

**KA:'YU:'K'T'H'/CHE:K'TLES7ET'H'  
FIRST NATIONS GOVERNMENT**

**FINANCIAL ADMINISTRATION ACT**

**KCFNS 6/2011**



This law enacted on April 1, 2011

Signed Christina Cox  
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Signed Therese Smith  
Therese Smith, Legislative Chief,  
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DEPOSITED IN THE  
REGISTRY OF LAWS  
ON 04 10 2011  
Michael J. Stewart  
Signature of Clerk



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## PREAMBLE

Through the act of governing and as a treaty first nation, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assume the responsibility of providing responsible, transparent and accountable government, blending hereditary and modern-day governing systems. In doing so, we honour our past and embrace the future ensuring the continued existence of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as a strong political, social and cultural community that aspires to grow as an organized, determined, successful and self-reliant peoples.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations assert that we have been responsible stewards of our resources since time immemorial. It is the desire of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to continue this tradition and apply it in the modern world to the use and management of our financial resources.

To assist with realizing these goals, the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations wish to establish a framework for the use and management of our financial resources that promotes openness and accountability in the use and management of such resources and ensures such resources are managed effectively and efficiently.

The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations adopt this Act based on these values.



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## PART 1 - INTRODUCTORY PROVISIONS

### Short title

**1.1** This Act may be cited as the Financial Administration Act.

### Executive oversight

**1.2** The member of the Executive holding the finance portfolio is responsible for the executive oversight of this Act.

### Application

- 1.3** (a) This Act governs the management and control of the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (b) This Act applies to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, Ka:'yu:'k't'h'/Che:k'tles7et'h' institutions and Ka:'yu:'k't'h'/Che:k'tles7et'h' officials.

### Definitions

**1.4** In this Act,

“annual audit” means an audit required under section 9.5(b);

“annual budget” means a budget approved by the Legislature under section 4.3 or 11.2;

“annual budget law” means an Act referred to in section 4.3 or 11.2;

“annual financial statements” means the financial statements and any special purpose reports prepared by the director under section 9.5(a);

“audited annual financial statements” means

- (a) the annual financial statements,
- (b) the audit opinion prepared by the auditor under section 9.5(b)(ii)(A), and
- (c) any audit opinion prepared by the auditor under section 9.5(b)(ii)(B);

“auditor” means the person appointed as auditor of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations in accordance with section 9.4;

“capital borrowing law” means an Act referred to in section 8.3;

“director” means the director of finance;

“emergency” means a present or imminent event that requires prompt coordination of actions to protect the health, safety or welfare of Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens or individuals who are ordinarily resident on Ka:'yu:'k't'h'/Che:k'tles7et'h' lands, or to limit damage to property of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations or the environment within Ka:'yu:'k't'h'/Che:k'tles7et'h' lands;

“emergency expenditure” means an expenditure that is not authorized under the annual budget for the current fiscal year and is made in response to an emergency;

“finance committee” means the standing committee on finance established under section 3.1;

“financial institution” means a bank or credit union;

“financial records” means all records respecting the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, including the minutes of meetings of the finance committee;

“fiscal year” means the fiscal year of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations established under section 4.1;

“general account” means the account referred to in section 5.2(a)(i);

“generally accepted accounting principles” means the generally accepted accounting principles of the Canadian Institute of Chartered Accountants, as revised or replaced from time to time;

“generally accepted auditing standards” means the generally accepted auditing standards of the Canadian Institute of Chartered Accountants, as revised or replaced from time to time;

“implementation activities account” means the account referred to in section 5.2(a)(iv);

“Ka:'yu:'k't'h'/Che:k'tles7et'h' account” means any account established by the director under section 5.2;

“monthly financial report” means a report prepared by the director under section 9.2(a);

“multi-year financial plan” means a financial plan approved by the Legislature under section 4.2;

“Qacá settlement trust” means the Maa-nulth First Nation Settlement Trust, within the meaning given to that term in the Tax Treatment Agreement, of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, Uchucklesaht Tribe and Toquaht Nation.

“quarterly financial statements” means the financial statements prepared by the director under section 9.3(a);



“securities” means bonds, debentures, deposit certificates, promissory notes, treasury bills or other evidences of indebtedness, shares and stock and includes any documents commonly known as securities;

“settlement trust agreement” means the agreement dated March 23, 2011 under which the Qacá settlement trust is established;

“tangible capital asset reserve account” means the account referred to in section 5.2(a)(iii);

“tangible capital asset reserve fund” means the fund referred to in section 10.6(a);

“trust account” means an account referred to in section 5.2(a)(ii).

### **Interpretation**

- 1.5** In this Act, unless the context requires otherwise, any reference to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is deemed to include a reference to a Ka:'yu:'k't'h'/Che:k'tles7et'h' institution.



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## **PART 2 - DEPARTMENT OF FINANCE**

### **Department of Finance established**

- 2.1** The Department of Finance is established as a division of the Ka:'yu:'k't'h'/Che:k'tles7et'h' administration.

### **Mandate**

- 2.2** The mandate of the Department of Finance is to carry out the day-to-day administration of the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations as required
- (a) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, or
  - (b) by the chief administrative officer.

### **Office of the director of finance established**

- 2.3**
- (a) The office of the director of finance is established.
  - (b) The Executive must appoint an individual to hold the office of the director after considering the recommendation of the finance committee on the appointment.
  - (c) The director reports to the chief administrative officer.

### **Duties of the director**

- 2.4** The director must perform the following duties:
- (a) manage the Department of Finance;
  - (b) ensure that Ka:'yu:'k't'h'/Che:k'tles7et'h' government employees within the Department of Finance perform the duties assigned or delegated to them
    - (i) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment,
    - (ii) by the chief administrative officer, or
    - (iii) by the director;
  - (c) report, as required by the chief administrative officer, to the Executive on the Department of Finance and its activities;
  - (d) establish, administer and maintain all Ka:'yu:'k't'h'/Che:k'tles7et'h' accounts;
  - (e) prepare draft multi-year financial plans, draft annual budgets and any draft amendments to the annual budgets;

- (f) prepare monthly financial reports, quarterly financial statements and annual financial statements;
- (g) prepare any other necessary financial records, in addition to those referred to in subsections (e) and (f);
- (h) actively monitor compliance with the financial terms of any agreements or funding arrangements entered into by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
- (i) actively monitor compliance with this and any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, the primary purpose of which pertains to the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
- (j) prepare or provide any financial information required by the Legislature, the Executive, the finance committee or the chief administrative officer to perform their duties or exercise their powers; and
- (k) any other duties assigned or delegated to the director
  - (i) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment, or
  - (ii) by the chief administrative officer.

### Delegation authority

- 2.5** (a) Upon the approval of the chief administrative officer, the director may delegate, in writing, the performance of any of the director's duties or the exercise of any of the director's powers to
- (i) another Ka:'yu:'k't'h'/Che:k'tles7et'h' director,
  - (ii) a Ka:'yu:'k't'h'/Che:k'tles7et'h' government employee, or
  - (iii) an independent contractor of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (b) Despite the delegation of any duties or powers under subsection (a), the director remains responsible for ensuring that the duties are performed properly and the powers are exercised appropriately.

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## PART 3 - STANDING COMMITTEE ON FINANCE

### Standing committee on finance established

- 3.1 (a) The standing committee on finance referred to in section 2.33 of the Constitution is established.
- (b) For certainty, Part 15 of the Legislature Rules of Order and Procedure Act applies to the finance committee.

### Terms of reference

- 3.2 The terms of reference of the finance committee are set out in this Part.

### Mandate

- 3.3 The mandate of the finance committee is to assist the Legislature in fulfilling its obligation to manage and control the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

### Composition and operations

- 3.4 (a) The finance committee is composed of
- (i) the member of the Executive holding the finance portfolio, and
  - (ii) no fewer than five other individuals appointed by the Legislature, at least one of whom must be a member of the Legislature.
- (b) Subject to subsection (c), a member of the finance committee holds office for a term of four years or until he or she resigns or is replaced in accordance with section 15.3(c) of the Legislature Rules of Order and Procedure Act.
- (c) In order to provide for staggered terms of office, the first members of the finance committee must be appointed to hold office for a term of
- (i) in the case of three members of the finance committee, two years or until they resign or are replaced in accordance with section 15.3(c) of the Legislature Rules of Order and Procedure Act, and
  - (ii) in the case of three members of the finance committee, four years or until they resign or are replaced in accordance with section 15.3(c) of the Legislature Rules of Order and Procedure Act.
- (d) For certainty, the finance committee may include individuals who are not members of the Legislature, as approved by the Legislature, who bring a particular expertise or perspective to the finance committee.

- (e) Subject to subsection (f), the director must be notified of and attend all finance committee meetings and may be invited to be heard at those meetings on matters relating to the director's duties.
- (f) The director may be
  - (i) excused by the committee chair from attending a finance committee meeting, or
  - (ii) excluded from all or any part of a finance committee meeting if the subject matter relates to the director's performance.
- (g) The auditor may be notified of and invited to attend any finance committee meetings and may be invited to be heard at those meetings on matters relating to the auditor's duties.
- (h) The finance committee must meet at least four times each fiscal year.

### **Duties of the finance committee**

**3.5** The finance committee must perform the following duties:

- (a) make recommendations to the Executive on the appointment of the director and the performance by the director of his or her duties under this Act;
- (b) review, and make recommendations to the Legislature on, draft multi-year financial plans;
- (c) review, and make recommendations to the Legislature on, draft annual budgets;
- (d) on an ongoing basis, monitor the financial performance of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations against the annual budget for the current fiscal year and report any significant variations to the Legislature;
- (e) review, and make recommendations to the Legislature on, quarterly financial statements;
- (f) make recommendations to the Executive on the appointment of the auditor and the performance by the auditor of his or her duties under this Act;
- (g) review, and make recommendations to the Legislature on, the audited annual financial statements;
- (h) periodically review this Act and, where appropriate, recommend amendments to the Legislature;
- (i) periodically review, and make recommendations to the Legislature on,

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- (i) any regulations under this Act,
  - (ii) the accounting and financial reporting policies and practices of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
  - (iii) the internal controls of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
  - (j) review, and make recommendations to the Legislature on, any proposed fiscal agreement with Canada or British Columbia;
  - (k) review, and make recommendations to the Legislature on, any new or proposed law that may affect the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
  - (l) review, and make recommendations to the Legislature on, any new or proposed accounting or financial reporting standards that may affect the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
  - (m) report to the Legislature by oral or written report at meetings of the Legislature when requested;
  - (n) report to the Executive by oral or written report at meetings of the Executive when requested; and
  - (o) any other duties assigned or delegated to the finance committee
    - (i) under this or any other Ka:'yu:'k't'h'/Che:k'tles7et'h' enactment; or
    - (ii) by the Legislature.





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## **PART 4 - MULTI-YEAR FINANCIAL PLANS AND ANNUAL BUDGETS**

### **Fiscal year**

- 4.1** The fiscal year of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is April 1 of one year to March 31 of the subsequent year.

### **Multi-year financial plan**

- 4.2** On or before March 31 of each year, the Legislature must, by an Act, approve a multi-year financial plan for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that has a planning period of five years comprised of the next fiscal year and the four succeeding fiscal years.

### **Annual budget**

- 4.3** On or before March 31 of each year, the Legislature must, by an Act, approve an annual budget for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for the next fiscal year.

### **Presentation of annual budget to People's Assembly**

- 4.4** On or before August 15 of each year, the Legislature must present the annual budget for the current fiscal year to the People's Assembly.

### **Annual budget process**

- 4.5** (a) On or before January 30 of each year, the director must prepare and submit to the Legislature and the finance committee a draft annual budget and a draft multi-year financial plan for the next fiscal year in the form and with the content approved by the Legislature on the recommendation of the finance committee.
- (b) On or before February 28 of each year, the finance committee must review and make recommendations to the Legislature on the draft annual budget and the draft multi-year financial plan submitted to it in accordance with subsection (a).

### **Annual budget deficits**

- 4.6** If an annual budget contains a deficit and the annual budget contemplates that deficit being financed by borrowing money, the Legislature must ensure that the multi-year financial plan demonstrates how and when the debt from such borrowing will be serviced and repaid.

### **Annual budget amendments**

- 4.7** (a) An annual budget must not be amended without the approval of the Legislature by amending the applicable annual budget law.

- (b) Unless there is a substantial change in the forecasted revenues or expenditures of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, the Legislature must not amend an annual budget law.

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## PART 5 - REVENUES

### General limitation on establishing accounts

- 5.1 No account may be established for the deposit of money received by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations except in accordance with this Part.

### Ka:'yu:'k't'h'/Che:k'tles7et'h' accounts

- 5.2 (a) The director must establish the following accounts in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations:
- (i) a general account for money from any source other than money that must be deposited into any other Ka:'yu:'k't'h'/Che:k'tles7et'h' account;
  - (ii) one or more trust accounts for money held in trust by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
  - (iii) a tangible capital asset reserve account for the purpose described in section 10.6(a)(i); and
  - (iv) an implementation activities account for the purposes described in sections D.3 and D.4 of the Fiscal Financing Agreement.
- (b) The Executive may, by resolution, authorize the director to establish any other accounts in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, in addition to those referred to in subsection (a), as may be necessary or appropriate to manage the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (c) All Ka:'yu:'k't'h'/Che:k'tles7et'h' accounts must be established in a financial institution.

### Income earned on Ka:'yu:'k't'h'/Che:k'tles7et'h' accounts

- 5.3 (a) Any income earned on money held in a Ka:'yu:'k't'h'/Che:k'tles7et'h' account becomes a part of that account.
- (b) Any income earned on an investment made from a Ka:'yu:'k't'h'/Che:k'tles7et'h' account must be deposited into that account.

### Receipt and deposit of money

- 5.4 (a) The director must ensure the safekeeping of all money received by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
- (b) The director must deposit all money received by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations into the appropriate

Ka:'yu:'k't'h'/Che:k'tles7et'h' account as soon as practicable after receipt of the money.

### **Refunds**

- 5.5** Money received by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that has been paid or collected in error or for a purpose that has not been fulfilled may be refunded in full or in part as the circumstances require.

### **Write off of debts**

- 5.6** All or a portion of any debt or obligation owed to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations may be written off upon the approval of the Executive by regulation.

### **Extinguishment of debts**

- 5.7** All or a portion of any debt or obligation owed to the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations may be forgiven upon the approval of the Executive by regulation.

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## PART 6 - EXPENDITURES

### General limitation on expenditures

- 6.1** Money must not be paid out of any Ka:'yu:'k't'h'/Che:k'tles7et'h' account unless the expenditure is
- (a) authorized under the annual budget for the current fiscal year,
  - (b) provided for in the draft annual budget for the next fiscal year reviewed by the finance committee and recommended to the Legislature under section 4.5(b),
  - (c) an emergency expenditure,
  - (d) from a trust account and authorized under the terms of the applicable trust, or
  - (e) for an investment authorized under section 7.3, 7.5 and 7.6.

### Limitation on expenditures from certain Ka:'yu:'k't'h'/Che:k'tles7et'h' accounts

- 6.2**
- (a) Money in a trust account must not be expended for any purpose other than that permitted under the terms of the applicable trust.
  - (b) Money in the tangible capital asset reserve account must not be expended for any purpose other than that described section 10.6(a)(i) or an investment authorized under section 7.5.
  - (c) Money in the implementation activities account must not be expended for any purpose other than that described in sections D.3 and D.4 of the Fiscal Financing Agreement or an investment authorized under section 7.6.

### Requisitions for payment

- 6.3** Money must not be paid out of any Ka:'yu:'k't'h'/Che:k'tles7et'h' account unless a requisition for payment has been
- (a) completed in the prescribed form, and
  - (b) signed by the prescribed individual or individuals.

### Form of payments

- 6.4** Payments from a Ka:'yu:'k't'h'/Che:k'tles7et'h' account may be made by cheque, draft, electronic transfer or other similar instrument.

**Authorized signatories for cheques and other similar instruments**

- 6.5** Any cheque, draft, electronic transfer or other similar instrument drawn on a Ka:'yu:'k't'h'/Che:k'tles7et'h' account must be signed by
- (a) any two members of the Executive, or
  - (b) such other individual or individuals as may be prescribed.

**Emergency expenditures**

- 6.6** The chief administrative officer must report an emergency expenditure to the Legislature as soon as practicable after it is made.

**Reversals**

- 6.7** Despite sections 6.1 and 6.2, money may be paid out of a Ka:'yu:'k't'h'/Che:k'tles7et'h' account if the expenditure is
- (a) a refund under section 5.5, or
  - (b) a reversal of a transfer from one Ka:'yu:'k't'h'/Che:k'tles7et'h' account to another made in error.

**Prohibited agreements**

- 6.8** The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must not enter into an agreement or undertaking that requires the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to make an expenditure that is not authorized by or contravenes this Act.

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## PART 7 - INVESTMENTS

### General limitation on investments

- 7.1 Money in any Ka:'yu:'k't'h'/Che:k'tles7et'h' account must not be invested except in accordance with this Part.

### Limitation on investments from a trust account

- 7.2 Money in a trust account must not be invested except as permitted under the terms of the applicable trust.

### Investment of money not immediately required

- 7.3 The Executive may, by resolution, authorize an investment of all or a portion of the money in any Ka:'yu:'k't'h'/Che:k'tles7et'h' account that is not immediately required for expenditures, other than

- (a) money in the tangible capital asset reserve account, the investment of which is governed by section 7.5, and
- (b) money in the implementation activities account, the investment of which is governed by section 7.6,

in one or more of the following:

- (c) securities issued or guaranteed by Canada or a province or territory of Canada;
- (d) fixed deposits, notes, certificates and other short-term paper of, or guaranteed by, a financial institution;
- (e) securities issued by a local, municipal or regional government in Canada;
- (f) commercial paper issued by a Canadian company that is rated in the highest category by at least two recognized security-rating institutions; and
- (g) any class of investments permitted under the Trustee Act (British Columbia).

### Investment of money in an economic development account

- 7.4 (a) If
- (i) an economic development account has been established under section 5.2(b), and
  - (ii) money has been deposited or transferred into that account in accordance with this Act,

then, subject to subsection (b), the Executive may, by resolution, authorize an investment of all or a portion of the money in that account in one or more of the following:

- (iii) a business carried on in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations;
  - (iv) a company incorporated under the laws of Canada or a province or territory of Canada in which the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is a shareholder;
  - (v) a trust in which the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is a beneficiary;
  - (vi) a partnership, limited partnership or limited liability partnership registered in British Columbia in which the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations is a partner; or
  - (vii) any other business entity in which the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations has an interest.
- (b) Before the Executive authorizes an investment under subsection (a),
- (i) the director must prepare a report to the Executive identifying any potential liabilities associated with the investment and assessing the ability of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to meet such liabilities should they arise, and
  - (ii) the Executive must consider such report.

### **Investment of money in the tangible capital asset reserve account**

**7.5** (a) In this section,

“investment management agreement” means an agreement entered into with the investment manager concerning the investment and management of money in the tangible capital asset reserve account;

“investment manager” means the person appointed as investment manager in accordance with subsection (b)(ii)(A);

“statement of investment policy” means the statement of investment policy approved by the Executive under subsection (b)(i).

(b) The Executive must,



- (i) by regulation, approve a statement of investment policy for money in the tangible capital asset reserve account that is designed to ensure that money in the tangible capital asset reserve account is appropriately invested to support the purpose described in section 10.6(a)(i), and
- (ii) if the tangible capital asset reserve fund has reached an amount that would justify retaining an investment manager,
  - (A) appoint an investment manager to invest money in the tangible capital asset reserve account in accordance with
    - (I) the statement of investment policy, and
    - (II) the investment management agreement, and
  - (B) cause the investment manager to fulfill its obligation to invest and manage money in the tangible capital asset reserve account in accordance with
    - (I) the statement of investment policy, and
    - (II) the investment management agreement.

### **Investment of money in the implementation activities account**

**7.6** (a) In this section,

“investment committee” means the investment committee as referred to in subsection (b)(iv)(B);

“investment management agreement” means, as applicable,

- (i) an agreement entered into with the investment manager concerning the investment and management of money in the implementation activities account, or
- (ii) an agreement entered into with the investment manager and another Maa-nulth First Nation concerning the investment and management of the pooled fund;

“investment management framework agreement” means an investment management framework agreement as referred to in subsection (b)(iv);

“investment manager” means, as applicable,

- (i) a person appointed as investment manager in accordance with subsection (b)(ii), or

- (ii) a person appointed as investment manager in accordance with subsection (b)(iv)(D);
- “pooled fund” has the meaning given to that term in subsection (b)(iv)(A);
- “statement of investment policy” means, as applicable,
- (i) the statement of investment policy approved by the Executive under subsection (b)(i), or
  - (ii) the statement of investment policy as referred to in subsection (b)(iv)(C).
- (b) The Executive must either
- (i) by regulation, approve a statement of investment policy for money in the implementation activities account that is designed to ensure that money in the implementation activities account is appropriately invested to support the activities described in section D.4 of the Fiscal Financing Agreement,
  - (ii) appoint an investment manager to invest and manage money in the implementation activities account in accordance with
    - (A) the statement of investment policy, and
    - (B) the investment management agreement, and
  - (iii) cause the investment manager to fulfill its obligation to invest and manage money in the implementation activities account in accordance with
    - (A) the statement of investment policy, and
    - (B) the investment management agreement, or
  - (iv) enter into an investment management framework agreement with one or more Maa-nulth First Nations on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that, among other things,
    - (A) provides for the pooling of money in the implementation activities account and money in the equivalent accounts of those Maa-nulth First Nations into a fund (the “pooled fund”) for the purposes of investment and management of the pooled fund,
    - (B) provides for the appointment by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and those Maa-nulth First Nations of an investment committee comprised of an equal number of representatives from the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations and each of those Maa-nulth First Nations,

- (C) includes, or provides for the approval by the investment committee of, a statement of investment policy for the pooled fund that is designed to ensure that the pooled fund is appropriately invested to support the activities described in section D.4 of the Fiscal Financing Agreement,
- (D) provides for the appointment by the investment committee of an investment manager to invest and manage the pooled fund in accordance with
  - (I) the statement of investment policy, and
  - (II) the investment management agreement, and
- (E) places an obligation on the investment committee to cause the investment manager to fulfill its obligation to invest and manage the pooled fund in accordance with
  - (I) the statement of investment policy, and
  - (II) the investment management agreement.

### **Delegation authority**

- 7.7** (a) The Executive may delegate, in writing, the performance of its duties under section 7.5(b)(ii)(B) or 7.6(b)(iii) to
- (i) the finance committee, or
  - (ii) the director.
- (b) Despite any delegation of duties under subsection (a), the Executive remains responsible for ensuring that those duties are performed properly.

### **Loans to eligible corporations**

- 7.8** (a) In this section, “eligible corporation” has the meaning given to that term in the settlement trust agreement.
- (b) The Legislature must not authorize a loan from the Qacá settlement trust to an eligible corporation except in accordance with this section and the settlement trust agreement.
- (c) The Legislature may authorize a loan from the Qacá settlement trust to an eligible corporation
- (i) by resolution if the loan is less than the prescribed amount, and

- (ii) by an Act if the loan is greater than the prescribed amount.
- (d) Before the Legislature authorizes a loan under subsection (c),
  - (i) the director must prepare a report to the Legislature respecting the loan, including an assessment of the eligible corporation's ability to repay the loan, and
  - (ii) the Legislature must consider such report.

## **PART 8 - BORROWING, GUARANTEES AND INDEMNITIES**

### **General limitation on borrowing, guarantees and indemnities**

- 8.1** (a) The Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must not borrow money or provide a guarantee or indemnity except in accordance with this Part and any capital borrowing laws.
- (b) For certainty, this Part applies to borrowing by the Ka:'yu:'k't'h'/Che:k'tles7et'h' from the Qacéa settlement trust.

### **Borrowing for operations**

- 8.2** (a) The director or the chief administrative officer may incur trade accounts payable or other accounts payable provided they are for an expenditure authorized under
- (i) the annual budget for the current fiscal year, or
  - (ii) the draft annual budget for the next fiscal year reviewed by the finance committee and recommended to the Legislature under section 4.5(b).
- (b) The Executive
- (i) may, by resolution, authorize the director to obtain an overdraft or line of credit in the name of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for the purpose of covering any short term cash flow needs of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for its operations, and
  - (ii) may, by resolution, authorize any drawdown on such overdraft or line of credit.

### **Borrowing for capital expenditures**

- 8.3** The Legislature may, by an Act, authorize any borrowing by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for a purpose of a capital nature.

### **Borrowing for repayment or refinancing of debts**

- 8.4** The Executive may, by resolution, authorize any borrowing by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for the purpose of repaying or refinancing any debt owed by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

### **Limitation on the use of borrowed money**

- 8.5** (a) Subject to subsections (b) and (c), money borrowed by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must not be used for any purpose other than the purpose for which it was borrowed.

- (b) Money borrowed by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that is not immediately required for expenditures may be invested in accordance with section 7.3.
- (c) Money borrowed by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that is no longer required for the purpose for which it was borrowed must be used to repay the debt from the borrowing.

### **Guarantees and indemnities**

- 8.6**
- (a) Subject to subsection (b), the Executive may, by regulation, authorize the provision of any guarantee by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.
  - (b) Before the Executive authorizes any guarantee under subsection (a),
    - (i) the director must prepare a report to the Executive identifying any risks associated with providing the guarantee and assessing the ability of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations to honour the guarantee should it be required to do so, and
    - (ii) the Executive must consider such report.
  - (c) The Executive may, by resolution, authorize the provision of any indemnity by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

### **Authorized signatories for borrowing, guarantees and indemnities**

- 8.7** Any agreement or instrument relating, in whole or in part, to the borrowing of money by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations or the provision of any guarantee or indemnity by the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must be signed by two members of the Executive.

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## PART 9 - FINANCIAL RECORDS AND REPORTING

### Generally accepted accounting principles

- 9.1 All accounting and financial reporting policies and practices of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations must comply with generally accepted accounting principles.

### Monthly financial reports

- 9.2 (a) Not more than 21 days following the end of each month, the director must prepare and submit to the Executive and the finance committee a monthly financial report for that month in the form and with the content approved by the Executive on the recommendation of the finance committee.
- (b) Not more than 45 days following the end of the month,
- (i) the finance committee must review, and
  - (ii) the Executive must review and, by resolution, approve
- the monthly financial report for that month.

### Quarterly financial statements

- 9.3 (a) Not more than 30 days following the end of the first, second and third quarter of each fiscal year, the director must prepare and submit to the Legislature and the finance committee quarterly financial statements for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for that quarter in the form and with the content approved by the Legislature on the recommendation of the finance committee.
- (b) Not more than 45 days following the end of the first, second and third quarter of each fiscal year,
- (i) the finance committee must review, and make recommendations to the Legislature on, and
  - (ii) the Legislature must review and, by resolution, approve
- the quarterly financial statements for that quarter.

### Appointment of auditor

- 9.4 The Executive must, after considering the recommendation of the finance committee on the appointment, appoint an auditor for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for each fiscal year to hold office until the later of

- (a) the end of the meeting of the Legislature when the audited annual financial statements for that fiscal year are being considered, or
- (b) the date the auditor's successor is appointed.

### **Audited annual financial statements**

- 9.5** (a) On or before May 15 of each year, the director must prepare and submit to the auditor annual financial statements and any special purpose reports for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for the previous fiscal year
- (i) in accordance with generally accepted accounting principles,
  - (ii) to a standard that is generally accepted for governments in Canada, and
  - (iii) in the form and with the content approved by the Legislature on the recommendation of the finance committee.
- (b) On or before June 15 of each year, the auditor must
- (i) audit the annual financial statements for the previous fiscal year in accordance with generally accepted auditing standards, and
  - (ii) prepare and submit to the Legislature and the finance committee
    - (A) an audit opinion on the annual financial statements, and
    - (B) an audit opinion or review comments on any special purpose reports.
- (c) On or before June 30 of each year,
- (i) the finance committee must review, and make recommendations to the Legislature on, and
  - (ii) the Legislature must review and, by resolution, approve the audited annual financial statements for the previous fiscal year.

### **Presentation of audited annual financial statements to People's Assembly**

- 9.6** On or before August 15 of each year, the Legislature must present the audited annual financial statements for the previous fiscal year to the People's Assembly.

### **Auditor's authority**

- 9.7** (a) In conducting the annual audit, the auditor



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- (i) must be given access to all financial records, and
  - (ii) may, by reasonable written notice, require any Ka:'yu:'k't'h'/Che:k'tles7et'h' official or former Ka:'yu:'k't'h'/Che:k'tles7et'h' official to
    - (A) meet with the auditor,
    - (B) answer any questions the auditor may have relating to the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
    - (C) provide the auditor access to any financial records in his or her custody or control.
- (b) Upon receipt of a notice under subsection (a)(ii), the Ka:'yu:'k't'h'/Che:k'tles7et'h' official or former Ka:'yu:'k't'h'/Che:k'tles7et'h' official named in the notice must
- (i) meet with the auditor,
  - (ii) answer any questions the auditor may have relating to the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, and
  - (iii) provide the auditor access to any financial records in his or her custody or control
- in accordance with the notice.
- (c) A Ka:'yu:'k't'h'/Che:k'tles7et'h' official or former Ka:'yu:'k't'h'/Che:k'tles7et'h' official who
- (i) refuses to answer the auditor's questions relating to the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations,
  - (ii) knowingly makes a false statement to or conceals a material fact from the auditor relating to the finances of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations, or
  - (iii) refuses to provide the auditor access to financial records in his or her custody or control,
- commits an offence and is liable, on summary conviction, to a fine not exceeding \$10,000.

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**Access to audited annual financial statements**

- 9.8** (a) Before the audited annual financial statements are published, distributed or made available for public inspection, they must be
- (i) approved by the Legislature, and
  - (ii) signed by
    - (A) the legislative chief, and
    - (B) the chief administrative officer.
- (b) On or before June 30 of each year, the audited annual financial statements must be made available for inspection by Ka:'yu:'k't'h'/Che:k'tles7et'h' citizens at the Ka:'yu:'k't'h'/Che:k'tles7et'h' administrative offices during regular business hours.

**Ownership of financial records**

- 9.9** All financial records that are produced by or on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations or kept, used or received by any person on behalf of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations are the property of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations.

**Preparation and maintenance of financial records**

- 9.10** (a) The director must ensure that all necessary financial records are properly prepared, maintained, stored and kept secure.
- (b) All financial records must be kept for at least 10 years after they were created.

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## PART 10 - TANGIBLE CAPITAL ASSETS

### Definitions

#### 10.1 In this Part,

“capital project” means the acquisition, development, construction, rehabilitation or replacement of a tangible capital asset;

“register of tangible capital assets” means the register of tangible capital assets as referred to in section 10.3;

“rehabilitation” means any activity intended to extend the useful life of a tangible capital asset beyond its original expected useful life and, for certainty, does not include routine maintenance or repair;

“tangible capital asset” means an asset of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that

- (a) has physical substance,
- (b) is held for use in the production or supply of goods or services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,
- (c) has an expected useful life of more than one year,
- (d) is intended to be used on a continuing basis, and
- (e) is not intended for sale in the ordinary course of operations.

### General duties

#### 10.2 The chief administrative officer must ensure that

- (a) all tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets, and
- (b) all capital projects are planned, managed, financed and carried out in accordance with this Act and any applicable building and safety standards.

### Register of tangible capital assets

#### 10.3 The chief administrative officer must establish and keep current a register of tangible capital assets that includes the following information for each tangible capital asset:

- (a) its present location;

- (b) the date it was acquired or put into service;
- (c) its expected useful life at the time of acquisition;
- (d) an assessment of its present condition and remaining useful life; and
- (e) any other prescribed information.

#### **Annual inspection of tangible capital assets**

**10.4** On or before November 30 of each year, the chief administrative officer must

- (a) arrange for an inspection of each tangible capital asset, and
- (b) update the register of tangible capital assets based on the information gathered during such inspection.

#### **Budget process for tangible capital assets**

**10.5** (a) On or before January 31 of each year, the director must prepare and submit to the finance committee

- (i) an estimate of the routine maintenance and repair costs for each tangible capital asset for the next fiscal year,
- (ii) a list of each proposed capital project and an estimate of the costs for each proposed capital project for the next fiscal year, and
- (iii) an estimate of the total costs for capital projects and routine maintenance and repair of tangible capital assets for the next fiscal year and the four succeeding fiscal years

in the form and with the content approved by the finance committee.

- (b) On or before February 28 of each year, the finance committee must review, and make recommendations to the director on, the information submitted to it in accordance with subsection (a).

#### **Tangible capital asset reserve fund**

**10.6** (a) The Legislature must

- (i) establish a tangible capital asset reserve fund for the purpose of funding capital projects, and
- (ii) ensure

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- (A) that contributions are made to the tangible capital asset reserve fund on an annual basis, and
  - (B) that contributions to, and any withdrawals from, the tangible capital asset reserve fund are included in the annual budget.
- (b) The Executive must ensure
- (i) that money is deposited or transferred into the tangible capital asset reserve account in accordance with the annual budget, and
  - (ii) that money in the tangible capital asset reserve account is invested in accordance with Part 7.

### **Reports on capital projects**

**10.7** At the request of the Executive, and no less than once each fiscal year, the chief administrative officer must report to the Executive on the status, year to date borrowings, year to date expenditures and budget variance for each capital project in progress or scheduled to commence in the current fiscal year.

### **Capital project consultants**

**10.8** The Executive may, by resolution, authorize the chief administrative officer to retain the services of an architect, engineer or other consultant to assist the Executive and the chief administrative officer in the performance of their duties under this Part.



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## PART 11 - GENERAL PROVISIONS

### Regulations

- 11.1** (a) Subject to subsection (b), the Executive may make regulations which it considers necessary or advisable for the purposes of this Act.
- (b) The Executive must not make any regulations relating to the financial administration of the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations that are in conflict with generally accepted accounting principles.

### Transition

- 11.2** (a) On or before May 31, 2011, the Legislature must, by an Act, approve an annual budget for the Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations for the 2011-2012 fiscal year.
- (b) Despite sections 6.1 and 8.2(a), until an annual budget for the 2011-2012 fiscal year is approved by the Legislature, money may be paid out of a Ka:'yu:'k't'h'/Che:k'tles7et'h' account and trade accounts payable or other accounts payable may be incurred if the expenditure or payable is approved by the director or the chief administrative officer.

### Commencement

- 11.3** This Act comes into force on the Maa-nulth Treaty effective date.