiss the Executive Director
 - (a) if Executive Council has lost confidence in the person, or
 - (b) for cause.
 - (2) The Executive Director may terminate the employment of a government employee
 - (a) if the government employee's position is eliminated,
 - (b) if there is insufficient work to justify the continued employment of that government employee, or
 - (c) for cause.

- (3) A person whose employment is terminated is eligible for notice and severance under the human resources policy regulation unless the person's employment is terminated for cause.

PART 12 – OFFENCES & PENALTIES

Failure to provide information

- 91** A person who, with the intention of obstructing the proper management of Huu-ay-aht's financial matters, fails to
- (a) provide the Executive Director with information requested under section 32 (2), or
 - (b) comply with the request of the auditor under section 39 (3) commits an offence subject to proceedings under Division 4 Part 3 of the *Offence and Law Enforcement Act*.

PART 13 – GENERAL

Debt collection

- 92** A debt due to the Huu-ay-aht may be
- (a) recovered by government in a court of competent jurisdiction, or
 - (b) set-off by government against any funding or monetary benefit to which a person owing the debt may be eligible or entitled to receive from the Huu-ay-aht or a Huu-ay-aht body.

HFNA 3/2013, s. 1.

Power to make regulations

- 93** (1) Executive Council may make regulations referred to in section 39 of the *Interpretation Act*.
- (2) Without limiting subsection (1), Executive Council may make regulations as follows:
- (a) authorizing revenue owed or paid to the Huu-ay-aht to be remitted to the payor under section 55;
 - (b) requiring persons to pay interest on money owed to the Huu-ay-aht, and prescribing the rate of that interest under section 64 (1);
 - (c) respecting the forgiving of a debt under section 66 (b);
 - (d) prescribing amounts for the purpose of section 67 (a);
 - (e) prescribing areas of citizen development for the purposes of section 77 (3).
 - (f) prescribing limits on when travel expenses may be claimed, limits on the amount of travel expenses that may be claimed, the procedure for claiming travel expenses and travel advances, and the ability to offset travel expenses against travel advances owing;
 - (g) prescribing the manner in which government may set-off amounts due to the Huu-ay-aht from an individual against any funding or monetary benefit to which the individual is entitled from government or another Huu-ay-aht body.

- (h) prescribing a Huu-ay-aht special investment body in accordance with s. 62.1(1); and
- (i) respecting borrowing for the purposes of investing in a Huu-ay-aht special investment body in accordance with s. 62.1(6).

HFNA 1/2019, s. 1(d).

Periodic review of Act

- 94** (1) The Finance Committee must review this Act at least every 10 years after Effective Date and prepare a report that
- (a) assesses whether this Act facilitates effective and sound financial government administration, and
 - (b) identifies any amendments to this Act that might better serve its stated purpose.
- (2) Executive Council, after reviewing the report under subsection (1), must
- (a) give public notice of the report, and
 - (b) present the report at the first People's Assembly after the public notice is given under paragraph (a).

No further effect

- 95** Unless otherwise specified in the Treaty or a Huu-ay-aht Act, all motions, resolutions, bylaws, directives, policies, guidelines or other forms of decision that directly or indirectly affect the subject matter of this Act which were approved or passed before Effective Date by the band council of the Huu-ay-aht under the *Indian Act* or the membership of the Huu-ay-aht Indian Band have no further effect after the date on which this Act comes into force.

Amendments to this Act

- 96** An amendment or repeal of this Act must be approved by the People's Assembly before that amendment or repeal is brought into force.

PART 14 – TRANSITIONAL

Transitional – Budget Act

- 97** Despite section 20 (1), the Legislature must enact the *Budget Act, 2011* on Effective Date.

Transitional – Budget surplus requirement

- 98** Despite section 19, Executive Council may plan for an excess of expenditure over revenue in the consolidated government fund of up to the following amounts:
- (a) \$1 000 000 for the year ending March 31, 2012;
 - (b) \$600 000 for the year ending March 31, 2013;
 - (c) \$300 000 for the year ending March 31, 2014.

Commencement

- 99** This Act comes into force on the date of its enactment by the Legislature.

SCHEDULE

Definitions

1 In this Schedule:

“**Act**” means a Budget Act;

“**Budget Act**” means a Budget Act required by section 20 of this Act.

Budget Act format

2 (1) A Budget Act must have a separate Part for

- (a) each fund within the consolidated government fund, for which the Part name is the fund name,
- (b) capital spending, for which the Part name is “Capital Spending”, and
- (c) borrowing, for which the Part name is “Borrowing”.

(2) The capital spending Part of the Act must be the penultimate Part.

(3) The borrowing authority Part of the Act must be the last Part.

(4) Each Part of the Act must consist of one section in table form in which each row authorizes spending or borrowing of up to the amount, and for the purposes, stated in that row.

(5) Each table row in the Act providing spending authority must be in the following form:

X	Budget Line Item	Purpose	Amount
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where

- (a) “**X**” represents the budget line item number;
- (b) “Budget Line Item” = the name by which the budget line item is commonly known;
- (c) “Purpose” = a description of the functional purposes for which spending is authorized;
- (d) “Amount” = the total amount of spending authorized by the budget line item.

(6) Each table providing spending authority in the Act must have a row in the following form immediately after its last row:

	Total [Fund Name] Spending Authority	\$ X
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where

- (a) “[Fund Name]” = the name of the fund for which the Part provides spending authority;
- (b) “\$ X” = the total of the spending authorized by the Part.

(7) Each Part of the Act relating to a fund described in section 50 (2) of this Act must have sections in the following form immediately after the section described in subsection (5) of this section:

	Revenue Source	\$ X
	Expected Net Revenue (Spending)	\$ Y (\$ Y)

where

- (a) "Revenue Source" = the name of the dedicated revenue source for the fund;
 - (b) "\$ X" = the total amount of expected revenue;
 - (c) "\$ Y" = the total amount of expected revenue less the total spending authority if that amount is greater than, or equal to, zero;
 - (d) "(\$ Y)" = the total amount of expected revenue less the total spending authority, if that amount is less than zero.
- (8) The last Part of the Act before the capital spending Part must have a final section in the following form:

	Total Consolidated Government Fund Spending Authority	\$ X
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where

"\$ X" = the total of the spending authorized by that Part of the Act and all previous Parts.

- (9) Each table row providing borrowing authority in the Act must be in the following form:

X	Borrowing Authority Item	Purpose	\$ X
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where

- (a) "X" represents the budget line item number;
 - (b) "Borrowing Authority Item" = the name by which the borrowing authority item is commonly known;
 - (c) "Purpose" = a description of the functional purposes for which borrowing is authorized;
 - (d) "\$ X" = the total amount of borrowing authorized by that borrowing authority line item.
- (10) If there is more than one borrowing authority item, the table must have a row in the following form immediately after its last row:

	Total Borrowing Authority	\$ X
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where

"\$ X" represents the total of the borrowing authorized by the Part.