

NISGA'A LISIMS GOVERNMENT

WILP SI'AYUUKHL NISGA'A

**NISGA'A FINANCIAL
ADMINISTRATION ACT**

**UNOFFICIAL CONSOLIDATION
CURRENT TO NOVEMBER 25, 2008**

NISGA’A FINANCIAL ADMINISTRATION ACT

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PART 1 – DEFINITIONS AND APPLICATION**Definitions****1.** In this Act:

“appropriation” means the allocation, under a budget, of money to the purposes that it may be used for;

“banking fund” means

- (a) in respect of the Nisga'a Nation, the banking fund established under section 44(1)(a), and
- (b) in respect of a Nisga'a Village, the banking fund established under section 94(1)(a);

“budget” means a provisional budget or a final budget that has been approved under this Act, but does not include drafts of those budgets or draft provisional target budgets;

“capital finance commission” means the Nisga'a Capital Finance Commission established under the *Nisga'a Capital Finance Commission Act*;

“capital finance commission fund” means the capital finance commission fund established under section 44(1)(j);

“capital (new asset) finance commission” means the Nisga'a Capital (New Asset) Finance Commission established under the *Nisga'a Capital (New Asset) Finance Commission Act*;

“capital (new asset) finance commission fund” means the capital (new asset) finance commission fund established under section 44(1)(k);

“capital transfer” means an amount paid by Canada or British Columbia under the Capital Transfer and Negotiation Loan Repayment Chapter of the Nisga'a Treaty;

“Category A Lands” means the lands defined in paragraph 46 of the Lands Chapter of the Nisga'a Treaty;

“Category B Lands” means the lands defined in paragraph 61 of the Lands Chapter of the Nisga'a Treaty;

“commercial fisheries fund” means the commercial fisheries fund established under section 44(1)(e);

“core programs or services” means core programs or services as defined in the *Nisga'a Programs and Services Delivery Act*;

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“department” means

- (a) in respect of the Nisga'a Nation, a department or similar division of a Nisga'a Lisims Institution, and
- (b) in respect of a Nisga'a Village, a department or similar division of a Nisga'a Village Institution;

“director” means the Director of Finance;

“ffa listed assets” means ffa listed assets as defined in the *Nisga'a Capital Finance Commission Act*;

“finance employee” means an employee of a Nisga'a Village appointed under section 93(1);

“financial records” means all records respecting financial matters including, but not limited to, budgets, financial reports, audit records, accounts, statements, returns, vouchers, requisitions and invoices;

“fiscal year” means the period beginning on April 1 in one calendar year and ending on March 31 in the next calendar year;

“funded capital (new asset) project” means funded capital (new asset) project as defined in the *Nisga'a Capital (New Asset) Finance Commission Act*;

“funded capital project” means funded capital project as defined in the *Nisga'a Capital Finance Commission Act*;

“generally accepted accounting principles” means the accounting principles generally accepted in Canada and, if the handbook published by the Canadian Institute of Chartered Accountants or its successor includes a relevant statement of a principle or an accounting guideline, that statement will be considered conclusively to be an accounting principle or guideline generally accepted in Canada;

“government corporation” means

- (a) in respect of the Nisga'a Nation, a corporation that is controlled by the Nisga'a Nation, and for this purpose a corporation without share capital is deemed to be controlled by the Nisga'a Nation when a majority of the members of the corporation or of its board of directors or board of management consists of persons appointed as members by Wilp Si'ayuukhl Nisga'a, by the Executive, by a Nisga'a public officer of a Nisga'a Lisims Institution, or under a Nisga'a Lisims enactment, and
- (b) in respect of a Nisga'a Village, a corporation that is controlled by the Nisga'a Village, and for this purpose a corporation without share capital is deemed to be controlled by the Nisga'a Village when a majority of the members of the

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corporation or of its board of directors or board of management consists of persons appointed as members by the Nisga'a Village Government, by a Nisga'a public officer of a Nisga'a Village Institution, or under a Nisga'a Village enactment;

“housing services provider” means a housing services provider as defined in the *Nisga'a Capital (New Asset) Finance Commission Act*;

“Lisims supplementary programs or services” means public programs or services of the Nisga'a Nation established under section 3(2) of the *Nisga'a Programs and Services Delivery Act*;

“Nisga'a government corporation” means any corporation, commission or association, all of the shares (except directors' qualifying shares) or capital of which belong to the Nisga'a Nation, a Nisga'a Village, or a Nisga'a settlement trust, or any combination thereof, and for this purpose where, at any time, any shares or capital of a corporation, commission or association belong, or are deemed by this paragraph to belong, to another corporation, a partnership, or a trust that is not a Nisga'a settlement trust, (“intermediary”), those shares or that capital will be deemed to belong to each shareholder, partner or beneficiary, as the case may be, of the intermediary, proportionate to the relative fair market values of their respective interests in that intermediary;

“programs or services” means programs or services as defined in the *Nisga'a Programs and Services Delivery Act*;

“Schedule of Nisga'a Village Fiscal Transfers” means a schedule of Nisga'a Village fiscal transfers referred to in section 22;

“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;

“senior administrator” means an employee of a Nisga'a Village who is the senior administrator of the Nisga'a Village;

“Tripartite Finance Committee” means a Tripartite Finance Committee established in accordance with an own source revenue agreement;

“trust funds” means

- (a) in Part 7, money held in trust by the Nisga'a Nation, a Nisga'a Lisims Institution or a Nisga'a public officer of a Nisga'a Lisims Institution, and
- (b) in Part 8, money held in trust by the Nisga'a Village, any of its Nisga'a Village Institutions or a Nisga'a public officer of any of its Nisga'a Village Institutions;

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“Village supplementary programs or services” means public programs or services established by a Nisga'a Village Government but, for greater certainty, does not include core programs or services or Lisims supplementary programs or services.

Conflict with other Nisga'a law

2. If there is an inconsistency or conflict between this Act or its regulations and the provisions of any other Nisga'a enactment, this Act and its regulations prevails to the extent of the inconsistency or conflict, unless the other enactment is a Nisga'a Lisims enactment and contains an express provision that it, or a provision of it, applies despite the *Nisga'a Financial Administration Act*.

Application of this Act

3. This Act applies to the Nisga'a Nation, Nisga'a Villages, Nisga'a Institutions and Nisga'a public officers of the Nisga'a Nation, Nisga'a Villages and Nisga'a Institutions.

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PART 2 – NISGA'A FINANCE COMMITTEE**Nisga'a Finance Committee**

4. (1) The Nisga'a Finance Committee is established.
- (2) The members of the finance committee are
- (a) the Secretary-Treasurer, and
 - (b) a representative of each Nisga'a Village Government, appointed under subsection (3).
- (3) For the purposes of subsection (2)(b), a Nisga'a Village Government
- (a) may appoint its Chief Councillor or a Village Councillor as its primary representative on the finance committee, and
 - (b) in addition to appointing a primary representative under paragraph (a), may appoint its Chief Councillor or a Village Councillor as the alternate for that primary representative.
- (4) If the primary representative appointed by a Nisga'a Village Government under subsection (3)(a) is not able to attend a meeting of the finance committee, the alternate appointed by that Nisga'a Village Government under subsection (3)(b) may serve as the representative of the Nisga'a Village Government at that meeting.

Chairperson of committee

5. (1) The Secretary-Treasurer is the chairperson of the finance committee.
- (2) The finance committee must appoint one of its members, other than the Secretary-Treasurer, as the vice-chairperson of the committee.
- (3) The chairperson and the vice-chairperson of the finance committee have the duties and functions set out in this Act and the regulations and any other duties and functions determined by the finance committee.
- (4) If the chairperson is absent or unable to act, the vice-chairperson must act as chairperson.
- (5) The Chief Executive Officer must ensure that personnel are made available to
- (a) provide secretarial services to the finance committee, and
 - (b) maintain the records of the finance committee.

Meetings

6. (1) The finance committee must meet at least once in each quarter of each fiscal year.
- (2) Subject to subsection (1), the finance committee must meet at the times and places determined by the chairperson.
- (3) Despite subsection (2), the chairperson must call a meeting of the finance committee if the members of the committee described in section 4(2)(b) give a written notice to the chairperson and the Executive requiring that a meeting be called.
- (4) If all members of the finance committee consent, a member may participate in a committee meeting by means of telephone, or other communications facilities, by which all members participating in the meeting can hear each other, and a member participating in a finance committee meeting in accordance with this section is
 - (a) deemed to be present at the meeting,
 - (b) deemed to have so consented,
 - (c) counted in the quorum, and
 - (d) entitled to speak and vote at the meeting.
- (5) The Secretary-Treasurer and any three other members of the finance committee constitute a quorum for the transaction of business.
- (6) Each member of the finance committee has one vote on all questions.
- (7) All questions must be decided by a majority vote of the finance committee members participating in a meeting.
- (8) A vacancy in the membership of the finance committee does not impair the power of the remaining members to act.
- (9) The finance committee may seek advice on any matter for which it is responsible from any person that it reasonably considers may be of assistance to it.
- (10) The finance committee must make reasonable efforts to perform duties for which it is responsible within any time periods the Executive directs.
- (11) Except as the chairperson otherwise directs, the Chief Executive Officer and the director may attend finance committee meetings.

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- (12) The chairperson may permit any Nisga'a public officer of a Nisga'a Village or any representative of a Nisga'a Urban Local designated by the Nisga'a Urban Local as its representative, to attend all or any part of a finance committee meeting but such an attendee is not a member or part of the quorum of the finance committee, and may not move, second or vote on a question to be decided by the finance committee.
- (13) Subject to this Act and the regulations, the finance committee may determine its rules and methods of procedure.

Wilp Si'ayuukhl Nisga'a reports

7. The finance committee or the Executive may make recommendations to Wilp Si'ayuukhl Nisga'a on any matter relating to financial matters.

PART 3 – EXECUTIVE RESPONSIBILITIES**Management and control of financial affairs**

8. (1) Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, the Executive is responsible for the oversight, management and control of all matters relating to the financial affairs of the Nisga'a Nation and Nisga'a Lisims Institutions including, but not limited to,
- (a) accounting policies and practices including, but not limited to, the form and content of reports and budgets,
 - (b) financial management and control including, but not limited to, management practices and systems,
 - (c) evaluation of programs or services as to economy, efficiency and effectiveness,
 - (d) personnel management, and
 - (e) matters relating to fiscal policy.
- (2) To the extent required for the Executive to carry out its responsibilities under subsection (1), the Executive is responsible for the oversight, management and control of all matters relating to
- (a) accounting policies and practices including, but not limited to, the form and content of reports and budgets,
 - (b) financial management and control including, but not limited to, management practices and systems, and
 - (c) evaluation of programs or services as to economy, efficiency and effectiveness
- of Nisga'a Villages and Nisga'a Village Institutions.
- (3) The Executive must develop and issue policies and guidelines and establish procedures ensuring that the Nisga'a Nation, Nisga'a Villages and Nisga'a Institutions
- (a) use a uniform set of accounts,
 - (b) use a uniform budgeting process including, but not limited to, uniform budget and appropriation categories that can be correlated to the uniform set of accounts referred to in paragraph (a), and
 - (c) operate funds established by them in a uniform manner.

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- (4) The Executive may make regulations and issue written directives respecting the matters set out in subsections (1) to (3).

Tripartite Finance Committee

9. (1) The Executive must appoint the Nisga'a Nation member of the Tripartite Finance Committee.
- (2) The Nisga'a Nation member of the Tripartite Finance Committee must
- (a) act under the direction of the Executive,
 - (b) carry out the responsibilities of the Nisga'a Nation member of the Tripartite Finance Committee under any fiscal agreement with a senior government,
 - (c) report to the Executive to ensure that it is fully informed in respect of all matters before the Tripartite Finance Committee, and
 - (d) do any other things in respect of a fiscal agreement with a senior government as the Executive directs.

Property of the Nisga'a Nation

10. (1) A disposition or loan of property of the Nisga'a Nation must not be made to any person without authorization under this Act or another Nisga'a Lisims enactment.
- (2) Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, the Executive
- (a) is responsible for the oversight, management and control of property of the Nisga'a Nation,
 - (b) subject to any regulations made under paragraph (c), may
 - (i) acquire or hold property, and
 - (ii) dispose of or loan propertyof, for or in the name of the Nisga'a Nation, and
 - (c) may make regulations authorizing or governing
 - (i) the acquisition or holding of property, and
 - (ii) the disposition or loan of property,

of, for or in the name of the Nisga'a Nation.

Authority to charge for property or services

- 11.** (1) Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, if
- (a) property of the Nisga'a Nation is disposed of,
 - (b) the use of property of the Nisga'a Nation is provided, or
 - (c) a service is provided
- by the Nisga'a Nation to any person, the Executive may establish a charge, rent or fee to be paid to the Nisga'a Nation by the person for the disposition, use or service.
- (2) Subsection (1) does not apply if another Nisga'a Lisims enactment provides for a charge, rent or fee to be paid for the disposition, use or service.
- (3) Subsection (1) applies whether or not there is an obligation on the Nisga'a Nation to dispose of the property, provide the use of the property, or provide the service.

Authority to contract

- 12.** Except as is otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, the Executive may
- (a) enter into contracts and agreements for or in the name of the Nisga'a Nation,
 - (b) authorize one or more of its members, the Chief Executive Officer or the Director of Finance to sign any contract or agreement, or class of contracts or agreements, for or in the name of the Nisga'a Nation or the Executive, and
 - (c) by regulation
 - (i) authorize one or more Nisga'a public officers of a Nisga'a Lisims Institution to sign contracts or agreements for or in the name of the Nisga'a Nation or the Executive, and
 - (ii) establish restrictions, limits and conditions on an authority to enter into contracts or agreements, or classes of contracts or agreements, under this section.

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Executive delegation

13. The Executive may by written directive, delegate any of its responsibilities or authorities under this Act to the finance committee.

Director of Finance

14. (1) The office of Director of Finance is established.
- (2) The director is responsible for
- (a) the administration and maintenance of the accounts of the Nisga'a Nation and Nisga'a Lisims Institutions,
 - (b) the provision of functional control over all financial transactions of the Nisga'a Nation and Nisga'a Lisims Institutions,
 - (c) the evaluation of financial management throughout the Nisga'a Nation, Nisga'a Villages and Nisga'a Institutions and recommendations for improvements considered necessary,
 - (d) the preparation of
 - (i) the financial statements of the Nisga'a Nation and Nisga'a Lisims Institutions, and
 - (ii) any other financial statements and reports required by Wilp Si'ayuukhl Nisga'a, the Executive, the finance committee or the Chief Executive Officer, and
 - (e) the performance of all duties assigned to the director
 - (i) by the Executive, the finance committee or the Chief Executive Officer, or
 - (ii) under this Act, the regulations or another Nisga'a Lisims enactment.

Access and information

15. (1) The director, to the extent necessary for the performance of their responsibilities under this Act,
- (a) has access at all times to all departments of the Nisga'a Nation and Nisga'a Lisims Institutions, and to their records,
 - (b) if authorized by a directive of the Executive, must be given access to any department of a Nisga'a Village or Nisga'a Village Institution, and to its records,

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and

- (c) may require from any person subject to this Act, information and explanations, including, but not limited to, information and explanations necessary to determine whether money disbursed or spent by the Nisga'a Nation, a Nisga'a Village or a Nisga'a Institution has been or is being applied for the purpose for which it was appropriated under a budget of the Nisga'a Nation or a Nisga'a Village.
- (2) It is an offence under the *Nisga'a Offence Act* for a person to hinder or obstruct the director in exercising the director's authorities under subsection (1).

Director delegation

16. With the prior consent of the Chief Executive Officer, the director may delegate any of their powers, duties or functions under this Act or the regulations to a Nisga'a public officer of a Nisga'a Lisims Institution.

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PART 4 – BONDING**Public officers bonding**

- 17.** (1) If required by the Executive, a Nisga'a public officer must provide security for
- (a) the performance of the trust reposed in them,
 - (b) the accounting for all money entrusted to them or placed under their control,
 - (c) the fulfilment of their duty to or of an obligation undertaken on behalf of the Nisga'a Nation, a Nisga'a Village or a Nisga'a Institution, or
 - (d) the fulfilment of their duties and obligations in carrying out any office or employment of public trust in which they are concerned with the collection, receipt, disbursement or expenditure of money under this Act, the regulations or any other Nisga'a enactment.
- (2) The security required in subsection (1) must be by
- (a) the deposit of money or property,
 - (b) the giving and entering into of a bond, with sureties or otherwise, or
 - (c) the giving or entering into of a policy of insurance with an insurer.
- (3) The security required in subsection (1) must be
- (a) in favour of the Nisga'a Nation, a Nisga'a Village, a Nisga'a Institution or any other person, as the Executive considers appropriate taking into consideration the trust reposed in the person,
 - (b) in the amount approved by the Executive, and
 - (c) deposited with the Executive in the time required by the Executive.

Notice of change in circumstances

- 18.** (1) A Nisga'a public officer who has provided a bond issued by a surety under this Part must give notice to the Executive of the death, bankruptcy, insolvency or residence outside of British Columbia of that surety.
- (2) The notice required in subsection (1) must be given within one month after the relevant information comes to the knowledge of the Nisga'a public officer.
- (3) A Nisga'a public officer who fails to give notice under subsection (1) forfeits to the

Nisga'a Nation 1/4 of the amount secured by the bond issued by the surety.

- (4) The Executive may sue in the name of the Nisga'a Nation to recover money forfeited under subsection (3).

Regulations and orders

- 19.** The Executive may make regulations it considers necessary or advisable for purposes of this Part, including, without limitation
- (a) prescribing the form of security to be given, and
 - (b) providing for the renewal of securities, the substitution and discharge of securities and sureties, and the manner in which a surety may terminate the surety's responsibility.

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PART 5 – BUDGETS**Fiscal year established**

20. The fiscal year of the Nisga'a Nation, Nisga'a Villages and Nisga'a Institutions is the period beginning on April 1 in one calendar year and ending on March 31 in the next calendar year.

Budgets

21. (1) Provisional target budgets, provisional budgets and final budgets prepared for
- (a) the Nisga'a Nation, a Nisga'a Village or a Nisga'a Institution must be prepared in accordance with this Act and the regulations, and
 - (b) the capital finance commission must be prepared in accordance with this Act, the regulations and the *Nisga'a Capital Finance Commission Act* and its regulations.
- (2) The budgets in subsection (1) must be in a form and have content acceptable to the finance committee.

Schedule of Nisga'a Village fiscal transfers

22. A draft provisional budget prepared under section 26, 28 or 29, an adopted provisional budget under section 30, and a final budget under section 32, must contain, in respect of each Nisga'a Village, a schedule of Nisga'a Village fiscal transfers setting out the anticipated amount and time of each payment to be made during the fiscal year to the Nisga'a Village under any appropriation of the Nisga'a Nation.

Nisga'a Village budget for core, and supplementary, programs or services

23. The total budget of each Nisga'a Village for the provision of
- (a) core programs or services for a fiscal year must not exceed
 - (i) the Nisga'a Village's share of the appropriations of the Nisga'a Nation to be provided by the Nisga'a Nation to all Nisga'a Villages for the fiscal year in respect of core programs or services, plus
 - (ii) the amount of any surplus in the Nisga'a Village's core programs or services fund determined at the beginning of the fiscal year, minus
 - (iii) any deficit in the Nisga'a Village's core programs or services fund determined at the beginning of the fiscal year after taking into account any

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surplus to be transferred to the core programs and services fund under section 96 in the fiscal year, and

- (b) Village supplementary programs or services for a fiscal year must not exceed the total of
 - (i) the net surplus, if any, in the Village supplementary programs or services fund at the beginning of the fiscal year,
 - (ii) the Nisga'a Village's share of the appropriations of the Nisga'a Nation to be provided by the Nisga'a Nation to all Nisga'a Villages for the fiscal year in respect of Lisims supplementary programs or services,
 - (iii) the amount, if any, to be transferred to the Nisga'a Village's supplementary programs or services fund under section 95(1) in the fiscal year, and
 - (iv) the amount, if any, borrowed by the Village under section 126.1 in that fiscal year.

Nisga'a Nation draft provisional target budget by January 21

24. (1) On or before January 21 of each fiscal year, the director, under direction of the Secretary-Treasurer, must
- (a) prepare an initial draft provisional target budget for the Nisga'a Nation for the next fiscal year, completed to the extent required to project the amounts and expected dates of payment of funds that will be available for transfer in relation to each program or service in the next fiscal year to
 - (i) each Nisga'a Village, and
 - (ii) each other person anticipated to be responsible to deliver a program or service for the Nisga'a Nation during the next fiscal year, and
 - (b) advise each Nisga'a Village and other person referred to in paragraph (a) of the amounts and dates referred to in relation to that Nisga'a Village or person.
- (2) On or before January 21 of each fiscal year, the director, under direction of the Secretary-Treasurer, must
- (a) project, for the next fiscal year, the amounts and expected dates of payment of funds that will be appropriated to each of
 - (i) the capital finance commission fund under section 139(1)(b), and

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- (ii) the capital (new asset) finance commission fund,
- (b) advise the capital finance commission of the amounts and dates referred to in paragraph (a)(i), and
- (c) advise the capital (new asset) finance commission of the amounts and dates referred to in paragraph (a)(ii).

Nisga'a Village and Nisga'a Nation department draft provisional target budget by February 7

25. On or before February 7 of each fiscal year, each person referred to in section 24(1)(a)(i) or (ii), after taking into account information provided to it under section 24, must prepare their draft provisional target budget for the next fiscal year and submit it to the finance committee.

Nisga'a Nation draft provisional budget by February 21

26. On or before February 21 of each fiscal year, the finance committee must
- (a) review the draft provisional target budgets referred to in section 25, and
 - (b) after the review,
 - (i) prepare a draft provisional budget for the Nisga'a Nation for the next fiscal year, and
 - (ii) provide a copy of the draft provisional budget to each Nisga'a Village Government.

Nisga'a Village representations to finance committee by March 14

27. On or before March 14 of each fiscal year, each Nisga'a Village Government may make representations to the finance committee in respect of amounts allocated to the Nisga'a Village in the draft provisional budget prepared under section 26.

Finance committee amendments to draft provisional budget by March 21

28. On or before March 21 of each fiscal year, the finance committee
- (a) may amend the draft provisional budget to take into account representations made to it under section 27, and
 - (b) must provide a copy of the amended draft provisional budget to the Executive.

Recommendation of provisional budget by March 27

- 29.** (1) On or before March 27 of each fiscal year, the Executive must recommend to Wilp Si'ayuukhl Nisga'a the draft provisional budget for the Nisga'a Nation for the next fiscal year
- (a) as provided to the Executive under section 28, or
 - (b) as amended by the Executive after consultation with the finance committee.
- (2) The recommendation under subsection (1) must be made by letter from the Executive to Wilp Si'ayuukhl Nisga'a, that includes
- (a) the recommended provisional budget,
 - (b) a statement, prepared by the director in accordance with the Nisga'a Nation's established accounting policies, of the revenue and expenditure of the Nisga'a Nation from the end of the last fiscal year to the most recent date practicable, and
 - (c) a copy of the audited financial statements for the Nisga'a Nation for the most recently completed fiscal year.
- (3) The letter and attachments referred to in subsection (2) must be tabled at the next meeting of Wilp Si'ayuukhl Nisga'a.

Wilp Si'ayuukhl Nisga'a adoption of provisional budget by March 30

- 30.** On or before March 30 of a fiscal year
- (a) Wilp Si'ayuukhl Nisga'a must adopt a provisional budget for the Nisga'a Nation for the next fiscal year, and
 - (b) the director must provide a copy of the adopted provisional budget to each Nisga'a Village Government.

Nisga'a Village Government adoption of provisional budget by March 31

- 31.** On or before March 31 of a fiscal year
- (a) each Nisga'a Village Government must adopt a provisional budget for the Nisga'a Village for the next fiscal year, and
 - (b) the senior administrator of the Nisga'a Village must provide a copy of the adopted provisional budget to the Executive and the finance committee.

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Wilp Si'ayuukhl Nisga'a adoption of final budget by October 31

- 32.** On or before October 31 of a fiscal year
- (a) Wilp Si'ayuukhl Nisga'a must adopt a final budget for the Nisga'a Nation for the current fiscal year, and
 - (b) the director must provide a copy of the adopted final budget to each Nisga'a Village Government.

Nisga'a Village Government adoption of final budget by November 7

- 33.** On or before November 7 of a fiscal year
- (a) each Nisga'a Village Government must adopt a final budget for the current fiscal year, and
 - (b) the finance employee must provide a copy of the adopted final budget to the Executive and the finance committee.

Wilp Si'ayuukhl Nisga'a amendment of final budget during a fiscal year

- 34.** (1) After it has adopted a budget under section 32, Wilp Si'ayuukhl Nisga'a may amend that budget at any time during the fiscal year to which that budget pertains.
- (2) The director, as soon as reasonably practicable after an amendment under subsection (1), must advise each person referred to in section 24(1)(a)(i) or (ii) of the effect of any amendment on the amounts and dates of funds to be paid in relation to that person in the current fiscal year.

Nisga'a Village Government consequential amendment to final budget for a fiscal year

- 35.** At its first meeting after receipt of an amended budget of the Nisga'a Nation under section 34, each Nisga'a Village Government must amend its own budget as required to take into account the effect, if any, of the amendment to the budget of the Nisga'a Nation on the budget of the Nisga'a Village.

Budget inspection

36. A copy of the budget of

- (a) the Nisga'a Nation must be made available during normal business hours at the principal administration office of the Nisga'a Nation for inspection by a Nisga'a citizen, upon request to the Chief Executive Officer, and
- (b) a Nisga'a Village must be made available during normal business hours at the principal administration office of the Nisga'a Village for inspection by a Nisga'a citizen who is a permanent resident of the Nisga'a Village Lands of the Nisga'a Village, upon request to the senior administrator.

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PART 6 – FINANCIAL RECORDS AND ACCOUNTS**Financial records ownership**

37. (1) All financial records in respect of the financial affairs of the Nisga'a Nation that are produced, kept, used by, received or taken into the possession of a person who is or has been employed in the collection, management, custody or disbursement of property of the Nisga'a Nation, or the accounting for it, and all other property of the Nisga'a Nation taken into the person's possession by reason of the person's employment, belong to the Nisga'a Nation.
- (2) All financial records in respect of the financial affairs of a Nisga'a Village that are produced, kept, used by, received or taken into the possession of a person who is or has been employed in the collection, management, custody or disbursement of property of the Nisga'a Village, or the accounting for it, and all other property of the Nisga'a Village received or taken into the person's possession by reason of the person's employment, belong to the Nisga'a Village.

Financial statements – general requirements

38. (1) Monthly financial statements required under this Part must be prepared in a form, and contain the information, required by the finance committee.
- (2) Annual financial statements required under this Part must be prepared
- (a) in accordance with generally accepted accounting principles,
 - (b) to a standard that is at least comparable to that generally accepted for governments in Canada, and
 - (c) in a form directed by the finance committee.

Monthly financial statements of the Nisga'a Nation and a Nisga'a Village

39. Financial statements of
- (a) the Nisga'a Nation must be prepared for each month and provided by the director to the members of Wilp Si'ayuukhl Nisga'a within 21 days following the end of the month for which they were prepared, and
 - (b) a Nisga'a Village must be prepared for each month and provided by the finance employee to the members of the Nisga'a Village Government and to the members of the Executive within 21 days following the end of the month for which they were prepared.

Nisga'a Nation annual financial statements

- 40.** (1) Financial statements of the Nisga'a Nation must be prepared for each fiscal year and must
- (a) include financial information for
 - (i) Nisga'a Lisims Institutions,
 - (ii) without limiting subparagraph (i), the capital finance commission and capital finance commission fund,
 - (iii) Nisga'a government corporations in which the Nisga'a Nation holds a significant direct or indirect interest,
 - (iv) government corporations of the Nisga'a Nation, and
 - (v) a trust, other than a Nisga'a settlement trust, in which the Nisga'a Nation has a direct or indirect interest as beneficiary or trustee,as required under generally accepted accounting principles or as directed by the finance committee,
 - (b) contain a statement setting out each amount appropriated and the expenditure of the Nisga'a Nation in relation to that appropriation for the fiscal year,
 - (c) separately disclose in respect of each funded capital project of the Nisga'a Nation, amounts
 - (i) received in the period under the *Nisga'a Capital Finance Commission Act*,
 - (ii) expended during the period in relation to the funded capital project, and
 - (iii) repaid in the period under section 35(2) of the *Nisga'a Capital Finance Commission Act*,
 - (d) separately disclose in respect of each funded capital (new asset) project of the Nisga'a Nation, amounts
 - (i) received in the period under the *Nisga'a Capital (New Asset) Finance Commission Act*,
 - (ii) expended during the period in relation to the funded capital (new asset) project, and
 - (iii) repaid in the period under section 32(2) of the *Nisga'a Capital (New*

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Asset) Finance Commission Act, and

- (e) contain a statement prepared by the director listing every instance in which
 - (i) a debt or obligation has been forgiven under section 54,
 - (ii) the Executive has made an order under section 65(4)(b),
 - (iii) a payment has been made for a purpose not authorized by an appropriation,
 - (iv) a payment has been made without a proper requisition under section 64, or
 - (v) a payment has been made that in the director's opinion is in any way irregular or unlawful.
- (2) Financial statements prepared under subsection (1)
 - (a) must be audited under Division 6 of Part 7,
 - (b) as audited, must be signed by the Secretary-Treasurer and the President,
 - (c) as audited and signed, and together with any supplementary schedules and other information required by the finance committee, must be provided to Wilp Si'ayuukhl Nisga'a by July 31 next following the end of the fiscal year, and
 - (d) as audited and signed, must be approved by Wilp Si'ayuukhl Nisga'a by September 15 next following provision of the financial statements under paragraph (c).

Nisga'a Village annual financial statements

- 41.** (1) Financial statements of a Nisga'a Village must be prepared for each fiscal year and must
- (a) include financial information for
 - (i) Nisga'a Village Institutions,
 - (ii) Nisga'a government corporations in which the Nisga'a Village holds a significant direct or indirect interest,
 - (iii) government corporations of the Nisga'a Village, and
 - (iv) a trust, other than a Nisga'a settlement trust, in which the Nisga'a Village has a direct or indirect interest as beneficiary or trustee,

as required under generally accepted accounting principles or as directed by the

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finance committee,

- (b) contain a statement setting out each amount appropriated and the expenditure of the Nisga'a Village in relation to that appropriation for the fiscal year,
- (c) separately disclose in respect of each funded capital project of the Nisga'a Village, amounts
 - (i) received in the period under the *Nisga'a Capital Finance Commission Act*,
 - (ii) expended during the period in relation to the funded capital project, and
 - (iii) repaid in the period under section 35(2) of the *Nisga'a Capital Finance Commission Act*,
- (d) separately disclose in respect of each funded capital (new asset) project of the Nisga'a Village, amounts
 - (i) received in the period under the *Nisga'a Capital (New Asset) Finance Commission Act*,
 - (ii) expended during the period in relation to the funded capital (new asset) project, and
 - (iii) repaid in the period under section 32(2) of the *Nisga'a Capital (New Asset) Finance Commission Act*, and
- (e) contain a statement prepared by the finance employee listing every instance in which
 - (i) a debt or obligation has been forgiven under section 104,
 - (ii) the Nisga'a Village Government has made an order under section 115(4)(b),
 - (iii) a payment has been made for a purpose not authorized by an appropriation,
 - (iv) a payment has been made without a proper requisition under section 114, or
 - (v) a payment has been made that in the finance employee's opinion is in any other way irregular or unlawful.

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- (2) Financial statements prepared under subsection (1)
- (a) must be audited under Division 7 of Part 8,
 - (b) as audited, must be signed by the Chief Councillor and one other member of the Nisga'a Village Government,
 - (c) as audited and signed, must be approved by the Nisga'a Village Government by June 30 next following the end of the fiscal year, and
 - (d) as audited and signed, and together with any supplementary schedules and other information required by the finance committee, must be provided to the finance committee by June 30 next following the end of the fiscal year.

Inspection of financial statements

42. (1) The Chief Executive Officer
- (a) must, on the request of a Nisga'a citizen, make the audited financial statements of the Nisga'a Nation available for inspection by the Nisga'a citizen during normal business hours at the principal administrative office of Nisga'a Lisims Government, and
 - (b) may make the audited financial statements of the Nisga'a Nation available for inspection in any other way the Chief Executive Officer considers appropriate, including by posting those statements on the publicly accessible website of Nisga'a Lisims Government.
- (2) The senior administrator of a Nisga'a Village Government
- (a) must, on the request of a Nisga'a citizen, make the audited financial statements of the Nisga'a Village available for inspection by the Nisga'a citizen during normal business hours at the principal administrative office of the Nisga'a Village Government, and
 - (b) may make the audited financial statements of the Nisga'a Village available for inspection in any other way the senior administrator considers appropriate, including by posting those statements on the publicly accessible website of the Nisga'a Village Government.

PART 7 – NISGA'A NATION FINANCIAL ADMINISTRATION**Application of Part 7**

- 43.** Despite section 3, except as otherwise specifically provided in a provision of this Part, this Part applies only to the Nisga'a Nation, Nisga'a Lisims Institutions and Nisga'a public officers of Nisga'a Lisims Institutions.

Division 1 – Nisga'a Nation Funds**Nisga'a Nation funds**

- 44.** (1) The Nisga'a Nation must establish the following funds:
- (a) a banking fund to maintain the bank accounts of the Nisga'a Nation;
 - (b) a core programs or services fund for the provision of core programs or services, other than programs included in funds referred to in paragraphs (c) to (j);
 - (c) a Lisims supplementary programs or services fund for the provision of Lisims supplementary programs or services;
 - (d) a fisheries, wildlife and migratory birds fund for the provision of programs or services in respect of fisheries, wildlife and migratory birds;
 - (e) a commercial fisheries fund for the management of commercial fisheries assets;
 - (f) a lands and resources fund for the management of lands and resources;
 - (g) a capital transfer fund for the management of capital transfers;
 - (h) a capital asset fund for the management of capital assets;
 - (i) an investment fund for the investment of monies;
 - (j) a capital finance commission fund as required under the *Nisga'a Capital Finance Commission Act*;
 - (k) a capital (new asset) finance commission fund;
 - (l) a business development fund as required under the *Nisga'a Business Development Fund Act*.
- (2) The transfer to, or recognition of ownership by, the Nisga'a Nation, of

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- (a) Nisga'a Lands,
 - (b) Category A Lands,
 - (c) Category B Lands,
 - (d) forest resources, and
 - (e) minerals

on the effective date under the Nisga'a Treaty must be separately recorded in the land and resources fund at carrying values equal to their fair market values on the effective date.

- (3) The transfer to, or recognition of ownership by, the Nisga'a Nation, of capital property, other than that referred to in subsection (2), on the effective date under the Nisga'a Treaty must be recorded in the capital asset fund at carrying values equal to their fair market values on the effective date.
- (4) Monies received by the Nisga'a Nation in relation to
 - (a) the use, occupation or production from Nisga'a Lands, Category A Lands and Category B Lands,
 - (b) the commercial fisheries fund,
 - (c) the capital asset fund,
 - (d) the investment fund, and
 - (e) any other fund it establishes

must be deposited to the banking fund for the credit of the fund to which they relate.

- (5) Monies paid by the Nisga'a Nation in relation to
 - (a) the use, occupation or production from Nisga'a Lands, Category A Lands and Category B Lands,
 - (b) the commercial fisheries fund,
 - (c) the capital asset fund,
 - (d) the investment fund, and
 - (e) any other fund it establishes

must be disbursed from the banking fund and charged to the fund to which they relate.

Transfer between funds

45. (1) If the amount to the credit of a fund is greater than required, the Executive may direct the transfer of all or part of that amount to another fund established under this Division.
- (2) Subsection (1) does not permit a transfer out of the commercial fisheries fund, the capital finance commission fund or the capital (new asset) finance commission fund.

Transfer of surplus in investment fund

46. To the extent reasonably practicable, the Executive must transfer any surplus in the investment fund at the beginning of a fiscal year to the extent required to eliminate any deficit in the core programs or services fund at the beginning of the fiscal year.

Limits on use of trust and reserve funds

47. Except as otherwise specifically provided in this Act, money held by the Nisga'a Nation that is subject to a trust or reserve must not be used for a purpose other than permitted under the terms of the trust or the law creating the reserve.

Fund service charge

48. The director may charge any fund including, but not limited to, a trust fund, in respect of which management or financial services are provided by the department of finance of the Nisga'a Nation, management fees based on the reasonable costs of providing the services.

Division 2 – Nisga'a Nation Revenue**Deposits to and disbursements from banking fund**

49. Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment,
- (a) all moneys received by the Nisga'a Nation must be deposited to its banking fund, and
- (b) all disbursements of the Nisga'a Nation must be paid from its banking fund.

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Trust funds

50. Trust funds must be paid into and maintained in accounts kept separate from the banking fund.

Bank accounts

51. A person must not open an account for the receipt and deposit of money of the Nisga'a Nation except in the name of the Nisga'a Nation and as authorized by the director with the approval of the Chief Executive Officer.

Refunds

52. Money received by the Nisga'a Nation
- (a) that is paid or collected in error, or
 - (b) for a purpose that is not fulfilled
- may be refunded in part or in full as circumstances require.

Write off of debts

53. (1) The Executive may
- (a) approve a write off, or
 - (b) by written directive, establish the circumstances and manner in which the director may approve a write off
- of all or part of a debt or obligation to the Nisga'a Nation.
- (2) The write off of all or part of a debt or obligation under this section does not extinguish the right of the Nisga'a Nation to collect the amount or liability written off.

Extinguishment of debts

54. (1) All or part of a debt or obligation to the Nisga'a Nation may be forgiven only
- (a) by the Executive, or
 - (b) in accordance with a written directive made under subsection (2),
- and to the extent that the debt or obligation is forgiven, the liability for it is extinguished.

- (2) The Executive may, by written directive,
- (a) authorize the director to forgive a debt or obligation to the Nisga'a Nation,
 - (b) specify circumstances in which approval must be obtained from the Executive, before a debt or obligation is forgiven, or
 - (c) require that, in specified circumstances, the maximum amount of a debt or obligation that may be forgiven without the approval of the Executive, not exceed a specified amount.

Division 3 – Nisga'a Nation Expenditure

No payment without authority

- 55.** (1) Except as is otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, money must not be paid out of any fund of the Nisga'a Nation unless authorized by an appropriation.
- (2) Money required to be spent, loaned, invested or dealt with under sections 52, 56, 58, 66, 67, 71(1), 71(2), 73(2), 79, 81(2), 81(4) or 143 may be paid without any appropriation.

Trust funds and money received for other persons or purposes

- 56.** (1) Money must not be paid from trust funds except in accordance with this Act, the regulations, another Nisga'a Lisims enactment or the terms of the instrument or other authority by which the money is held as trust funds.
- (2) Subject to any applicable Nisga'a Lisims enactment and to written directives of the Executive, money received for another person may be paid out to that person.
- (3) Money received by the Nisga'a Nation as a deposit to ensure the doing of any act or thing must be held or disposed of in accordance with a written directive of the Executive.

Appropriations

- 57.** (1) A sum that is appropriated must not be spent for any purpose other than that described in respect of the appropriation in the budget of the Nisga'a Nation in which the appropriation is made.
- (2) The total amount expended by the Nisga'a Nation in relation to an appropriation must not exceed the amount contained in the budget for that appropriation.

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- (3) Subject to subsection (5), if an appropriation includes an item as a credit or a recovery, the appropriation is deemed to authorize expenditures equal to the aggregate of
 - (a) the net amount appropriated, and
 - (b) the estimated credits or recoveries set out in the details related to that appropriation.
 - (4) Money that is appropriated may be spent for any activity or standard object of expenditure that is within the general purposes of the appropriation.
 - (5) The Executive may, by written directive, limit the circumstances in which, or specify conditions under which, subsection (3) applies.

Payments based on contributions

- 58.** (1) If, under an agreement or undertaking,
- (a) money is payable to the Nisga'a Nation, or
 - (b) money has been received by the Nisga'a Nation,
- for the purpose of, or as a contribution towards, an expenditure to be made by the Nisga'a Nation, the Executive may by directive authorize payments for those purposes of an amount equal to the amount payable to or received by the Nisga'a Nation.
- (2) Subsection (1) does not apply to the Nisga'a Treaty or a fiscal agreement with a senior government.

Payments after a fiscal year end

- 59.** (1) Money appropriated for a fiscal year must not be paid out after the end of the fiscal year except to discharge a liability incurred in the fiscal year.
- (2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess must be
- (a) charged against a suitable appropriation for the following fiscal year, and
 - (b) reported in the financial statements for the fiscal year in which the liability was incurred.

Regulation of expenditure

- 60.** (1) Subject to subsection (2), the Executive may, by written directive,
- (a) control or limit expenditure under any appropriation,
 - (b) subject to any limitations stated in the appropriation, set conditions for any kind of expenditure under an appropriation, and
 - (c) establish amounts or allowances to be paid out of an appropriation for or in respect of out of pocket, traveling and other expenses incurred by persons in the discharge of their duties.
- (2) The Executive must not limit expenditure under an appropriation if the expenditure is required to honour an existing obligation of the Nisga'a Nation to another person under law.

Agreements

- 61.** (1) The Nisga'a Nation must not enter into an agreement or undertaking of any kind providing for its payment of money if the payment would result in an expenditure that contravenes this Act or the regulations.
- (2) The Executive may, by written directive, set conditions to be observed before the Nisga'a Nation may enter into agreements or undertakings providing for the payment of money.

Holdbacks

- 62.** If the Nisga'a Nation withholds an amount payable by the Nisga'a Nation under an agreement, this Act, the regulations or another Nisga'a Lisims enactment, the payment of the amount withheld must, subject to this Act and the regulations, be charged to the appropriation for the agreement or Nisga'a Lisims enactment under which it is withheld, even though the fiscal year for which it was appropriated has ended.

Record of commitments

- 63.** A person who has charge of an appropriation must establish and maintain, as directed by the Executive, records of commitments chargeable to that appropriation.

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Requisitions for payments

64. (1) Money must not be paid without a requisition for payment under this section.
- (2) A requisition must not be made or given for a payment that would
- (a) not be a lawful charge against an appropriation or trust fund, or permitted without the authority of an appropriation, under this Act,
 - (b) result in total expenditures in contravention of section 57(2) or in expenditures from a trust fund in excess of the unexpended balance of the trust fund, or
 - (c) reduce the balance available in an appropriation or trust fund so that it would not be sufficient to meet the commitments chargeable against it.
- (3) A requisition
- (a) may apply to one or more expenditures chargeable against one or more appropriations,
 - (b) if applicable, must identify the appropriations or trust funds out of which payment is to be made,
 - (c) must include a certificate that the expenditure is not prohibited under subsection (2) and, either
 - (i) is in accordance with an appropriation identified in the certificate, or
 - (ii) is allowed without the authority of any appropriation under this Act,
 - (d) if the payment is for the performance of work, the supply of goods, the rendering of services, or for any other purpose, whether or not under an agreement, must include a certificate that
 - (i) the work has been performed, the goods supplied, the service rendered or other conditions met, and that the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable, or
 - (ii) the payment is in accordance with the agreement if the payment is to be made before the completion of the work, the delivery of the goods, the rendering of the service or the meeting of other conditions,
 - (e) must be signed by the director or another person permitted under subsection (4), and
 - (f) must otherwise be in a form, be accompanied by documents and be certified in a way the Executive by written directive requires.

- (4) The only persons who may authorize a payment out of an appropriation or a trust fund, or sign a requisition for payment, are
- (a) a director of a department, other than the Director of Finance,
 - (b) the director,
 - (c) the Chief Executive Officer,
 - (d) a person authorized by a written directive of the Executive, and
 - (e) a person authorized by a person referred to in paragraph (a) or (b) in accordance with a written directive of the Executive.
- (5) The authority of a person referred to in paragraph (4)(a) extends only to requisitions relating to payments from
- (a) an appropriation for that part of a Nisga'a Lisims Institution of which the person has charge, or
 - (b) trust funds over which the person has management.
- (6) The Executive, by written directive, may limit the authority of a person under subsection (4) to specified amounts and circumstances.

Rejection and confirmation of requisitions

- 65.** (1) The director must reject a requisition for a payment if they consider that this Act, the regulations or any other Nisga'a Lisims enactment has not been complied with.
- (2) If the director transmits to the Executive any requisition for a payment on which the director requires direction, the Executive may order that a payment be made, or refused, subject to any conditions it specifies.
- (3) If the director
- (a) rejects a requisition or otherwise declines to make a payment,
 - (b) disallows an item in an account, or
 - (c) refuses to give a certificate required by this Act, the regulations or any other Nisga'a Lisims enactment,

they must, on the request of another person referred to in section 64(4), provide the reasons in writing to the Executive.

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- (4) On the request of a person referred to in section 64(4), the Executive may review the director's decision and
- (a) confirm the director's decision, or
 - (b) order that a payment be made, subject to any conditions the Executive specifies.

Advances

66. Subject to written directives of the Executive, an advance may be made to prepay expenses that will be charged against an appropriation in the current or a future fiscal year.

Set-off of amounts owed

67. The Executive may, by written directive, authorize the director to retain money, by way of set-off, out of any money due or payable by the Nisga'a Nation to a Nisga'a Village, a Nisga'a Institution, a Nisga'a government corporation, a government corporation or a Nisga'a settlement trust, if
- (a) the Nisga'a Village, Nisga'a Institution, Nisga'a government corporation, government corporation or Nisga'a settlement trust owes money to the Nisga'a Nation or to a Nisga'a Lisims Institution, or
 - (b) an overpayment has been made by the Nisga'a Nation or a Nisga'a Lisims Institution to the Nisga'a Village, Nisga'a Institution, Nisga'a government corporation, government corporation or Nisga'a settlement trust.

Form of payment

68. Payments by the Nisga'a Nation may be made by
- (a) cheque, draft, telegraphic or electronic transfer or other similar instrument signed by any two of the persons referred to in section 64(4) within any limit of their authority under section 64(5), or
 - (b) any other method or persons approved by written directive of the Executive.

Division 4 – Nisga'a Nation Assets**Authority to invest**

69. Money must not be invested by the Nisga'a Nation without the authority of this Act or another Nisga'a Lisims enactment.

Authority of director to invest

70. If this Act, the regulations or any other Nisga'a Lisims enactment confers on the Nisga'a Nation the authority to invest money, the Executive may authorize the director to invest the money in the name of the Nisga'a Nation.

Investments

71. (1) Money of the Nisga'a Nation that is not immediately required for payments may be invested in the name of the Nisga'a Nation by the director in one or more of the following:
- (a) securities that are obligations of or guaranteed by Canada, a province or the United States of America;
 - (b) fixed deposits, notes, certificates and other short term paper of or guaranteed by a savings institution including, but not limited to, non-equity or membership shares of a credit union and swapped deposit transactions;
 - (c) commercial paper issued by a company, the securities of which are rated in the highest rating category by at least two recognized securities rating institutions;
 - (d) securities, with or without interest, issued by the capital finance commission fund;
 - (e) securities, with or without interest, issued by a Nisga'a settlement trust;
 - (f) any other prescribed investments.
- (2) Money held in trust that is not immediately required for payments may, subject to the terms of the trust, be invested by the person having authority to invest that money in any investment permitted under subsection (1)(a) to (c), or (f), or as otherwise permitted under the terms of the trust.
- (3) Money in the investment fund may be invested by the Executive in
- (a) loans or advances to another fund of the Nisga'a Nation, or

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- (b) investments in or loans to a corporation in which the Nisga'a Nation holds shares or, if permitted under section 152, investments in or loans to a trust or limited partnership in which the Nisga'a Nation holds an interest as a beneficiary or member.

Valuation of investments

72. All investments of the Nisga'a Nation must be accounted for at the lower of cost or fair market value.

Administration of investments

73. (1) The Executive may make regulations considered necessary or advisable to facilitate or regulate the investing and lending of money under section 71, this section, section 120 or section 122.
- (2) If the director is authorized to make an investment or loan under this Act or the regulations, they may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan including, but not limited to,
- (a) buying and selling currency on a current or future delivery basis,
 - (b) authorizing
 - (i) a person to exercise their powers to make, continue, exchange or dispose of the investment or loan,
 - (ii) a person to administer the investment or loan, and
 - (iii) a person, or that person's nominee, to hold the investment or loan in trust for the Nisga'a Nation or, in the case of a trust, for the trustees,subject to any restrictions, limits or conditions that the director may impose, and
 - (c) entering into an agreement in the name of the Nisga'a Nation with a person under which the person provides one or more of the services referred to in paragraph (b).
- (3) A person who has the authority to invest or loan the money of a trust fund must invest or loan the money in the best interests of the trust fund.

Specifically authorized financial agreements

74. (1) Subject to any prescribed restrictions, limits or conditions, the director may enter into the following agreements in the name of the Nisga'a Nation:
- (a) for the purpose of efficient management of money of the Nisga'a Nation, banking agreements with savings institutions and related services agreements;
 - (b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of money of the Nisga'a Nation,
 - (i) currency exchange agreements,
 - (ii) spot and future currency agreements,
 - (iii) interest rate exchange agreements, and
 - (iv) future interest rate agreements;
 - (c) for a purpose referred to in paragraph (a) or (b), agreements within any prescribed class of financial agreements.
- (2) The director may pay amounts required to be paid by the Nisga'a Nation under an agreement described in subsection (1).
- (3) The Executive may make regulations
- (a) establishing restrictions, limits and conditions on the director's authority to enter into agreements under subsection (1), and
 - (b) prescribing classes of agreements, other than borrowings, lendings or investments, for the purposes of subsection (2).

Division 5 – Nisga'a Nation Liabilities**Borrowing, guarantees and indemnities restricted**

75. Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment,
- (a) money must not be borrowed and a security must not be issued,
 - (b) a guarantee must not be given, and
 - (c) an indemnity must not be given

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by or on behalf of the Nisga'a Nation.

Director's authority to borrow

76. If this Act or any other Nisga'a Lisims enactment gives the Nisga'a Nation the authority to borrow money, the Executive may authorize the director to borrow the money in the name of the Nisga'a Nation.

Borrowing in the ordinary course of operations

77. The Executive, in the name of the Nisga'a Nation, may
- (a) subject to section 61, incur trade accounts or other current liabilities, payable within normal terms of trade, for expenditures provided for in the budget of the Nisga'a Nation for a fiscal year, if the debt will be repaid from funds appropriated under an appropriation for the fiscal year or is in respect of an expenditure that may be made without the authority of an appropriation under this Act,
 - (b) make arrangements with savings institutions for overdrafts and, for the purpose of securing any overdrafts under such an arrangement, may issue securities to the savings institution in a form, in an amount and on terms and conditions that it approves,
 - (c) enter into conditional sales agreements or leases for the use or acquisition of assets, land, premises, materials or equipment required for the operation, maintenance or administration of the Nisga'a Nation or a Nisga'a Lisims Institution,
 - (d) borrow from the capital finance commission for major maintenance or replacement of ffa listed assets of the Nisga'a Nation,
 - (e) borrow to prepay a loan referred to in Chapter 14 of the Nisga'a Treaty, or
 - (f) borrow for the efficient management of debts owed by the Nisga'a Nation on the effective date.

Borrowing for investments

78. The Executive may borrow in the name of the Nisga'a Nation from a Nisga'a settlement trust to finance an investment referred to in section 71(1)(a), (b), (c) or (f) or 71(3)(b).

Borrowings for authorized disbursements

- 79.** (1) If the director considers that the banking fund is likely to be insufficient to meet the disbursements lawfully authorized to be made from it, and recommends to the Executive that money be borrowed to ensure that the banking fund will be sufficient for those purposes, the Executive may, by written directive, authorize the director to borrow an amount not exceeding a specified maximum amount.
- (2) If money is borrowed as permitted under subsection (1), the loan must be repaid within 120 days after the date on which the loan agreement is made or at a later time if the Executive approves an extension to the time for repayment, but the Executive may not extend the time for repayment of the money by more than 60 days at any one time or while an earlier extension is in effect.
- (3) Despite subsection (2), money borrowed as permitted under subsection (1) must be repaid as soon as possible if the money is no longer required for the purpose for which it was borrowed.

Borrowing for repayment of debts

- 80.** Subject to this Act, the regulations and any other Nisga'a Lisims enactment that gives authority to borrow, the Executive may authorize the director to borrow money in the name of the Nisga'a Nation that is required for the repayment or refinancing of any debt of the Nisga'a Nation other than a debt in relation to money borrowed under section 79(1).

Use of borrowed money

- 81.** (1) Subject to this section, money borrowed by the Nisga'a Nation for a specific purpose must not be used for any other purpose.
- (2) All or part of money borrowed for a specific purpose by the Nisga'a Nation and not required to be applied immediately for that purpose may be temporarily invested under section 71(1) until required for that purpose.
- (3) If
- (a) the Nisga'a Nation borrows money under this Act or any other Nisga'a Lisims enactment that authorizes borrowing for a specific purpose, and
 - (b) after the money is borrowed but before it is used for the specified purpose, the director considers the money is not required for that purpose,

the Executive may authorize that money to be used for another specified purpose for which this Act or the other Nisga'a Lisims enactment gives the Nisga'a Nation authority to borrow.

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- (4) If some of the money borrowed for a specific purpose remains unused after completion of the work and payment of the costs of the work, the unused money must be applied to repay the debt from the borrowing.

Execution of securities

- 82.** Securities granted by the Nisga'a Nation must be signed by
- (a) the Secretary-Treasurer or another person designated by the Executive, and
 - (b) the director, or another person designated by the director.

Guarantees and indemnities

- 83.** (1) Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, an indemnity may be given in the name of the Nisga'a Nation only if it is
- (a) necessarily incidental to and included in another agreement to which the Nisga'a Nation is a party, or
 - (b) in relation to a security given by the Nisga'a Nation, that is permitted under this Act or another Nisga'a Lisims enactment.
- (2) Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, a guarantee may be given in the name of the Nisga'a Nation only
- (a) as required to secure a debt under this Part, or
 - (b) under Part Eight of the *Nisga'a Programs and Services Delivery Act*.
- (3) An indemnity, or a guarantee, permitted under subsection (1) or (2) may be given by or on behalf of the Nisga'a Nation only
- (a) on approval of the Executive, or
 - (b) in compliance with a written directive of the Executive.
- (4) A written directive under subsection (3) may do one or more of the following:
- (a) designate persons authorized to approve a guarantee or indemnity to be given on behalf of the Nisga'a Nation;

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- (b) specify circumstances in which, before a guarantee or indemnity is given, approval must be obtained from the Executive, the finance committee, the director or another person;
- (c) require that in specified circumstances, the maximum amount of the liability in respect of which the Executive, the finance committee, the director or other person may approve a guarantee or indemnity is limited to a prescribed amount;
- (d) place the constraints, conditions and limitations specified in the directive on the giving of guarantees and indemnities, and on the exercise of the power of approval referred to in paragraph (b) or (c), that the Executive considers appropriate.

Division 6 – Nisga'a Nation Audit**Auditor requirements**

- 84.** The auditor for the Nisga'a Nation and Nisga'a Lisims Institutions must be the same person, and must be a member in good standing of the Canadian Institute of Chartered Accountants, the Certified General Accountants' Association of British Columbia or the Certified Management Accountants' Association of British Columbia.

Appointment and dismissal

- 85.** (1) Wilp Si'ayuukhl Nisga'a must appoint an auditor for the Nisga'a Nation and Nisga'a Lisims Institutions for each fiscal year to hold office until the sitting of Wilp Si'ayuukhl Nisga'a at which approval is given to the financial statements for that fiscal year under section 40(2)(d).
- (2) Despite subsection (1), if an auditor is not appointed at the sitting referred to in that subsection, the incumbent auditor continues in office until a successor is appointed.
- (3) The remuneration of an auditor may be fixed by Wilp Si'ayuukhl Nisga'a or, if not so fixed, may be fixed by the Executive.
- (4) An auditor ceases to hold office when a successor is appointed or the auditor dies, resigns or is removed under subsection (5).
- (5) Wilp Si'ayuukhl Nisga'a may remove an auditor from office at any sitting of Wilp Si'ayuukhl Nisga'a of which 14 days advance notice is provided to the auditor.
- (6) An auditor who resigns, or who receives notice or otherwise learns of a sitting of Wilp Si'ayuukhl Nisga'a called for the purpose of removing them from office, may submit to the Executive a written statement giving

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- (a) the reasons for their resignation, or
- (b) the reasons why they oppose any proposed action or resolution of Wilp Si'ayuukhl Nisga'a,

and on receipt of the statement, the Executive must, as soon as possible, send a copy of the statement to every member of Wilp Si'ayuukhl Nisga'a.

- (7) A vacancy created by the death or resignation of an auditor, or by the removal of an auditor under subsection (5), may be filled by Wilp Si'ayuukhl Nisga'a at any sitting of Wilp Si'ayuukhl Nisga'a.
- (8) An auditor appointed to fill a vacancy holds office for the unexpired term of the auditor's predecessor.
- (9) If, not less than ten days before a sitting of Wilp Si'ayuukhl Nisga'a, the Executive gives written notice to the auditor, or a former auditor, to do so, the auditor or former auditor must attend the sitting at the expense of the Nisga'a Nation and answer questions relating to their duties as auditor.

Duties

86. The auditor must

- (a) audit the annual financial statements of the Nisga'a Nation and Nisga'a Lisims Institutions in accordance with auditing standards that are at least comparable to those generally accepted for governments in Canada,
- (b) provide an audit report in respect of the annual financial statements of the Nisga'a Nation and Nisga'a Lisims Institutions to Wilp Si'ayuukhl Nisga'a by the date required under section 40(2)(d),
- (c) report to the Executive and the finance committee on any deficiencies in internal controls that come to their notice in the course of the audit of the Nisga'a Nation or a Nisga'a Lisims Institution and offer their recommendation for improvement, and
- (d) carry out any other examinations and make any other reports required of them under this Act or the regulations, or by Wilp Si'ayuukhl Nisga'a, the Executive or the finance committee.

Special reports on irregularities

- 87.** The auditor must report in writing to Wilp Si'ayuukhl Nisga'a each misappropriation or irregularity in the funds, accounts, assets, liabilities or financial obligations of the Nisga'a Nation, a Nisga'a Village, or a Nisga'a Institution that comes to their notice in the course of providing their services.

Liability for irregularities

- 88.** (1) If Wilp Si'ayuukhl Nisga'a receives a report under section 87 in respect of a misappropriation or irregularity, the Executive must promptly
- (a) carry out any further reviews and investigations that are reasonably required to verify the misappropriation or irregularity and the manner in which it occurred including, but not limited to, identifying those persons responsible, and
 - (b) report to Wilp Si'ayuukhl Nisga'a on the reviews and investigations.
- (2) On the basis of the reviews and investigations referred to in subsection (1), Wilp Si'ayuukhl Nisga'a may authorize the Executive or designated members of the Executive to
- (a) take any action appropriate to rectify the misappropriation or irregularity, and
 - (b) without limiting paragraph (a), institute a prosecution or carry out recovery proceedings, or both, depending on the circumstances.
- (3) Where an auditor has reported to Wilp Si'ayuukhl Nisga'a under section 87, the auditor must, at the time of providing the next audit report to Wilp Si'ayuukhl Nisga'a under section 86, report in writing to Wilp Si'ayuukhl Nisga'a as to what steps have been taken to rectify the misappropriation or irregularity and to prevent a similar misappropriation or irregularity from occurring in future.

Auditor powers

- 89.** (1) At all reasonable times the auditor may
- (a) inspect, audit and examine the financial records and any other books and records of, and any document or other component of the financial system of, the Nisga'a Nation or any Nisga'a Lisims Institution, that relates or may relate to, or
 - (b) examine property of the Nisga'a Nation or any Nisga'a Lisims Institution, and any process of or matter relating to the Nisga'a Nation or the Nisga'a Lisims Institution, an examination of which may assist the auditor in ascertaining, or determining the accuracy of

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the information that is or should be in the books or records of the Nisga'a Nation or the Nisga'a Lisims Institution.

- (2) The auditor may require from any member of Wilp Si'ayuukhl Nisga'a or the Executive, any member of a Nisga'a Village Government or any Nisga'a public officer of a Nisga'a Institution, any information or explanation necessary to the performance of the auditor's duties.
- (3) Every person referred to in subsection (2) must
 - (a) make available all books, records and documents referred to in subsection (1), and
 - (b) as necessary for the performance of the auditor's duties, give the auditor every reasonable facility and provide full information and explanation about the affairs of the Nisga'a Nation, a Nisga'a Village or a Nisga'a Institution.

PART 8 – NISGA'A VILLAGE FINANCIAL ADMINISTRATION**Application of Part 8**

- 90.** Despite section 3, this Part applies only to Nisga'a Villages, Nisga'a Village Institutions and Nisga'a public officers of Nisga'a Village Institutions.

Division 1 – Nisga'a Village Organization**Nisga'a Village Government responsibility**

- 91.** Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, a Nisga'a Village Government is responsible for the oversight, management and control of all matters relating to the financial affairs of the Nisga'a Village and Nisga'a Village Institutions including, but not limited to,
- (a) accounting policies and practices including, but not limited to, the form and content of reports and annual budgets,
 - (b) financial management and control including, but not limited to, management practices and systems,
 - (c) evaluation of programs as to economy, efficiency and effectiveness,
 - (d) personnel management, and
 - (e) matters relating to fiscal policy.

Nisga'a Village Government delegation

- 92.** A Nisga'a Village Government may, by written directive, delegate any of its responsibilities or authorities under this Act to one or more of its members.

Finance employee

- 93.** (1) Each Nisga'a Village Government must appoint an employee to carry out the duties of the finance employee under this Act and the regulations.
- (2) Subject to any direction of the senior administrator of the Nisga'a Village Government, the finance employee is responsible for

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- (a) the administration and maintenance of the accounts of the Nisga'a Village and its Nisga'a Village Institutions,
 - (b) the provision of functional control over all financial transactions entered into the accounting system of the Nisga'a Village,
 - (c) recommendations to the Nisga'a Village Government, or its senior administrator, for improvements considered necessary for the financial management of the Nisga'a Village and its Nisga'a Village Institutions,
 - (d) the preparation of
 - (i) the financial statements of the Nisga'a Village and its Nisga'a Village Institutions, and
 - (ii) any other financial statements and reports required by the Nisga'a Village Government or its senior administrator, and
 - (e) the performance of all duties assigned
 - (i) by the Nisga'a Village Government,
 - (ii) by its senior administrator, or
 - (iii) under this Act, the regulations, any other Nisga'a Lisims enactment or any enactment of the Nisga'a Village Government.

Division 2 – Nisga'a Village Funds**Nisga'a Village funds**

- 94.** (1) A Nisga'a Village must establish the following funds:
- (a) a banking fund, to maintain the bank accounts of the Nisga'a Village;
 - (b) a core programs or services fund for the provision of core programs and services, other than programs included in funds referred to in paragraphs (c) to (g);
 - (c) a supplementary programs or services fund for the provision of Lisims supplementary programs or services;
 - (d) a lands and resources fund for the management of lands and resources;
 - (e) a capital asset fund for the management of capital assets;

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- (f) a housing fund, to hold and administer funds in respect of residential housing in accordance with the residential housing program established under the *Nisga'a Capital (New Asset) Finance Commission Act*;
- (g) an investment fund for investment of monies.
- (2) The transfer by the Nisga'a Nation of
- (a) Nisga'a Lands,
- (b) Category A Lands,
- (c) Category B Lands,
- (d) forest resources, and
- (e) minerals
- to a Nisga'a Village by the Nisga'a Nation must be recorded in the land and resources fund at carrying values equal to their fair market values at the time of the transfer.
- (3) The transfer of capital property, other than that referred to in subsection (2), to a Nisga'a Village by the Nisga'a Nation must be recorded in the capital asset fund at carrying values equal to their fair market values on the transfer.
- (4) Monies received by a Nisga'a Village in relation to the
- (a) use, occupation or production from Nisga'a Lands, Category A Lands and Category B Lands,
- (b) the capital asset fund,
- (c) the investment fund, and
- (d) any other fund it establishes
- must be deposited to the banking fund for the credit of the fund to which they relate.
- (5) Monies paid by a Nisga'a Village in relation to the
- (a) use, occupation or production from Nisga'a Lands, Category A Lands and Category B Lands,
- (b) the capital asset fund,
- (c) the investment fund, and

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(d) any other fund it establishes

must be disbursed from the banking fund and charged to the fund to which they relate.

Transfer between funds

95. (1) If the amount to the credit of a fund, other than the core programs and services fund, is greater than required, a Nisga'a Village Government may transfer all or part of the amount to another fund established under this Division, but the total amount transferred from a fund in a fiscal year must not exceed the net surplus in that fund at the beginning of the fiscal year.
- (2) Subsection (1) does not permit a transfer out of the core programs and services fund.

Transfer of surplus in investment fund

96. To the extent reasonably practicable, a Nisga'a Village Government must transfer any surplus in its investment fund at the beginning of a fiscal year to the extent required to eliminate any deficit in the core programs or services fund at the beginning of the fiscal year.

Limits on use of trust and reserve funds

97. Except as provided in this Act, money held by a Nisga'a Village that is subject to a trust or reserve must not be used for a purpose other than as permitted under the terms of the trust or the law creating the reserve.

Fund service charge

98. The finance employee may charge any fund including, but not limited to, trust funds, in respect of which management or financial services are provided by the Nisga'a Village Government, management fees based on the reasonable costs of providing the services.

Division 3 – Nisga'a Village Revenue**Deposit to and disbursement from banking fund**

99. Except as otherwise specifically provided in this Act, the regulations or in another Nisga'a Lisims enactment,
- (a) all moneys received by a Nisga'a Village must be deposited to its banking fund, and

- (b) all disbursements of the Nisga'a Village must be paid from its banking fund.

Trust funds

- 100.** Trust funds must be paid into and maintained in accounts kept separate from the banking fund.

Bank accounts

- 101.** A person must not open an account for the receipt and deposit of money of a Nisga'a Village except in the name of the Nisga'a Village and as authorized by the finance employee with the approval of the senior administrator of the Nisga'a Village.

Refunds

- 102.** Money received by a Nisga'a Village

- (a) that is paid or collected in error, or
(b) for a purpose that is not fulfilled

may be refunded in part or in full as circumstances require.

Write off of debts

- 103.** (1) A Nisga'a Village Government may

- (a) approve a write off, or
(b) by written directive, establish the circumstances and manner in which the finance employee may approve the write off

of all or part of a debt or obligation to the Nisga'a Village.

- (2) The write off of all or part of a debt or obligation under this section does not extinguish the right of the Nisga'a Village to collect the amount or liability written off.

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Extinguishment of debts

- 104.** (1) All or part of a debt or obligation owed to a Nisga'a Village may be forgiven only
- (a) by the Nisga'a Village Government, or
 - (b) in accordance with a written directive made under subsection (2),
- and to the extent that the debt or obligation is forgiven, the liability for it is extinguished.
- (2) A Nisga'a Village Government may, by written directive,
- (a) authorize the finance employee to forgive a debt or obligation to the Nisga'a Village,
 - (b) specify circumstances in which approval must be obtained from the Nisga'a Village Government, before a debt or obligation is forgiven, or
 - (c) require that, in specified circumstances, the maximum amount of a debt or obligation that may be forgiven without the approval of the Nisga'a Village Government, not exceed a specified amount.

Division 4 – Nisga'a Village Expenditure**No payment without authority**

- 105.** (1) Except as is otherwise specifically provided in this Act or in another Nisga'a Lisims enactment, money must not be paid out of any fund of a Nisga'a Village, unless authorized by an appropriation.
- (2) Despite subsection (1), money required to be spent, loaned, invested or dealt with under section 95(1), 96, 102, 106, 108(1), 116, 120(1), 120(3), 122(1)(a), 128 or 130 may be paid without any appropriation.

Trust funds and money received for other persons or purposes

- 106.** (1) Money must not be paid from trust funds except in accordance with this Act, another Nisga'a Lisims enactment or the terms of the instrument or other authority by which the money is held as trust funds.
- (2) Subject to any applicable enactment and written directives of the Nisga'a Village Government, money received by a Nisga'a Village for another person may be paid out to that person.

- (3) Money received by a Nisga'a Village as a deposit to ensure the doing of any act or thing must be held or disposed of in accordance with any written directive of the Nisga'a Village Government.

Appropriations

- 107.** (1) A sum that is appropriated must not be spent for any purpose other than that described in respect of the appropriation in the budget in which the appropriation is made.
- (2) The total amount expended by a Nisga'a Village in relation to an appropriation must not exceed the amount contained in the budget for the appropriation.
- (3) Subject to subsection (5), if an appropriation in the budget of a Nisga'a Village includes an item as a credit or a recovery, the appropriation is deemed to authorize expenditures equal to the aggregate of
 - (a) the net amount appropriated, and
 - (b) the estimated credits or recoveries set out in the details related to that appropriation.
- (4) Money that is appropriated in a budget of a Nisga'a Village may be spent for any activity or standard object of expenditure that is within the general purposes of the appropriation.
- (5) The Nisga'a Village Government may, by written directive, limit the circumstances in which, or specify conditions under which, subsection (3) applies.

Payments based on contributions

- 108.** (1) If, under an agreement an undertaking,
 - (a) money is payable to a Nisga'a Village, or
 - (b) money has been received by a Nisga'a Villagefor the purpose of, or as a contribution towards an expenditure to be made by the Nisga'a Village, the Nisga'a Village Government may authorize payments for those purposes of an amount equal to the amount payable to or received by the Nisga'a Village.
- (2) Subsection (1) does not apply to an agreement with the Nisga'a Nation.

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Payments after a fiscal year end

- 109.** (1) Money appropriated for a fiscal year must not be paid out after the end of the fiscal year except to discharge a liability incurred in the fiscal year.
- (2) If the liabilities for an appropriation under subsection (1) exceed the unexpended balance of the appropriation at the end of the fiscal year, the excess must be
- (a) charged against a suitable appropriation for the following fiscal year, and
 - (b) reported in the financial statements for the fiscal year in which the liability was incurred.

Regulation of expenditure

- 110.** (1) Subject to subsection (2), a Nisga'a Village Government may, by written directive,
- (a) control or limit expenditure under any appropriation,
 - (b) subject to any limitations stated in the appropriation, set conditions for any kind of expenditure under an appropriation, and
 - (c) establish amounts or allowances to be paid out of an appropriation for or in respect of out of pocket, traveling and other expenses incurred by persons in the discharge of their duties.
- (2) The Nisga'a Village Government must not limit expenditure under an appropriation if the expenditure is required to honour an existing obligation of the Nisga'a Village to another person under law.

Agreements

- 111.** (1) A Nisga'a Village must not enter into an agreement or undertaking of any kind providing for its payment of money if the agreement would result in expenditures that contravene this Act or the regulations.
- (2) The Nisga'a Village Government may, by written directive, set conditions to be observed before the Nisga'a Village may enter into agreements or undertakings providing for the payment of money.

Holdbacks

- 112.** If a Nisga'a Village withholds an amount payable by the Nisga'a Village under an agreement or Nisga'a Village enactment, the payment of the amount withheld must, subject to this Act and the

regulations, be charged to the appropriation for that agreement under which it is withheld even though the fiscal year for which it was appropriated has ended.

Record of commitments

- 113.** Each person who has charge of an appropriation must establish and maintain, as directed by the Nisga'a Village Government, records of commitments chargeable to that appropriation.

Requisitions for payments

- 114.** (1) Money must not be paid without a requisition for payment under this section.
- (2) A requisition must not be made or given for a payment that would
- (a) not be a lawful charge against an appropriation or trust fund, or permitted without the authority of an appropriation, under this Act,
 - (b) result in total expenditures in contravention of section 107(2) or in expenditures from a trust fund in excess of the unexpended balance of the trust fund, or
 - (c) reduce the balance available in an appropriation or trust fund so that it would not be sufficient to meet the commitments chargeable against it.
- (3) A requisition
- (a) may apply to one or more expenditures chargeable against one or more appropriations,
 - (b) if applicable, must identify the appropriations or trust funds out of which payment is to be made,
 - (c) must include a certificate that the expenditure is not prohibited under subsection (2) and, either
 - (i) is in accordance with an appropriation identified in the certificate, or
 - (ii) is allowed without the authority of any appropriation under this Act,
 - (d) if the payment is for the performance of work, the supply of goods, the rendering of services, or for any other purpose, whether or not under an agreement, must include a certificate that
 - (i) the work has been performed, the goods supplied, the service rendered or other conditions met, and that the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable, or

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- (ii) that the payment is in accordance with the agreement, if the payment is to be made before the completion of the work, the delivery of the goods, the rendering of the service, or the meeting of other conditions,
 - (e) must be signed by the finance employee or another person permitted under subsection (4), and
 - (f) must otherwise be in a form, be accompanied by documents and be certified in a way the Nisga'a Village Government by written directive requires.
- (4) The only persons who may authorize a payment out of an appropriation or a trust fund, or sign a requisition for payment are
- (a) the finance employee,
 - (b) the senior administrator,
 - (c) a person authorized by a written directive of the Nisga'a Village Government, and
 - (d) a person authorized by a person referred to in paragraph (a) or (b) in accordance with a written directive of the Nisga'a Village Government.
- (5) The Nisga'a Village Government, by written directive, may limit the authority of a person under subsection (4) to specified amounts and circumstances.

Rejection and confirmation of requisitions

- 115.** (1) The finance employee must reject a requisition for a payment if they consider that this Act, the regulations or any other applicable Nisga'a enactment has not been complied with.
- (2) If the finance employee transmits to the Nisga'a Village Government any requisition for a payment on which the finance employee desires direction, the Nisga'a Village Government may order that payment be made, or refused, subject to any conditions it specifies.
- (3) If the finance employee
- (a) rejects a requisition or otherwise declines to make a payment,
 - (b) disallows an item in an account, or
 - (c) refuses to give a certificate required by this Act, the regulations or any other applicable Nisga'a enactment,

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they must, on the request of another person referred to in section 114(4), provide the reasons in writing and transmit a copy of them to the Nisga'a Village Government.

- (4) On the request of a person referred to in section 114(4), the Nisga'a Village Government may review the finance employee's decision and
- (a) confirm the finance employee's decision, or
 - (b) order that the payment be made, subject to any conditions the Nisga'a Village Government specifies.

Advances

- 116.** Subject to this Act, the regulations and written directives of the Nisga'a Village Government, an advance may be made by a Nisga'a Village to prepay expenses that will be charged against an appropriation of the Nisga'a Village in the current or a future fiscal year.

Form of payment

- 117.** Payments by a Nisga'a Village may be made by
- (a) cheque, draft, telegraphic or electronic transfer or other similar instrument signed by any two of the persons referred to in section 114(4) within any limit of their authority under section 114(5), or
 - (b) any other method or persons approved by written directive of the Nisga'a Village Government.

Division 5 – Nisga'a Village Assets**Authority to invest**

- 118.** Money must not be invested by a Nisga'a Village without the authority of this Act or another Nisga'a Lisims enactment.

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Authority of finance employee to invest

- 119.** If this Act, the regulations or any other Nisga'a Lisims enactment confers on the Nisga'a Village the authority to invest money, the Nisga'a Village Government may authorize the finance employee to invest the money in the name of the Nisga'a Village.

Investments

- 120.** (1) Money of a Nisga'a Village that is not immediately required for payments may be invested by the finance employee in the name of the Nisga'a Village in one or more of the following:
- (a) securities that are obligations of or guaranteed by Canada, a province or the United States of America;
 - (b) fixed deposits, notes, certificates and other short term paper of or guaranteed by a savings institution including, but not limited to, swapped deposit transactions;
 - (c) commercial paper issued by a company, the securities of which are rated in the highest rating category by at least two recognized securities rating institutions;
 - (d) securities, with or without interest, granted by the capital finance commission fund;
 - (e) securities, with or without interest, granted by a Nisga'a settlement trust;
 - (f) any other prescribed investments.
- (2) Money in a housing fund may be invested or reinvested by a Nisga'a Village in residential mortgage loans permitted under the residential housing program established under the *Nisga'a Capital (New Asset) Finance Commission Act*.
- (3) Subject to the terms of the trust, money held in trust that is not immediately required for payments may be invested by the person having authority to invest that money in any investment permitted under subsection (1)(a) to (c), or (f), or as otherwise permitted under the terms of the trust.
- (4) Money in the investment fund may be invested by a Nisga'a Village in
- (a) loans or advances to another fund of the Nisga'a Village, or
 - (b) investments in or loans to a corporation in which the Nisga'a Village holds shares or, if permitted under section 152, investments in or loans to a trust or limited partnership in which the Nisga'a Village holds an interest as a beneficiary or member.

Valuation of investments

- 121.** All investments of a Nisga'a Village must be accounted for at the lower of cost or fair market value.

Administration of investments

- 122.** (1) If the finance employee is authorized to make an investment or loan under this Act or the regulations, they may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan including, but not limited to,
- (a) buying and selling currency on a current or future delivery basis,
 - (b) authorizing
 - (i) a person to exercise their powers to make, continue, exchange or dispose of the investment or loan,
 - (ii) a person to administer the investment or loan, and
 - (iii) a person, or that person's nominee, to hold the investment or loan in trust for the Nisga'a Village or, in the case of a trust, for the trustees,
- subject to any restrictions, limits or conditions that the director may impose, and
- (c) entering into an agreement in the name of the Nisga'a Village with a person under which the person provides one or more of the services referred to in paragraph (b).
- (2) A person who has the authority to invest or loan the money of a trust fund must invest or loan the money in the best interests of the trust fund.

Specifically authorized financial agreements

- 123.** (1) Subject to any prescribed restrictions, limits or conditions, the finance employee may enter into the following agreements in the name of the Nisga'a Village:
- (a) for the purpose of efficient management of money of the Nisga'a Village, banking agreements with savings institutions and related services agreements;
 - (b) for the purpose of reducing risks or maximizing benefits in relation to the borrowing, lending or investing of money of the Nisga'a Village,

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- (i) currency exchange agreements,
 - (ii) spot and future currency agreements,
 - (iii) interest rate exchange agreements, and
 - (iv) future interest rate agreements;
- (c) for a purpose referred to in paragraph (a) or (b), agreements within any class of prescribed financial agreements.
- (2) The finance employee may pay amounts required to be paid by the Nisga'a Village under an agreement described in subsection (1).
- (3) The Nisga'a Village Government may make regulations
- (a) establishing restrictions, limits and conditions on the finance employee's authority to enter into agreements under subsection (1), and
 - (b) prescribing classes of agreements, other than borrowings, lendings or investments for the purposes of subsection (2).

Division 6 – Nisga'a Village Liabilities**Borrowing, guarantees and indemnities restricted**

124. Except as otherwise specifically provided in this Act or in another Nisga'a Lisims enactment,

- (a) money must not be borrowed and a security must not be issued,
- (b) a guarantee must not be given, and
- (c) an indemnity must not be given

by or on behalf of a Nisga'a Village.

Finance employee's authority to borrow

125. If this Act or any other Nisga'a Lisims enactment gives a Nisga'a Village the authority to borrow money, the Nisga'a Village Government may authorize the finance employee to borrow the money in the name of the Nisga'a Village.

Borrowing in the ordinary course of operations

126. A Nisga'a Village may

- (a) subject to section 111, incur trade accounts or other current liabilities, payable within normal terms of trade, for expenditure provided for in the budget for the Nisga'a Village for a fiscal year, if the debt will be repaid from funds appropriated under an appropriation for the fiscal year or is in respect of an expenditure that is permitted without the authority of an appropriation under this Act,
- (b) make arrangements with savings institutions for overdrafts and, for the purpose of securing any overdrafts under such an arrangement, may issue securities to the savings institution in a form, in an amount and on terms and conditions that the Nisga'a Village Government approves,
- (c) enter into conditional sales agreements or leases for the use or acquisition of assets, land, premises, materials or equipment required for the operation, maintenance or administration of the Nisga'a Village or a Nisga'a Village Institution,
- (d) borrow from the capital finance commission, for major maintenance or replacement of ffa listed assets of the Nisga'a Village, or
- (e) borrow for the efficient management of debts owed by the Nisga'a Village on the effective date.

Borrowing for supplementary programs or services

126.1 A Nisga'a Village may borrow for an expenditure or acquisition in relation to Village supplementary programs or services that are provided for in the budget of that Nisga'a Village, if the Nisga'a Village has received a written report prepared by the finance employee of that Nisga'a Village that

- (a) sets out the details of the acquisition or expenditure,
- (b) sets out the proposed repayment of principal and interest for the debt to be incurred over the terms of the loan, and describes the source of funds for the repayment of the debt, and
- (c) confirms that
 - (i) the projected revenues from the source of funds for the repayment of the debt are sufficient to repay the debt, and

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- (ii) the repayment of the debt will not adversely affect the ability of the Nisga'a Village to pay its other debts or liabilities.

Security for supplementary programs and services debt

126.2 As security for a debt under section 126.1, a Nisga'a Village may not pledge, assign or otherwise encumber that Nisga'a Village's share of the appropriations of the Nisga'a Nation to be provided by the Nisga'a Nation to all Nisga'a Villages in respect of core programs or services.

Borrowing for investments

127. A Nisga'a Village Government, in the name of the Nisga'a Village, may borrow from the Nisga'a settlement trust to finance an investment referred to in section 120(1)(a), (b), (c) or (f) or 120(4)(b).

Borrowing for authorized disbursements

- 128.** (1) If the finance employee considers that the banking fund is likely to be insufficient to meet the disbursements lawfully authorized to be made from it, and recommends to the Nisga'a Village Government that money be borrowed to ensure that the banking fund will be sufficient for those purposes, the Nisga'a Village Government may by written directive authorize the finance employee to borrow an amount not exceeding a specified maximum amount.
- (2) If money is borrowed as permitted under subsection (1), the loan must be repaid within 120 days after the date on which the loan agreement is made or at a later time if the Nisga'a Village Government approves an extension to the time for repayment, but the Nisga'a Village Government may not extend the time for repayment of the money by more than 60 days at any one time or while an earlier extension is in effect.
- (3) Despite subsection (2), money borrowed as permitted under subsection (1) must be repaid as soon as possible if the money is no longer required for the purpose for which it was borrowed.

Borrowing for repayment of debts

129. Subject to this Act or any other Nisga'a Lisims enactment that gives authority to borrow, a Nisga'a Village Government may authorize the finance employee to borrow sums of money in the name of the Nisga'a Village that are required for the repayment or refinancing of any debt of the Nisga'a Village.

Use of borrowed money

- 130.** (1) Subject to this section, money borrowed by a Nisga'a Village for a specific purpose must not be used for any other purpose.
- (2) All or part of money borrowed for a specific purpose by a Nisga'a Village and not required to be applied immediately for that purpose may be temporarily invested by the Nisga'a Village under section 120(1)(a), (b), (c) or (f) until required for that purpose.
- (3) If a Nisga'a Village borrows money under a provision of this Act or any other Nisga'a Lisims enactment that authorizes borrowing for a specific purpose and,
- (a) after the money is borrowed the finance employee considers the money is not required for that purpose, or
- (b) if some of the money borrowed for a purpose remains unused after completion of the work and payment of the costs of the work,
- the money must be applied to repay the debt from the borrowing.

Execution of debt instruments

- 131.** All instruments relating to the contracting or repayment of a debt, other than a debt referred to in section 126(a) or (b), that are authorized to be executed for a Nisga'a Village must be approved by a resolution of the Nisga'a Village Government and be signed by the Chief Councillor and one additional member of the Nisga'a Village Government.

Guarantees and indemnities

- 132.** (1) An indemnity may be given by a Nisga'a Village only if it is
- (a) necessarily incidental to and included in another agreement to which the Nisga'a Village is a party, or
- (b) in relation to money borrowed under section 126.1 or a security given by the Nisga'a Village that is permitted under this Act or another Nisga'a Lisims enactment.
- (2) Subject to section 126.2, a guarantee may be given by a Nisga'a Village only
- (a) as required to secure a debt under this Part, or
- (b) under Part Eight of the *Nisga'a Capital (New Asset) Finance Commission Act*.

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- (3) An indemnity, or a guarantee, permitted under subsection (1) or (2) may be given by or on behalf of the Nisga'a Village only
- (a) on approval of the Nisga'a Village Government, or
 - (b) in compliance with a written directive of the Nisga'a Village Government.
- (4) A written directive under subsection (3) may do one or more of the following:
- (a) designate persons authorized to approve a guarantee or indemnity to be given on behalf of the Nisga'a Village;
 - (b) specify circumstances in which, before a guarantee or indemnity is given, approval must be obtained from the Nisga'a Village Government, the senior administrator, the finance employee, or another person;
 - (c) require that in specified circumstances, the maximum amount of the liability in respect of which the Nisga'a Village Government, the senior administrator, the finance employee or other person may approve a guarantee or indemnity is limited to a prescribed amount;
 - (d) place the constraints, conditions and limitations specified in the directive on the giving of guarantees and indemnities, and on the exercise of the power of approval referred to in paragraph (b) or (c) that the Nisga'a Village Government considers appropriate.

Division 7 – Nisga'a Village Audit**Auditor requirements**

- 133.** The auditor for a Nisga'a Village and its Nisga'a Village Institutions must be the same person and must be a member in good standing of the Canadian Institute of Chartered Accountants, the Certified General Accountants' Association of British Columbia, or the Certified Management Accountants' Association of British Columbia.

Appointment and dismissal

- 134.** (1) A Nisga'a Village Government must appoint an auditor for the Nisga'a Village and its Nisga'a Village Institutions for each fiscal year to hold office until the meeting of the Nisga'a Village Government at which approval is given to the financial statements for that fiscal year under section 41(2)(c).
- (2) Despite subsection (1), if an auditor is not appointed at the meeting referred to in that subsection, the incumbent auditor continues in office until their successor is appointed.

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- (3) The remuneration of an auditor may be fixed by the Nisga'a Village Government and if not so fixed, may be fixed by the Chief Councillor.
 - (4) An auditor ceases to hold office when a successor is appointed or the auditor dies, resigns or is removed under subsection (5).
 - (5) A Nisga'a Village Government may, with approval in advance of the finance committee, remove its auditor from office at any meeting of the Nisga'a Village Government of which 14 days advance notice is provided to the auditor.
 - (6) An auditor who resigns, or who receives notice or otherwise learns of a meeting of a Nisga'a Village Government called for the purpose of removing them from office, may submit to the Nisga'a Village Government a written statement giving
 - (a) the reasons for their resignation, or
 - (b) the reasons why they oppose any proposed action or resolution of the Nisga'a Village Government,and on receipt of the statement, the finance employee or senior administrator of the Nisga'a Village must, as soon as possible, send a copy of the statement to every member of the Nisga'a Village Government and to the finance committee.
 - (7) A vacancy created by the death or resignation of an auditor, or by the removal of the auditor under subsection (5), may be filled by the Nisga'a Village Government at any meeting of the Nisga'a Village Government.
 - (8) An auditor appointed to fill a vacancy holds office for the unexpired term of the auditor's predecessor.
 - (9) If, not less than ten days before a meeting of a Nisga'a Village Government, a Nisga'a Village Government gives written notice to the auditor, or a former auditor, to do so, the auditor or former auditor must attend the meeting at the expense of the Nisga'a Village and answer questions relating to their duties as auditor.
 - (10) A Nisga'a Village Government must promptly notify the Nisga'a Nation's auditor and the Executive through the director of each appointment, and removal, of an auditor for the Nisga'a Village.
 - (11) If a Nisga'a Village Government fails or neglects to appoint an auditor under subsection (1) or (7) and that failure or neglect continues for seven days after the Executive notifies the Nisga'a Village Government of the failure or neglect, the Executive may
 - (a) appoint an auditor for the Nisga'a Village, and

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- (b) set the remuneration to be paid by the Nisga'a Village to an auditor appointed under paragraph (a).

Duties

- 135.** (1) The auditor for a Nisga'a Village must
- (a) audit the annual financial statements of the Nisga'a Village Government and its Nisga'a Village Institutions in accordance with auditing standards that are at least comparable to those generally accepted for governments in Canada,
 - (b) provide an audit report in respect of the annual financial statements of the Nisga'a Village and its Nisga'a Village Institutions to the Nisga'a Village Government by the date required under section 41(2)(d),
 - (c) report to the Nisga'a Village Government on any deficiencies in internal controls that come to their notice in the course of auditing the financial statements of the Nisga'a Village or its Nisga'a Village Institutions and offer their recommendation for improvement, and
 - (d) carry out any other examination and make any other report required of them under this Act or the regulations, or by the Nisga'a Village Government.
- (2) An auditor for a Nisga'a Village must forward to each of the finance committee and the Executive a copy of each report, other than the auditor's report on the financial statements under subsection (1), made by the auditor to the Nisga'a Village Government, any member of the Nisga'a Village Government or a Nisga'a public officer of a Nisga'a Village Institution, immediately upon delivery of the report by the auditor.

Special reports regarding irregularities

- 136.** (1) The auditor for a Nisga'a Village must report in writing to the Nisga'a Village Government each misappropriation or irregularity in the funds, accounts, assets, liabilities and financial obligations of the Nisga'a Village or any Nisga'a Village Institution that comes to their notice in the course of providing their services.
- (2) The Nisga'a Village Government must forward to the finance committee and the Executive a copy of each report made by the auditor to the Nisga'a Village Government under this section immediately upon delivery of the report by the auditor.

Liability for irregularities

- 137.** (1) On receipt of a report under section 136, the Nisga'a Village Government must promptly carry out any further reviews and investigations that are reasonably required to verify the misappropriation or irregularity and the manner in which it occurred including, but not limited to, identifying those persons responsible.
- (2) On the basis of the reviews and investigations referred to in subsection (1), the Nisga'a Village Government may
- (a) take any action appropriate to rectify the misappropriation or irregularity, and
 - (b) without limiting paragraph (a), institute a prosecution or carry out recovery proceedings, or both, depending on the circumstances.
- (3) Where an auditor has reported to a Nisga'a Village Government under section 136, the auditor must, at the time of providing the next audit report to the Nisga'a Village Government under section 135, report in writing to the Nisga'a Village Government as to what steps have been taken to rectify the misappropriation or irregularity and to prevent a similar misappropriation or irregularity from occurring in future.
- (4) The Nisga'a Village Government must forward to the finance committee and the Executive a copy of each report made by the auditor to the Nisga'a Village Government under subsection (3).

Auditor powers

- 138.** (1) At all reasonable times, the auditor for a Nisga'a Village may
- (a) inspect, audit and examine the financial records and any other books and records of, and any document or other component of the financial system of, the Nisga'a Village or any Nisga'a Village Institution, that relates or may relate to, or
 - (b) examine property of the Nisga'a Village or any Nisga'a Village Institution, and any process of or matter relating to the Nisga'a Village or the Nisga'a Village Institution, an examination of which may assist the auditor in ascertaining, or determining the accuracy of
- the information that is or should be in the books or records of the Nisga'a Village or the Nisga'a Village Institution.
- (2) The auditor may require from any member of the Nisga'a Village Government or any Nisga'a public officer of a Nisga'a Village Institution, any information or explanation necessary to perform the auditor's duties.
- (3) Every person referred to in subsection (2) must

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- (a) make available books, records, and documents referred to in subsection (1), and
- (b) as necessary, for the performance of the auditor's duties, give the auditor every reasonable facility and provide full information and explanation about the affairs of the Nisga'a Village or Nisga'a Village Institutions.

PART 9 – STANDING APPROPRIATIONS**Division 1 – Major Capital Standing Appropriations****Segregation and transfer of major maintenance or replacement funding**

- 139.** (1) The full amount of that portion of each net transfer paid by Canada to the Nisga'a Nation under a fiscal financing agreement that may reasonably be considered to have been paid in relation to the major maintenance or replacement of ffa listed assets must immediately on receipt be
- (a) segregated by the director from the balance of the net transfer, and
 - (b) paid into the capital finance commission fund.
- (2) The amounts referred to in subsection (1) for each fiscal year are standing appropriations of Wilp Si'ayuukhl Nisga'a and must be shown as standing appropriations to the capital finance commission fund in the budget of the Nisga'a Nation for the fiscal year.
- (3) As an illustration of the application of subsection (1), during the first five fiscal years starting on the effective date the following amounts were to be segregated and paid into the capital finance commission fund under subsection (1):
- (a) in the first fiscal year, in respect of each net transfer payment by Canada to the Nisga'a Nation for the fiscal year, an amount determined by dividing the amount to be paid for the fiscal year in respect of "Capital, Agreed Upon Assets" in Table 1 of Schedule B to the first fiscal financing agreement and adjusted in accordance with the provisions of that Schedule, by the number of full calendar months in the first fiscal year;
 - (b) in the four subsequent fiscal years,
 - (i) in respect of the first net transfer payment by Canada to the Nisga'a Nation for the fiscal year, one sixth, and
 - (ii) in respect of each other net transfer payment by Canada to the Nisga'a Nation for the fiscal year, five sixty-sixthsof the amount to be paid for the fiscal year in respect of "Capital, Agreed Upon Assets" set out in Table 1 of Schedule B to the first fiscal financing agreement and adjusted in accordance with the provisions of that Schedule.

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- (4) Despite anything to the contrary in this Act, the regulations or any other Nisga'a Lisims enactment, if the Executive considers that the capital finance commission has failed to fulfil any of its purposes, to exercise any of its powers or authorities or to carry out any of its duties or responsibilities, the Executive, by written order given to the capital finance commission, may
- (a) prohibit the capital finance commission from making any further funding or other expenditure commitment in respect of the capital finance commission fund, or
 - (b) place limits or controls on any future funding or expenditure commitment, until the Executive determines that the capital finance commission's failure has been rectified to the Executive's satisfaction.

Division 2 – Housing Funds Standing Appropriations**Segregation and transfer of housing services funding**

- 140.** The portion of each net transfer by Canada to the Nisga'a Nation under a fiscal financing agreement that reasonably can be considered to have been paid in relation to the acquisition, construction and rehabilitation of residential housing for Nisga'a citizens on Nisga'a Lands
- (a) is a standing appropriation of Wilp Si'ayuukhl Nisga'a to the Nisga'a Villages, in the prescribed percentage for each Village, and must be shown in the budget of the Nisga'a Nation for the fiscal year as so appropriated for expenditure under the residential housing program in effect under Nisga'a law,
 - (b) must on receipt be segregated by the director from the balance of the net transfer, and
 - (c) subject to any terms and conditions established by the commissioners of the Nisga'a Capital (New Asset) Finance Commission in respect of payments under the residential housing program in effect under Nisga'a law, must be paid, by the director, under that program to or for the benefit of the Nisga'a Villages or a housing services provider designated in writing by a Nisga'a Village.

Transfers directed to a housing services provider

- 141.** The Executive may make regulations prescribing percentages for the purposes of section 140(a).

Division 3 – General Commercial Fishery Standing Appropriations and Trust**Segregation and application of Schedule G amounts**

- 142.** (1) The amount remaining from the payments made to the Nisga'a Nation under Schedule G to the Fisheries Chapter of the Nisga'a Treaty by Canada and British Columbia, respectively, must be
- (a) segregated by the director and kept separate from all other amounts paid by Canada to the Nisga'a Nation, and
 - (b) reserved for the purposes of the commercial fisheries fund.
- (2) Any income or gains derived in a fiscal year from any property reserved under this section must be
- (a) segregated by the director and kept separate from other amounts earned by the Nisga'a Nation, and
 - (b) reserved for the purposes of the commercial fisheries fund.
- (3) Subject to subsection (5), money reserved under this section must be expended by the Nisga'a Nation only
- (a) as approved by the Executive, and
 - (b) from appropriations made
 - (i) to enable the Nisga'a Nation to increase its capacity, in the form of commercial licences, or vessels and commercial licences, to participate in the general commercial fishery in British Columbia, or
 - (ii) for the operation of the commercial fisheries fund.
- (4) Any property acquired by the Nisga'a Nation under an appropriation referred to in subsection (3) must be reserved for the purposes of the commercial fisheries fund.
- (5) Despite section 45(2), money in the commercial fisheries fund that is not immediately required for the purposes of that fund may be invested by the Executive in loans or advances to another fund of the Nisga'a Nation, on terms acceptable to the Director of Finance.

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Transfer to other funds

143. Despite sections 45(2) and 142(2), if the amount of income or gains referred to in section 142(2) is greater than required, the Executive may direct the transfer of all or part of that amount to another fund established under this Act.

Trust establishment

144. If the Executive determines that establishing a trust consistent with section 142 would benefit the Nisga'a Nation, the Executive may
- (a) establish the trust, and
 - (b) settle any or all of the amounts in the commercial fisheries assets fund from time to time on the trustee of the trust.

Commercial fisheries program

145. If the Executive establishes a program under the *Nisga'a Business Development Fund Act* to enable the Nisga'a Nation to increase its capacity, in the form of commercial licences, or vessels and commercial licences, to participate in the general commercial fishery in British Columbia, it may expend all and any amounts in the commercial fisheries fund in accordance with that program.

Annual report

146. At the sitting of Wilp Si'ayuukhl Nisga'a at which approval by Wilp Si'ayuukhl Nisga'a of the audited financial statements for a fiscal year is first considered under section 40(2)(c), the Secretary-Treasurer must present a report of the Executive on the expenditures made under this Part during that fiscal year to Wilp Si'ayuukhl Nisga'a.

Division 4 – Lisims Fisheries Conservation Appropriation**Lisims Fisheries Conservation Trust**

147. (1) After consultation with the Executive and on the recommendation of the finance committee, the President may appoint trustees of the Lisims Fisheries Conservation Trust.
- (2) Other than the power to appoint trustees, the Executive may exercise all powers of the Nisga'a Nation, under the Lisims Fisheries Conservation Trust.

Division 5 – Capital Transfers Standing Appropriations**Segregation and application of capital transfers**

- 148.** (1) Despite anything else in this Act, the full amount of each capital transfer
- (a) must immediately on receipt be segregated by the director and kept separate from all other amounts paid by Canada or British Columbia to the Nisga'a Nation, and
 - (b) except to the extent that it is appropriated for other purposes, as soon as practicable but in any event no later than 90 days after receipt by the Nisga'a Nation, must immediately be settled by the director on behalf of the Nisga'a Nation on the trustees of the first Nisga'a settlement trust, or if required by the Executive, another Nisga'a settlement trust specified by the Executive.
- (2) Any income or gains earned from the investment of a capital transfer
- (a) while it is held by the Nisga'a Nation, must, as earned, be segregated by the director from, and not at any time co-mingled with, the capital transfer, and
 - (b) for greater certainty, must not be settled on a Nisga'a settlement trust.
- (3) The amounts referred to in subsection (1) settled on a Nisga'a settlement trust during a fiscal year are standing appropriations of Wilp Si'ayuukhl Nisga'a and must be shown as standing appropriations for settlement on a Nisga'a settlement trust in the budget of the Nisga'a Nation for the fiscal year.

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PART 10 – NISGA'A SETTLEMENT TRUST**Nisga'a settlement trust**

- 149.** The Nisga'a Nation must establish a Nisga'a settlement trust that is consistent with the requirements of the definition given for "Nisga'a settlement trust" in the Fiscal Relations Chapter of the Nisga'a Treaty.

Appointment of trustee

- 150.** A document establishing the Nisga'a settlement trust under subsection 149 must provide that the trustee be appointed by persons elected to Nisga'a Lisims Government.

Annual public report

- 151.** Annual financial statements of a Nisga'a settlement trust that have been provided to the Nisga'a Nation must be made available for inspection during reasonable business hours at the principal administration office of the Nisga'a Nation by a Nisga'a citizen, upon request to the Chief Executive Officer.

PART 11 – NISGA'A BUSINESSES**Prohibited, and permitted, businesses**

- 152.** (1) Except as otherwise provided in this Act or the regulations, the Nisga'a Nation, a Nisga'a Village and a Nisga'a Institution must not
- (a) carry on a business as a proprietor or trustee,
 - (b) acquire any interest in a partnership as a general partner, or
 - (c) act in the capacity of trustee in respect of any property used or held in the course of carrying on a business.
- (2) As permitted by the Executive for the Nisga'a Nation or as permitted by a Nisga'a Village Government for the Nisga'a Village, a Nisga'a Institution may engage in a business that
- (a) is ancillary or incidental to the provision of programs or services, or other functions of government,
 - (b) is not a trade or business engaged in primarily for the purposes of profit, and in the opinion of the Executive at any particular or future time, cannot result in any material liability or otherwise expose the property or resources of the Nisga'a Nation or the Nisga'a Village to any material risk, or
 - (c) derives income from the granting of a lease or license in, or in respect of,
 - (i) an interest in, or resources on or under, Nisga'a Lands, Category A Lands or Category B Lands,
 - (ii) any right of the Nisga'a Nation referred to in the Fisheries Chapter of the Nisga'a Treaty, or
 - (iii) any other property of the Nisga'a Nation or a Nisga'a Village.

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PART 12 – NISGA'A NATION DIRECTED ADMINISTRATION**Transfer of administration**

- 153.** (1) On receipt of information that it deems to be evidence of oversight, management or control of the financial affairs of a Nisga'a Village by a Nisga'a Village Government that
- (a) has resulted, or may result, in the Nisga'a Nation being in default under the Nisga'a Treaty or a fiscal agreement with a senior government,
 - (b) has impaired, or may impair, the Nisga'a Nation or a Nisga'a Village in its ability to obtain credit,
 - (c) has caused, or may cause, the Nisga'a Nation or a Nisga'a Village to be unable to meet its financial obligations as they become due, or
 - (d) has caused, or may cause, the Nisga'a Nation or a Nisga'a Village to be unable to meet its programs or services responsibilities under the *Nisga'a Programs and Services Delivery Act*, or any other Nisga'a Lisims enactment,
- the Executive may provide a report to Wilp Si'ayuukhl Nisga'a on that information and request it to consider exercising its powers under subsection (2).
- (2) Despite anything to the contrary in this Act, the regulations or any other Nisga'a Lisims enactment, if Wilp Si'ayuukhl Nisga'a receives a report and a request under subsection (1), it may by resolution or Nisga'a Lisims enactment
- (a) suspend any or all authority of the Nisga'a Village Government in respect of
 - (i) the oversight, management or control of any or all matters relating to the financial affairs or property of the Nisga'a Village under this Act, the regulations or any other Nisga'a enactment, and
 - (ii) the delivery of programs or services under the *Nisga'a Programs and Services Delivery Act*,
 - (b) appoint a receiver for, or make the Executive, or any person, responsible for
 - (i) the oversight, management and control of the financial affairs or property of the Nisga'a Village, or
 - (ii) the delivery of programs or services under the *Nisga'a Programs and Services Delivery Act*,

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- in place of the Nisga'a Village Government and any of its Nisga'a Village Institutions and for the rectification, to the extent reasonably possible, of the conditions that led to the report and request under subsection (1),
- (c) suspend any requirements of this Act, the regulations or any other Nisga'a Lisims enactment as it deems necessary to enable the Executive or any person to perform the responsibilities assigned to them under paragraph (b),
 - (d) pay any amounts that are appropriated or become payable to the Nisga'a Village or any of its Nisga'a Village Institutions under this Act, the regulations or any other Nisga'a Lisims enactment to any person to which the Nisga'a Village or any of its Nisga'a Village Institutions is indebted, that the Executive, or any person referred to in paragraph (b), determines to be appropriate in the circumstances, and
 - (e) require the Nisga'a Village Government to take any actions in respect of the oversight, management or control of the financial affairs or property of the Nisga'a Village to ensure that the conditions that led to the report and request under subsection (1) permanently cease to exist.
- (3) When a resolution or Nisga'a Lisims enactment under subsection (2) is in effect, the Executive may enact any laws, make all such regulations and enter all such agreements in the name of the Nisga'a Village, and do all other things as the Executive considers necessary or appropriate to enable it or any person referred to in subsection (2)(b) to rectify the conditions referred to in subsection (1).
- (4) The Nisga'a Nation is not liable to a Nisga'a Village for any thing done or omitted to be done by the Nisga'a Nation, the Executive or any person referred to in paragraph (2)(b) under, or as permitted under, subsections (1) to (3).

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PART 13 – OWN SOURCE REVENUE**Own source revenue legislation**

- 154.** The Executive may prepare and recommend to Wilp Si'ayuukhl Nisga'a for its consideration draft Nisga'a Lisims legislation that, if enacted, will impose obligations on the Nisga'a Nation, Nisga'a Institutions, Nisga'a Villages, Nisga'a Urban Locals, Nisga'a settlement trusts and Nisga'a government corporations, in respect of the determination, adjustment, payment or collection of amounts that enable the Nisga'a Nation to recover from those entities all amounts in respect of Nisga'a Nation own source revenue capacity that arise under the Nisga'a Treaty or an own source revenue agreement from acts or omissions of those entities, together with appropriate interest, charges, levies, fees and penalties in respect of the administration, collection, and payment thereof by the Nisga'a Nation.

PART 14 – GENERAL**Existing Obligations**

- 155.** For greater certainty, nothing in this Act or the regulations limits or otherwise affects the vesting of rights, titles, interests, assets, obligations or liabilities in a Nisga'a Village or the Nisga'a Nation on the effective date under section 11 or 13 of the *Indian Act* Transition Chapter of the Nisga'a Treaty.

Regulations

- 156.** The Executive may make regulations that it considers necessary or advisable for purposes of this Act.

Repeal and replacement

- 157.** The *Nisga'a Financial Administration Act*, NLGSR 2000/08, is repealed and replaced by this Act.

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LEGISLATIVE HISTORY

Nisga'a Financial Administration Act, NLGSR 2007/09, in force July 19, 2007

Amendments

Section	Amendment	In Force
42	repealed and replaced [2008/17, s. 1]	October 29, 2008
44	(1)(l) amended [2008/02, s. 1]	September 30, 2008
145	amended [2008/02, s. 2]	September 30, 2008

Amending Acts:

NLGSR 2008/02

Nisga'a Financial Administration Amendment Act No. 1, 2008

NLGSR 2008/17

*Nisga'a Financial Administration Amendment Act No. 2, 2008***Regulations:**