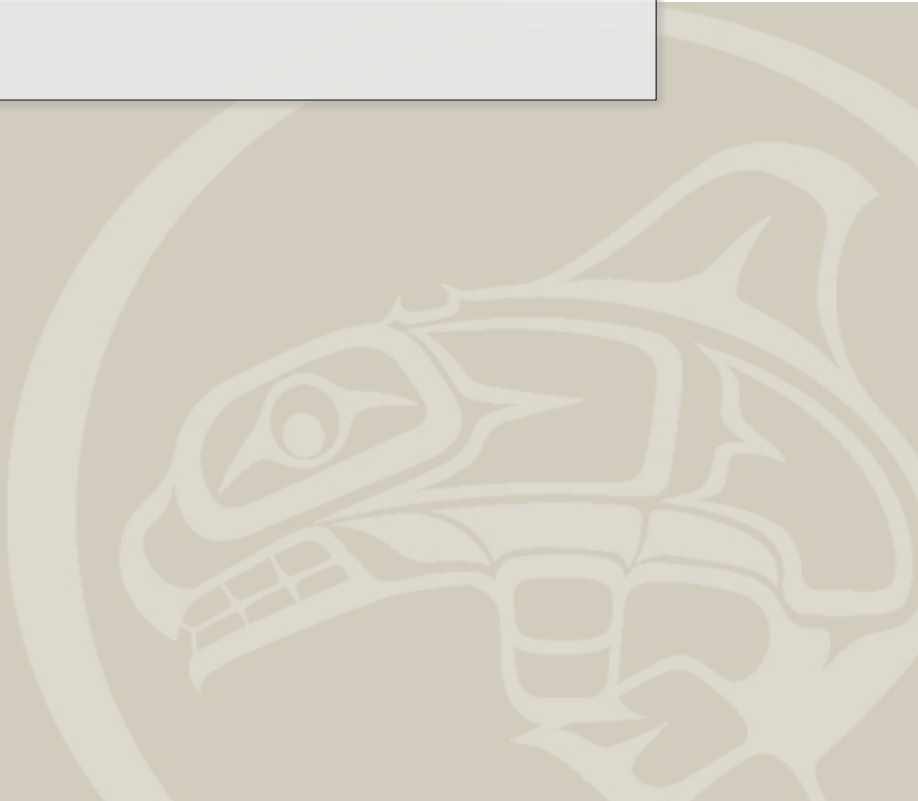




huu ay aht

ANCIENT SPIRIT, MODERN MIND

**FINANCIAL ADMINISTRATION ACT
AMENDMENT ACT, 2021**



REGISTRY OF LAWS CERTIFICATION

I certify that the *Financial Administration Act Amendment Act, 2021* was passed by Executive Council on:

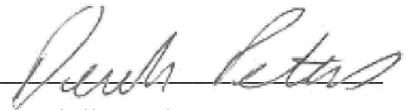
March 30, 2021



Chief Councillor, Robert Dennis

I certify that the *Financial Administration Act Amendment Act, 2021* is enacted as law on:

March 30, 2021



Ta'yii Hawilth, Derek Peters

I certify that the *Financial Administration Act Amendment Act, 2021* came into force on:

April 14, 2021



Law Clerk, Coraleah Bauer

Financial Administration Act Amendment Act, 2021

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Amendments

1 The *Financial Administration Act*, HFNA 7/2011 is amended:

(a) *In section 16, by:*

(i) following subsection 2(e), striking out “(f)” and substituting “(g)”;

(ii) adding the following paragraph after subsection (2) (e):

(f) a recommendation with respect to the minimum target value of the Invested Wealth Fund for the upcoming year;

(b) *In section 18, by:*

(i) adding the following paragraphs after paragraph (i):

(j) the minimum target value of the Invested Wealth Fund for the upcoming year;

(k) if the forecasted value of the Invested Wealth Fund is less than the minimum target value, a plan to increase the value of the Invested Wealth Fund to the minimum target value within 3 years;

(ii) striking out “(j)” and substituting “(l)”;

(iii) striking out “(k)” and substituting “(m)”;

(iv) striking out “(l)” and substituting “(n)”;

(c) *By adding the following section:*

Minimum Target Value of Invested Wealth Fund Requirement

- 19.1**
- (1) Executive Council may not plan to reduce the value of the Invested Wealth Fund below its minimum target value.
 - (2) If the value of the Invested Wealth Fund has fallen below its minimum target value, and such reduction is caused by fluctuations in the value of its investments, Executive Council in the financial plan must plan to increase the value of the Invested Wealth Fund to its minimum target value within 3 years.

- (3) Despite subsection (2), Executive Council may approve a financial plan in which the forecasted value of the Invested Wealth Fund does not meet the minimum target value if:
- (a) the Finance Committee prepares a draft report for Executive Council setting out all of the following:
 - (i) the reason for proposing an ongoing failure to meet the minimum target value;
 - (ii) the consequences of not approving the proposal;
 - (iii) a plan to replenish the Invested Wealth Fund over a longer period;
 - (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 the value of the Invested Wealth Fund may be below the minimum target value in each year 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); and
 - (d) the financial plan complies with the resolution of the People's Assembly under paragraph (c).
- (d) ***In section 21, by:***
- (i) ***in paragraph (a) (iii), by striking out “, and” and substituting “;”;***
 - (ii) ***in paragraph (b), by striking out “.” and substituting “; and”; and***
 - (iii) ***adding the following paragraph:***
 - (c) any other information required by any other provision of this Act.
- (e) ***In section 59, by:***
- (i) ***striking out:***

““**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;”
 - (ii) ***adding the following definitions:***

“**CPI**” means the annual consumer price index for British Columbia published by Statistics Canada;

“**Ongoing Activities**” means the activities listed in paragraph D.3 of Schedule D to the Huu-ay-aht Fiscal Financing Agreement;

(f) *In section 60, by:*

(i) *repealing subsection (3) and replacing it with:*

- (a) The annual target revenue of the Invested Wealth Fund for the 2021 – 2022 fiscal year is \$600,000.
- (b) For each fiscal year after 2021 – 2022, Executive Council may set the annual target revenue for the Invested Wealth Fund at an amount that is in its view sufficient to support the Ongoing Activities, taking into consideration any recommendations received from the Finance Committee.
- (c) If the annual target revenue is not set by Executive Council in a particular year, it will be deemed to be the previous fiscal year’s annual target revenue multiplied by one (1) plus the CPI adjustment for all items for the most recently reported 12 month period.

(ii) *adding the following subsections:*

- (3.1) In deciding whether to approve the minimum target value of the Invested Wealth Fund as part of the financial plan for the upcoming fiscal year, Executive Council must consider the following:
 - (a) the annual target revenue of the Invested Wealth Fund;
 - (b) performance reviews of the Invested Wealth Fund for the most recent 3 fiscal years;
 - (c) any recommendations received from the Finance Committee;
 - (d) any other matters Executive Council considers advisable.
- (3.2) If the value of the Invested Wealth Fund is more than 20% below the minimum target value at any time, this information must be highlighted in the monthly report provided to Executive Council under section 21.
- (3.3) If the value of the Invested Wealth Fund is more than 10% below the minimum target value for a period of 3 consecutive months, this information must be highlighted in the monthly report provided to Executive Council under section 21.
- (3.4) The minimum target value for the 2021 – 2022 fiscal year is \$20,600,000.

(iii) repealing subsections (6) through (8) and replacing them with:

- (6) Funds may only be transferred out of the Invested Wealth Fund in accordance with subsection (7).
- (7) Subject to subsection (8), Executive Council may direct that funds be transferred from the Invested Wealth Fund to the general operating fund for the following purposes
 - (a) making expenditures in accordance with a spending authority established by a Budget Act, and
 - (b) investment in a Huu-ay-aht special investment body.
- (8) Executive Council may direct 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 transferred, after which there would be a reasonable likelihood of achieving or maintaining the minimum target value set out in the approved financial plan.

(g) In section 62 by:

(i) in subsection (2) (i), by striking out “.” and replacing it with “;” and

(ii) adding the following paragraph:

- (j) limited partnership units.

(h) In section 62.1 by:

(i) repealing subsection (3) (b) and substituting:

- (b) a description of the purpose and the nature of the potential investment opportunity, including a description of the interests or investments to be held or controlled by such body;

(ii) repealing subsection (3) (e) and substituting:

- (e) an assessment of the possible risks facing the potential investment opportunity and action that could be taken to mitigate those risks;

(iii) striking out “(g)” and substituting “(h)”;

(iv) adding the following paragraph after (3) (f):

- (g) a description of the mechanisms by which reporting requirements set out in section 62.2 (4) will be imposed on the special investment body;

(v) repealing subsection (7) and substituting:

- (7) Government and other 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).

(vi) *repealing subsection (9) and substituting:*

- (9) A regulation 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).

(vii) *repealing subsection (10) and substituting:*

- (10) Despite the *Government Act*, section 89 (2), Executive Council may direct that the report in respect of a regulation under subsection (1) or (6) presented for approval of the People's Assembly 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.

(i) *By adding the following section:*

Invested Wealth Fund investment in a Huu-ay-aht special investment body

- 62.2** (1) Subject to subsection (5), Executive Council may prescribe the investment of money within the Invested Wealth Fund in a Huu-ay-aht special investment body following:
- (a) consultation with the H̄aw̄iih̄ Council,
 - (b) consideration of a recommendation of the Finance Committee, and
 - (c) approval of the investment by the People's Assembly.
- (2) The Finance Committee will make a recommendation to Executive Council in respect of a regulation under subsection (1) after it has reviewed a report that includes the following:
- (a) an assessment of the potential investment opportunity as compared to past performance of the Invested Wealth Fund;
 - (b) an assessment of the potential impact of the potential investment on the annual target revenue of the Invested Wealth Fund;
 - (c) an assessment of risks facing the investment opportunity and actions that could be taken to mitigate those risks;
 - (d) an outline of anticipated financial performance and other benefits from the potential investment opportunity for the first 5 years, as well as any longer-term considerations that may impact value for the years thereafter.
- (3) A regulation prescribing an investment under subsection (1) must specify:
- (a) the Huu-ay-aht special investment body in which the money will be invested;
 - (b) the maximum amount of money from the Invested Wealth Fund that will be invested in the Huu-ay-aht special investment body;
 - (c) the means by and circumstances in which the amount of the

investment may be reduced.

- (4) Money from the Invested Wealth Fund may be invested in a Huu-ay-aht special investment body only if the reporting requirements imposed on the Huu-ay-aht special investment body include, at a minimum, provision of quarterly financial statements, audited annual financial statements and material change reports.
- (5) The Executive Director may designate an individual to approve the payment of money for the purposes of an investment prescribed under subsection (1).
- (6) The maximum aggregate amount of money from the Invested Wealth Fund that Executive Council may direct be invested in Huu-ay-aht special investment bodies is 50% of the minimum target value set out in the financial plan approved under section 17 (3).
- (7) Despite the *Government Act*, section 89 (2), Executive Council may direct that the report in respect of an investment presented for approval by the People's Assembly under subsection (1) 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.

(j) In section 75, by:

(i) *repealing subsection (5) (b) and substituting:*

- (b) a requirement to prepare 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, limitations on specific investments for each fund and any investment prescribed by Executive Council under subsection 62.2 (1);

(k) In section 93 (2), by:

(i) *repealing subsections (h) and (i);*

(ii) *striking out “(e)” and substituting “(f)”;*

(iii) *striking out “(f)” and substituting “(g)”;*

(iv) *striking out “(g)” and substituting “(h)”;*

(v) *adding the following subsection after (d):*

- (e) prescribing a government investment management policy for the purposes of section 75 (1);

(vi) *adding the following subsection after (h):*

- (i) prescribing a Huu-ay-aht special investment body in accordance with section 62.1 (1);

- (j) respecting borrowing for the purposes of investing in a HUU-ay-aht special investment body in accordance with section 62.1 (6); and
- (k) directing an investment of money within the Invested Wealth Fund in a HUU-ay-aht special investment body in accordance with section 62.2.

Commencement

2 This act comes into force by resolution of Executive Council.

Consolidation

3 The Law Clerk is directed to consolidate the *Financial Administration Act*, HFNA 7/2011.