

# **Northern Development Initiative Trust**

**Independent Legislative Review of the  
Northern Development Initiative Trust Act 2004**

**REPORT OF THE LEGISLATIVE REVIEW COMMITTEE  
Ron Fichtner, Deanna Randall, Rob van Adrichem**

**October 7, 2011**

**Prepared for the Legislative Review Committee by Roxanne Yanishewski**

## TABLE OF CONTENTS

<b>A. Executive Summary</b>	<b>3</b>
i. Background	
ii. Recommendations	
<b>B. Introduction</b>	<b>5</b>
i. Requirement for Legislative Review	
ii. Background to the Act	
iii. Northern Development Outcomes To Date	
<b>C. Recommendations</b>	<b>7</b>
i. Sustainability	
ii. Governance	
iii. Inclusiveness	
iv. Strategic Areas for Investment	
v. Performance Measures	
vi. Reporting	
<b>Appendices:</b>	
1. Legislative Review Committee: Context	13
2. Creation of the Legislative Review Committee	14
3. Biographies of Legislative Review Committee members	19
4. Terms of Reference for Legislative Review Committee	20
5. List of Consultees	23
6. Northern Development Initiative Trust Act	24

## **A. EXECUTIVE SUMMARY**

### **i. Background**

The Northern Development Initiative Trust (“Northern Development”) was established in 2004 pursuant to the *Northern Development Initiative Trust Act* (the “Act”). On or before its fifth anniversary, Northern Development was required under the Act to appoint an independent committee to review the Act and evaluate how it is functioning. A five year performance review was posted on the website in November 2010, but this additional process and report is being undertaken to provide additional certainty of an independent review.

The Legislative Review Committee (the “committee”), consisting of three members and a facilitator, was empowered under the Act to undertake appropriate consultations as part of the process. Consultations were conducted to gain a better understanding of Northern Development and its functioning, and its experience with the benefits and limitations of the Act.

### **ii. Recommendations**

The results of the review raised a number of issues either with the functioning of the Act or Northern Development. Generally, Northern Development’s funds have been managed in such a manner that they have been sustained. Modifications to the Act and additional efforts by the Board of Northern Development would assist the Board in continuing to sustain Northern Development’s capital while meeting all relevant legislation.

During its brief history and for various reasons, Northern Development has experienced difficulty in maintaining continuity and key competencies on its board. Modifications to the Act and a greater effort by the Government of BC in appointing its board members in a timely and considerate manner would assist in addressing this. In addition, the committee noted that the extraordinary commitment required by the Chair of the Board and recommends remuneration for anyone holding this position.

The committee considered the issue of enhancing the representation of local First Nation communities in Northern Development’s governance and recommends that the Act be amended to accommodate this. The committee also strongly encourages local MLAs and MPs to regularly participate in Northern Development’s Regional Advisory Committees.

In its efforts to support economic development in central and northern BC, Northern Development has identified additional areas of investment not currently included in the Act. In particular, these should be expanded to include commercializing intellectual property and financially supporting applied research.

Northern Development has been entrusted with a significant amount of capital and appears to have managed it in a responsible and sustainable manner. To this end, Northern Development might benefit from regular auditing by the Province, as well as being measured against broad performance standards, such as job creation, leveraging funds, sustaining capital (inflation adjusted), and supporting investment for economic outcomes.

Northern Development's board relies on the results reported in the annual report to prepare the strategic plan and goals for the coming year. However, the Act currently does not support the timing of the preparation of these reports and should be modified accordingly. Finally, while Northern Development reports to the public about its goals and results, these could be presented in a more direct comparison for the public.

## B. INTRODUCTION

### i. Requirement for Legislative Review

The Northern Development Initiative Trust (“Northern Development”) was established in 2004 pursuant to the *Northern Development Initiative Trust Act* (the “Act”). The primary objective of the Northern Development Initiative Trust is to be a catalyst to build a diverse and sustainable central and northern BC economy.

Pursuant to Section 23.1 of the Act, on or before the fifth anniversary of the establishment of the Northern Development Initiative Trust, a committee was to be appointed by the Board of Northern Development Initiative Trust to review the Act and evaluate how it was functioning. The text of the Act is set out in **Appendix 6** on page 24. To this end, a committee was formed and a five year review was posted on the website in November 2010, but this additional process and report is being undertaken to provide additional certainty of an independent review.

The context for the creation of the legislative review committee (the “committee”), the scope of the review, the biographies of the committee members, and the terms of reference for the committee are all set out in the appendices to this report.

The committee must publish a report of its findings in a manner that can reasonably be expected to bring the report to the attention of the public.

Based on the results of consultation and its own review of the Act, as well as a review of Northern Development’s performance reviews, annual reports and strategic plans, the committee has evaluated the extent to which the Act has functioned to enhance or impede the successful implementation of the Northern Development’s primary objective to be a catalyst to build a diverse and sustainable central and northern BC economy. The committee’s recommendations are set out in **Section C** on page 7.

### ii. Background to the Act

The background information set out below is intended to provide additional context to the committee’s recommendations.

#### *Provincial objectives*

When the draft legislation was introduced into the Provincial Legislature, the government outlined a number of its objectives for Northern Development<sup>1</sup>. Those objectives included:

---

<sup>1</sup> Hansard, October 18 and 19 2005: <http://www.leg.bc.ca/hansard/38th1st/h51018a.htm#840>,  
<http://www.leg.bc.ca/hansard/38th1st/h51019p.htm#934>.

- Supporting strategic investments in regional priorities to increase economic growth and create more jobs.
- Providing as broad a scope as possible to the range of activities that fall within the strategic areas for economic development set out in the Act.
- Giving communities control over the Trust fund to pursue their regional priorities for regional benefit.
- Supporting regional collaboration between communities for mutual advantage.
- Achieving a multiplier effect from the original \$50 million through leveraging matching capital from other sources.

The government also stated that it wished to afford Northern Development complete freedom to determine how trust moneys should be allocated, without government direction or interference, and to set its own operational and funding policies.

The Act was therefore drafted broadly and with minimal prescription as to how Northern Development moneys are to be spent. Section 18 of the Act simply describes the purpose of the Northern Development as being to support investment in the legacy area (the Cariboo-Chilcotin/Lillooet region, the Northwest region, the Peace region, and the Prince George region) in forestry, pine beetle recovery, transportation, tourism, mining, Olympic opportunities, small business, economic development, energy, and agriculture.

### **iii. Northern Development Outcomes To Date**

In its current Strategic Plan, Northern Development states that its primary goal is to directly and through leveraged investment, bring between \$1 and \$2 billion into communities of the region to aid in realizing their economic potential by 2020, and to have a sustainable base of \$185 million to do it again every decade.

Northern Development's 2010 Annual Report states that it was initially endowed with \$185 million in 2005 and that its current total balance at the end of December 31<sup>st</sup>, 2010 was 188.3 million. From inception to December 31<sup>st</sup>, 2010, it has disbursed \$75.6 million and leveraged over \$942 million in funding to the region from other sources. 4,328 jobs have been created through Northern Development-funded projects.

General economic development initiatives have been the largest sector for investment to date, with more than \$42 million allocated. Transportation has received over \$12 million. Forestry and Tourism have each received over \$9 million. Olympic opportunities have received over \$5 million. Small business, Pine Beetle recovery, mining, agriculture, and energy have received between \$1.8 and \$3.2 million.

## C. RECOMMENDATIONS

### 1. Sustainability

- a. Protect Capital - The *Northern Development Initiative Trust Act*, S.B.C. 2004, ch.69, as amended (the “Act”), has created a pool of funds with some properties of an endowment. However, it is not a true endowment in that a predictable income is not the main role of the capital. Rather, it serves as a pool of funds that can be drawn down to depletion by the Northern Development Initiative Trust (the “Northern Development”). It appears to be the objective of the current board of Northern Development to manage the capital of the trust sustainably. This could, under a different board, or in a different political climate, change. While the ability to draw down Northern Development’s capital or to make Northern Development insolvent is consistent with the Act, it is not consistent with the functioning of a corporation. This lack of certainty could make it difficult for Northern Development to enter into longer-term agreements. The committee recommends that Northern Development be provided with greater security of its capital by adding a section to the Act to give a general direction that the board of directors will manage funds in the Cross-Regional Account to provide a sustainable stream of income.
- b. Investment Principles - Under Section 20 of the Act, Northern Development is required to invest the monies initially allocated to it and any other money in the accounts established under this Act “...only as permitted under the provisions of the *Trustee Act* respecting the investment of trust property by a trustee.” The applicable sections of the *Trustee Act* are set out below:

#### **Investment of trust property**

**15.1** (1) A trustee may invest property in any form of property or security in which a prudent investor might invest, including a security issued by an investment fund as defined in the *Securities Act*.

(2) Subsection (1) does not authorize a trustee to invest in a manner that is inconsistent with the trust.

(3) Without limiting subsection (1), a trustee may invest trust property in a common trust fund managed by a trust company, whether or not the trust company is a co-trustee.

#### **Standard of care**

**15.2** In investing trust property, a trustee must exercise the care, skill, diligence and judgment that a prudent investor would exercise in making investments.

The committee recommends Section 20 of the Act be amended such that only the Operating Endowment Account funds remain subject to the investment standards of the *Trustee Act*, while the remaining funds managed by Northern Development be freed from these restrictions to allow greater latitude in Northern Development's investment policy. Northern Development has taken an innovative approach, (and one not anticipated perhaps by the legislation's drafters) in terms of encouraging economic development and job creation in the region. Northern Development has developed a program to identify certain projects that are worthy of funding but in which an institutional lender would generally be unwilling to participate. For these types of projects, Northern Development lends money at non-market interest rates to persons, societies, partnerships, corporations and cooperatives as opposed to issuing straight grants. The objective of these loans is to promote economic development as opposed to making an investment. This program has been successful; to date; the loans advanced are in good standing or have been repaid according to their terms. General Security Agreements have been taken for some loans.

Northern Development in one instance took a mortgage over land as security for a loan. If Northern Development decides to adopt the practice of taking a mortgage over land, it may be required to enrol under the *Mortgage Brokers Act*. We recommend that Northern Development or its employees be exempted from any requirement to register under the *Mortgage Brokers Act*.

- c. Preserve Capital – Previous fund managers of Northern Development's capital may have, at times, included derivatives in their investment strategies. Derivatives may not represent an investment following the prudent investor standard. The committee understands that the Board is in the process of adopting a policy that will exclude derivatives from their portfolio. The committee recommends that the Board periodically review the investment principles applied by their fund managers to ensure that they are comfortable with the risks inherent in those strategies. The committee also encourages the Board to consider creating an investment advisory committee populated by individuals with appropriate expertise.
- d. Maximize Capital – Northern Development consists of four regions. Each of these regions, prior to the establishment of Northern Development's board and management, developed a different model for allotting its share of the available funds. These models vary along a continuum ranging from one large pool of funds shared by all of the communities in that region to each community having an independent pool of funds (relative to its population) from which to draw. The former model requires a high degree of trust such that when a community has a worthwhile project, the other communities in that region will support its application for funding. It also results in greater flexibility in selecting projects and less restriction on the size of those ventures, thereby enhancing economic



impact. The latter model requires communities to restrict the size of their projects due to their limited capital and hence, reduces their economic impact. The committee recommends that the regional advisory committees establish a regular process of reviewing their fund management and allocation, with an eye to ensuring that regions have the greatest flexibility possible in both identifying and funding economic development projects that may affect multiple communities. The committee also encourages those RACs with subdivided funds to aggregate and repool their funds to facilitate maximizing regional economic development.

- e. Increase Capital – In its relatively short history, it appears that Northern Development has emerged as a service delivery model with various advantages: actual location within the region, established networks, knowledge of leveraging opportunities, and relationships with service providers and local governments. Other levels of government are recognizing the benefits of the Northern Development model. For example, the federal government has contracted with Northern Development to deliver its Community Adjustment Fund (\$30 million) and the New Relationship Trust has for the past two years contracted with Northern Development to deliver a grant writing support program (\$250,000) across the province. The committee recommends that the Government of BC recognize the vehicle it has available for delivering programs related to regional development.

## **2. Governance**

- a. Continuity – During its brief history, Northern Development has experienced difficulty in maintaining continuity on its board. This has been caused by several factors. First, as per Section 8 of the Act, because eight of its members are appointees from the pool of elected representatives in each regional advisory committee (RAC), up to eight of those members may be replaced when municipal elections take place. As municipal elections take place on the same date for each community represented within all four RACs, it is possible that all eight board appointees will be replaced at the same time. In fact, this has occurred, exposing the Board to possible dysfunction. Second, the two year term for board members representing RACs does not align with the three year term of elected community officials. This gives board members, especially those appointed by their RAC, a very short period in which to become acquainted with the functioning of the Board and then contribute in an active manner. Third, provincially appointed board members have terms of three years, allowing for little flexibility in term lengths. Finally, the Act is silent on renewing terms of board members. The committee recommends that these issues be partially addressed by modifying Section 6 of the Act to allow the terms of all of the directors to be renewed. The committee also recommends that provincial appointee terms be changed to match those of Crown corporations, i.e., the first

term is one year, which can then be renewed for two years, which can then be renewed for three years (for a maximum of six years).

- b. Membership – Over its short life, the Board has struggled to maintain key competencies of chairmanship, along with legal, financial, and communication knowledge and experience. The five Order in Council (OIC) appointees (Section 8) provide the opportunity to ensure that at least some board members are proficient in these key areas. The committee recommends that in selecting Northern Development Board members, the Government of BC must ensure all five positions are filled and those selected have as many of the following core competencies as possible: chairmanship, legal, financial, communication, diversity, and regional knowledge.
- c. Remuneration – Most board members appointed by their RAC have an excellent record of dedication to Northern Development and attendance at regular and extraordinary board meetings. The Chair of the Board, in particular, makes an extraordinary commitment due to extra responsibilities that can take up to an additional twenty-five days per year. Given Northern Development’s financial resources, the committee recommends that the Chair receive remuneration for his or her preparation for and attendance at board meetings and Section 11 of the Act be amended accordingly. Remuneration could be equal to remuneration provided for level 3 organizations as set out in the Provincial Treasury Board Directive, dated December 16, 2010 or level three as per the guidelines for College Board members.

### **3. Inclusiveness**

- a. First Nations – Throughout its brief history, Northern Development has sought and been unable to retain, until recently, strong First Nation governance representation on its board. This has had to come through an Order in Council appointment. The RACs are unable to include any direct First Nation representation due to the wording of Section 3 of the Act, which allows for only “elected officials of municipalities or regional districts...” Hence, there is no opportunity for participation by the elected leaders of Aboriginal communities. This is unfortunate, as local First Nations have the potential of making a significant impact on the economy and play leadership roles in the region. Subject to repooling of funds as per our recommendation in 1d (Maximize Capital), the committee recommends that Section 3 of the Act be amended to include elected representatives from unincorporated communities, which would allow the RACs to include local aboriginal communities. Including elected aboriginal representatives on local RACs creates the possibility of elected aboriginal representatives becoming Northern Development board members through the RACs. If and when First Nation communities are included, new

funds would need to be introduced, particular in those RACs where funds have been distributed by municipality to avoid further dilution of municipal accounts.

- b. Members of Parliament – The committee has been informed that it has been beneficial to have MLAs participating in their local RACs. Specifically, MLAs have been able to provide invaluable assistance by educating RAC members about the existence and functioning of the Provincial ministries and programs. In return, RAC members have direct access to their MLAs to keep them better informed of the economic development issues within their constituent communities and regions. The committee noted that a similar exchange of information between the regions and their Members of Parliament would likely also be beneficial, especially given that a number of regional economic issues, such as trade policies and ports fall within federal jurisdiction. Moreover, the Northern Development has been an effective vehicle for disbursing federal government funds. The committee recommends that Section 3 of the Act be amended to include regional Members of Parliament, and that these members be invited and strongly encouraged to participate, if even by teleconference, in their local RACs as a means of further integrating the federal government in developing the economic vitality of the local regions. Like MLAs, MPs should also be restricted from being appointed as directors of Northern Development (Section 6 (6)). The committee also recommends that MLAs be encouraged to make their attendance at RAC meetings consistent.

#### **4. Strategic Areas for Investment**

- a. Because it is a vehicle to support economic development in central and northern BC, Northern Development has identified additional areas for investment not currently included in Section 18 of the Act. The committee recommends that Section 18 of the Act be amended to describe “economic development” as the primary focus of the Northern Development and that examples be listed below, such as forestry, etc. This list of examples should also include facilitating the commercialization of intellectual property and financially supporting applied research. Any amendment to Section 18 should also include removing the category of “Olympic opportunities”.

#### **5. Performance measures**

- a. During its six years of existence, Northern Development has been entrusted with a significant amount of capital and appears to have managed it in a responsible and sustainable manner. In addition, it has received funds from sources other than the provincial government, for example, the federal government and the New Relationship Trust. Northern Development has developed policies and procedures to manage its funds, programs, and operations. It develops a three year strategic plan and an annual work plan, conducts annual audits, and

publishes annual reports. The committee believes that it is important that Northern Development be held accountable for its management of the funds with which it is entrusted. To this end, it recommends that auditing by the Province take place regularly and that these results be reviewed with Northern Development and then made available to the public. Furthermore, Northern Development might also benefit from being measured against broad performance-based expectations or standards as a means of determining its success. These standards could include measures such as job creation, leveraging funds, sustaining capital (inflation adjusted), and supporting investment for economic outcomes. These performance measures should drive Northern Development's communication strategy.

## **6. Reporting**

- a. Report timing - Section 12.2 of the Act requires that the Board prepare an annual report within four months after the end of the fiscal year of Northern Development. Section 12.1 stipulates that the Board prepare a three-year strategic plan with goals for each year before the end of Northern Development's fiscal year. Given that the Board relies on the results reported in the annual report to prepare the strategic plan and goals for the coming year, the Board is unable to meet the deadline for the strategic plan as specified in Section 12.1. The committee recommends that Section 12.1 be modified to allow the strategic plan with its annual goals to be prepared within six months after the end of Northern Development's fiscal year.
- b. Reporting information - Sections 12.2 (a) (i) and (ii) of the Act require the Board to annually report on the goals set by the directors, indicate how, if at all, those goals were met, and compare the actual results of the preceding year with the expected result of that year's strategic plan. While a form of this comparison is available to the public, the committee believes that a more direct comparison of Northern Development's goals and results would be more in keeping with the Act and more informative for the public. Given its importance in achieving transparency, the committee recommends making such a comparison readily available to the public.

## **APPENDIX 1: LEGISLATIVE REVIEW COMMITTEE: CONTEXT**

### **i. Selection of Legislative Review Committee members**

**Appendix 2** comprises a summary by Northern Development of the process for creation of the Legislative Review Committee (the “committee”) and appointment of members. Brief professional biographies of each committee member, all of whom are qualified individuals as defined in Section 1 of the Act, are set out in **Appendix 3**.

### **ii. Terms of Reference**

The terms of reference adopted by the committee are set out in **Appendix 4**. Also in accordance with the guidelines referred to above, those terms of reference will be made public by Northern Development on its website.

### **iii. Scope of Review**

As per Section 23.1 of the Act, the primary focus of the committee was to review the Act and evaluate how it was functioning. The topics covered in the review process are set out in **Appendix 4**.

### **iv. Consultation**

Under Section 26 the committee was empowered to consult with business, labour, education providers, government and any other person or organization it considers appropriate. In determining who to select for this review process, the committee identified a list of individuals based on criteria that included knowledge and understanding of Northern Development, its work and its objectives, experience of working with the Act and Northern Development over the last five years and/or knowledge of the Act. The list of consulted individuals is set out in **Appendix 5**.

### **v. Comprehensive Organizational Review**

Northern Development advised the committee that during 2010 it completed a comprehensive five year performance review of the organization. The review committee responsible for this review consulted with a broader range of consultees including Northern Development funding recipients. This report was published in November 2010 and was available to the committee.

## **APPENDIX 2**

### **CREATION OF LEGISLATIVE REVIEW COMMITTEE (the “committee”)**

The following summary of the process that will be followed by Northern Development Initiative Trust in establishing the Legislative Review Committee (the “committee”) was prepared by the Northern Development Initiative Trust and will be provided to the committee. It will also be available on Northern Development Initiative Trust’s website at [www.northerndevelopment.bc.ca](http://www.northerndevelopment.bc.ca).

Section 10 of the Northern Development Initiative Trust Act requires the Board and the committee be guided by the *Governance and Disclosure Guidelines for Governing Boards of British Columbia Public Sector Organizations*, published by the British Columbia Board Resourcing and Development Office, and by the *Review of the Governance Framework for Canada’s Crown Corporations—Meeting the Expectations of Canadians*, published by the Treasury Board of Canada Secretariat. Evidence of compliance with governance guidelines is found at <http://northerndevelopment.bc.ca/about/strategic-plan>.

Both documents specify best practices for creation of committees, including process transparency, professional competency requirements, independence, and lack of material interest in Northern Development Initiative Trust functions.

### **Northern Development Initiative Trust INDEPENDENT LEGISLATIVE REVIEW: Summary of process for creation of the Legislative Review Committee**

#### **Requirement for Independent Legislative Review**

The Northern Development Initiative Trust is required under Section 23.1 of the Northern Development Initiative Trust Act (the Act) to undertake a legislative review no later than October 21, 2010 five years after the establishment of the Northern Development Initiative Trust. A five year review was posted on the website in November 2010, but this additional process and report is being undertaken to provide additional certainty of an independent review.

Under the Act, Northern Development Initiative Trust must appoint a committee of “qualified individuals” to review the Act and evaluate how it is functioning (the legislative review committee). The Legislative Review Committee (the “committee”) may consult with business, labour, education providers, government and any other person or organization it considers appropriate and must publish a report of its findings in a manner that can reasonably be expected to bring the report to the attention of the public.

### **Creation of Steering Committee**

On April 27<sup>th</sup>, 2011, the Board of Directors of the Trust appointed a Legislative Review Steering committee (Steering Committee), comprised of three board members, to oversee the legislative review process. The Steering Committee's mandate will end once the final Legislative Review Report is published.

The Board Members on the Steering Committee are:

1. Mayor Evan Saugstad (Chair)
2. Mayor Dan Rogers
3. Councillor Lori Ackerman

### **Mandate of the Steering Committee**

The responsibilities of the Steering Committee include (but are not limited to):

- Development of the process for the legislative review;
- Recruitment of qualified candidates for the Legislative Review Committee(the "committee");
- Reporting and making recommendations to the Board regarding the process and appointment of qualified candidates;
- Overseeing the committee and process to ensure compliance with the Act and that the process and draft report meets the standards set out in the *Governance and Disclosure Guidelines for Governing Boards of British Columbia Public Sector Organizations*, and *Review of the Governance Framework for Canada's Crown Corporations—Meeting the Expectations of Canadians*;
- Ensuring that the committee members' names and biographies, Terms of Reference and Final Report are published and available for public review;
- Reporting to the Board of Directors on the process;
- Liaison as required with the provincial government on the process.

### **The Process**

The Steering Committee has determined that this obligatory legislative review will be conducted within the larger context of a voluntary governance review completed in April 2011, a client service review completed in January 2011 and a consultative five year performance review published November 2010.

The committee of three to four "qualified individuals" will be recruited by the Steering Committee and appointed by the Trust Board of Directors to direct the legislative review. These individuals will be selected for their professional qualifications and capability to understand and review legislation, as well as their track record of working effectively, collaboratively and efficiently in a team or committee setting.

It is expected that the committee will carry out appropriate consultations to ensure a balanced view of any issues related to the legislation. The committee is supported by a consultant hired to assist them in the development of their Terms of Reference, to carry out the required consultations and to draft the final report as per the committee's direction. A biography of consultant Roxanne Yanishewski is attached to this summary.

### **The Legislative Review Committee (the "committee") Selection and Appointment Process**

The Act requires that the Trust appoint a committee of "qualified individuals" to review the Act and evaluate how it is functioning. The definition of "qualified individuals" in the legislation is as follows:

**"qualified individual"** means an individual who is not

- a) an elected official of a municipality or regional district,
- b) a Member of the Legislative Assembly,
- c) an employee of the government
- d) a member of the board of directors of the Northern Development Initiative Trust,
- e) a member of a regional advisory committee, or
- f) a person who is
  - i) the spouse, parent or child of any individual referred to in paragraph d) or e)
  - ii) any other relative residing with that individual

All committee members will be qualified individuals.

The Directors of the Trust will also, in appointing the committee, be guided by the guidelines set out in the following documents:

- a) *The Governance and Disclosure Guidelines for Governing Boards of British Columbia Public Sector Organizations* published by the British Columbia Board Resourcing and Development Office;
- b) *The Review of the Governance Framework for Canada's Crown Corporations—Meeting the Expectations of Canadians* published by the Treasury Board of Canada Secretariat.

Those best practices guidelines require that the committee be comprised of individuals with combined professional competencies and personal attributes to do the job assigned to them. They must be independent of Northern Development Initiative Trust and have no material interest in Northern Development Initiative Trust's functions. Their appointment must be competency based, transparent and professional. The composition of the committee, their biographies and their names must be published, as must the process for appointing them and any remuneration. The Terms of Reference



must also be published, as must the committee's termination date, the purpose of the committee, and their working procedures.

The Steering Committee must be satisfied that Northern Development Initiative Trust has fully complied with these best practices. All relevant information will be available in a public summary.

### **Criteria for Selection of Legislative Review Committee (the "committee") Members**

The following criteria for the recruitment and appointment of candidates to the committee will be considered:

1. Legal training or experience working with legislation;
2. Knowledge of, or experience working with, organizations governed by legislation;
3. Knowledge of the Northern Development Initiative Trust mandate area and economic development initiatives within the area;
4. Arms' length from Northern Development Initiative Trust staff, Board and funded projects;
5. Strong professional reputation and credibility of the candidate;
6. Ability to work as a team, at arms' length and independently of Northern Development Initiative Trust or any other influence, and
7. Ability to direct process, analyze information and make credible, independent recommendations.

The Steering Committee will shortlist a number of candidates and will invite them to form part of the committee. The candidates were individually contacted by Northern Development Initiative Trust staff, provided with information about the process, estimated time requirements and terms of reimbursement of expenses. Following a short telephone interview and verification that the candidates met all of the requirements of the Board and legislation, they were invited to participate in the committee.

The three to four candidates will then be formally appointed by the Board of Directors of Northern Development Initiative Trust, after confirming that the process and qualifications of the candidates comply with the legislation, the *Governance and Disclosure Guidelines for Governing Boards of British Columbia Public Sector Organizations*, the *Review of the Governance Framework for Canada's Crown Corporations—Meeting the Expectations of Canadians* as well as the additional criteria set by the Trust.

### **Legislative Review Committee (the "committee")**

The role of the committee will be to develop and approve the terms of reference for the legislative review process, steer the process and ensure that the necessary research and consultations are undertaken to meet the requirements of the legislation. They will be expected to provide strategic direction and guidance to the consultant hired to assist

them with the process. Finally, the committee will be required to analyze the results of the research and consultations and make recommendations regarding the legislation.

The Terms of Reference developed by the committee will be available on Northern Development Initiative Trust's website for further details on the process and scope of the review.

Committee members receive, for meeting attendance, a pro-rated *per diem* expense reimbursement of up to \$350.00, in addition to the reimbursement of eligible travel expenses or other expenses not covered by the *per diem*.

On publication of their Final Report, the committee will be terminated.

### **Publication of the Report**

In addition to the publication of this Summary of the Process, committee member biographies and the Committee Terms of Reference, the Trust is committed to publishing the final report and recommendations as presented by the committee. These documents will be made available for public viewing on the Northern Development Initiative Trust website.

### **Biography: ROXANNE YANISHEWSKI, Consultant**

Ms Yanishewski graduated with a BA from the University of Alberta and an MA from the University of Victoria. She has accumulated more than fifteen years' experience in working with industry, crown agencies, and communities, including First Nations, to facilitate relationships; assist in negotiating agreements on matters of common interest; provide strategic advice; undertake policy development and analysis, organizational review and compliance monitoring; and support communications needs and initiatives. Ms. Yanishewski brings a strong background in conflict resolution and problem solving, strategy and risk management, negotiation, facilitation, and project management. She has worked in British Columbia and Alberta, including several years as the manager of Aboriginal Affairs for Canadian Forest Products Ltd.

### **APPENDIX 3**

#### **BIOGRAPHIES OF LEGISLATIVE REVIEW COMMITTEE MEMBERS**

##### **RON FICHTNER FCA, Partner, Deloitte Touch**

Prince George Audit partner Ron Fichtner was honoured when the Institute of Chartered Accountants of British Columbia named him a Fellow of the Institute of Chartered Accountants (FCA) after nearly 30 years in the profession. Election to the Fellowship is granted to CAs whose outstanding career achievements and leadership contributions to the community are a tribute to their profession. Ron joined Deloitte after graduating from the University of British Columbia in 1976, earned his CA designation in 1979, and became a partner in 1990. Within his role as an audit partner, Ron has developed a specialization in GST, working closely with Vancouver's commodity tax practice. Ron is retiring as a partner in 2011.

##### **DEANNA RANDALL LLB, Associate, Wilson, King and Company**

Deanna began working at Wilson King LLP in 2000. She works in the area of wills and estates, corporate and commercial law, creditors' remedies and legal matters concerning land. Deanna grew up in Prince George and enjoys exploring trails in and around the City. Deanna is a member of the Canadian Bar Association and an occasional speaker on matters concerning estate planning.

##### **ROB VAN ADRICHEM, Vice President of External Relations, UNBC**

Rob oversees the Office of External Relations, which includes the Office of Communications, and has played a key role in fostering UNBC's profile over his 17 years at the University. Rob earned a UNBC bachelor's degree while working full-time and recently completed his Master's degree in Political Science.

## **APPENDIX 4**

### **TERMS OF REFERENCE FOR LEGISLATIVE REVIEW COMMITTEE**

Adopted June 10 2011

#### **A. Purpose and Role of the Legislative Review Committee (the “committee”)**

The Northern Development Initiative Trust was established in 2004 pursuant to the *Northern Development Initiative Trust Act* (the “Act”), with the purpose of investing in the central and northern BC Area (as defined in the Act) in the areas of forestry, transportation, tourism, mining, Olympic opportunities, small business, economic development, energy, pine beetle, and agriculture. The primary objective of the Northern Development Initiative Trust is to be a catalyst to build a diverse and sustainable central and northern BC economy.

Pursuant to Section 23.1 of the Act, on or before the fifth anniversary of the establishment of the Northern Development Initiative Trust, a committee must be appointed by the Board of Northern Development Initiative Trust to review the Act and evaluate how it is functioning.

The committee may consult with business, labour, education providers, government and any other person or organization it considers appropriate. It must publish a report of its findings in a manner that can reasonably be expected to bring the report to the attention of the public.

#### **B. Scope of Review**

##### *Objectives of review:*

The primary objective of the review is compliance with Section 23.1 of the Act. The results (including both barriers and assets to effective performance identified by the committee in their evaluation of how the Act is functioning) will also be taken into consideration in the comprehensive review process by the Board.

##### *Consultation:*

The committee will identify appropriate individuals and organizations with which to consult on the functioning of the Act. The key criteria for selection of those individuals and organizations will be knowledge and understanding of Northern Development Initiative Trust, its work and its objectives, and/or experience of working with the Act and Northern Development Initiative Trust over the last five years.

##### *Recommendations:*

The committee will make recommendations for changes to the Act that appear to the committee to be necessary or desirable to support or improve the effective functioning of the Act and of Northern Development Initiative Trust.

*Publication of review report:*

The committee will, in consultation with Northern Development Initiative Trust staff and the Legislative Review Steering Committee, determine an appropriate method of publication of its report in a manner that can reasonably be expected to bring the report to the attention of the public.

**C. Matters to be addressed in Review**

Without limiting the scope of its review and the evaluation of the functioning of the Act, the committee will address the following matters:

*Governance:*

1. *Board:* The composition of the Board of Northern Development Initiative Trust, term of office, and proceedings (clauses 6—10);
2. *RACs:* The composition of regional advisory committees (RACs), term of office, and proceedings (clauses 2—4); regional divisions and structures (clauses 2, 3); and role (clause 19).

*Core purposes:*

Scope and validity of strategic areas for investment (clause 18)

*Finance and administration:*

Limit on total allocation to Northern Development Initiative Trust (clause 13.1); requirement to pay interest and donations into Regional and Cross Regional Accounts (clauses 15, 16, 20); Operating Endowment Account (clause 17); appointment and authorities of staff (clauses 10.1, 10.2); winding up provisions (clause 21.1); review requirements (clause 23.1).

*Public accountability:*

Strategic planning process (clause 12.1); annual reports (clause 12.2); audit requirements (clause 12.3).

*General:*

Flexibility and transparency of the Act; aspects of the Act that have supported or been barriers to the objectives of the Northern Development Initiative Trust; aspects of the Act that have supported or been barriers to the operational efficiency and capacity of Northern Development Initiative Trust to meet its primary objective to be a catalyst to build a diverse and sustainable central and northern BC economy.

Responses obtained in the consultation process that are not pertinent to the legislative review, but which may be useful in the context of the comprehensive review, will be provided separately to Northern Development Initiative Trust.

## **D. Process: Duties and Procedures**

### *Procedures:*

Northern Development Initiative Trust will:

- Provide administrative support for the committee, including preparation and distribution in advance of agendas for meetings, arranging locations for meetings, distribution and maintenance of decision records, publication of the final report and other reasonable administrative support as required.
- Ensure that the consultant has the necessary materials and documentation to support the committee.
- Liaise with the provincial government as required.

The consultant engaged by Northern Development Initiative Trust to assist the committee with the review process will:

- Record decisions of the committee;
- Provide information as required to the committee;
- Conduct the consultation process on behalf of the committee;
- Present the results of the process to the committee for review;
- Prepare a draft report and recommendations for the committee's review;
- Prepare the final report for committee approval prior to submission to Northern Development Initiative Trust.

The committee will:

- Operate on the basis of consensus. For the purposes of this committee, consensus is defined as no member opposing a final decision of the committee.
- Report to and liaise with the Legislative Review Steering Committee established by Northern Development Initiative Trust.
- Provide strategic direction and guidance for the consultant regarding the consultation process and the reporting content and format.
- Review draft reports.
- Attend a minimum of three and maximum of four meetings.
- Modify these terms of reference from time to time as considered necessary or desirable to meet the objectives of the legislative review.
- Use reasonable efforts to present a final report to Northern Development Initiative Trust for publication no later than July 2011.

**APPENDIX 5**  
**LIST OF CONSULTEES**

1. Janine North, Chief Executive Officer, Northern Development Initiative Trust
2. Evan Saugstad, Chair, Board of Directors, Northern Development Initiative Trust
3. Doug Foster, Director, Strategic Initiatives – Deputy Minister’s Office, Ministry of Finance

# APPENDIX 6

## NORTHERN DEVELOPMENT INITIATIVE TRUST ACT

### Contents

#### Part 1 – Interpretation

- 1 Definitions

#### Part 2 - Northern Development Initiative Trust

##### Division 1 – Regional Advisory Committees

- 2 Establishment of regional advisory committees
- 3 Composition of regional advisory committees
- 4 Procedures

##### Division 2 – Establishment and Structure of the Northern Development Initiative Trust

- 5 Northern Development Initiative Trust established
- 6 Directors of the Northern Development Initiative Trust
- 7 First directors of the Northern Development Initiative Trust
- 8 Subsequent directors
- 9 Vacancies among the directors
- 10 Proceedings of directors
- 10.1 Appointment of chief executive officer and chief financial officer
- 10.2 Officers and employees
- 11 Remuneration
- 12 Repealed

#### Part 2.1 – Public Accountability

- 12.1 Strategic plans
- 12.2 Annual reports
- 12.3 Audit

#### Part 3 – Allocations

##### Division 1 – Directions

- 13 Appropriation
- 13.1 Limit on the additional one-time allocation
- 14 Government may issue directions

##### Division 2 – Northern Development Initiative Trust

- 15 Management of accounts
- 16 Interest and other income on invested money
- 17 Operating Endowment Account
- 18 Purpose of other accounts
- 19 Regional advisory committees may advise on projects
- 20 Investments

#### Part 4 – General



21	<i>Balanced Budget and Ministerial Accountability Act</i>
21.1	Winding up
22	<i>Offence Act</i>
23	Power to make regulations
23.1	Review of this Act
24	Commencement

## Part 1 – Interpretation

### Definitions

#### 1 In this Act:

**"additional one-time allocation"** means any money, other than the northern development allocation, paid by the government to the Northern Development Initiative Trust;

**"B.C. Rail Benefits {First Nations} Trust"** means the B.C. Rail Benefits (First Nations) Trust established under the *B.C. Rail Benefits (First Nations) Trust Act*;

**"Cariboo-Chilcotin/Lillooet region"** has the meaning prescribed by regulation;

**"company"** means the British Columbia Railway Company;

**"Cross-regional Account"** means the account established under section 7 (3) (a) (vi);

**"legacy area"** means that area of British Columbia comprising the Cariboo-Chilcotin/Lillooet region, the Northwest region, the Peace region and the Prince George region;

**"northern development allocation"** means the \$135 million paid to the Northern Development Initiative Trust under section 13 (a);

**"Northern Development Initiative Trust"** means the Northern Development Initiative Trust established under section 5 (1);

**"Northwest region"** has the meaning prescribed by regulation;

**"Operating Endowment Account"** means the account established under section 7 (3) (a) (i);

**"Peace region"** has the meaning prescribed by regulation;

**"Pine Beetle Account"** means the account established under section 10 (1.1) (a);

**"Prince George region"** has the meaning prescribed by regulation;

**"proceeds"** means any money realized by the company

(a) from the disposition of shares held by it in a subsidiary, as that term is defined in the *British Columbia Railway Act*, or interests held by it in BC Rail Partnership, as that term is defined in the *British Columbia Railway Act*,

(b) under any revitalization agreement, as that term is defined in the *British Columbia Railway Act*, or

(c) from the investments of money referred to in paragraph (a) or (b);

**"qualified individual"** means an individual who is not

(a) an elected official of a municipality or a regional district,

(b) a Member of the Legislative Assembly,

(c) an employee of the government,

(d) a member of the board of directors of the Northern Development Initiative Trust,

(e) a member of a regional advisory committee, or

(f) a person who is

(i) the spouse, parent or child of any individual referred to in paragraph (d) or (e), or

(ii) any other relative residing with that individual;

**"region"** means the Cariboo-Chilcotin/Lillooet region, the Northwest region, the Peace region or the Prince George region;

**"regional advisory committee"** means a regional advisory committee established under this Act;

**"regional development accounts"** means the accounts established under section 7 (3) (a) (ii) to (v);

**"transaction"** means the disposition to Canadian National Railway Company of

- (a) shares of BC Rail Ltd. that are held by the company,
- (b) the shares of BC Rail Ltd. that are held by BCR Properties Ltd., and
- (c) the company's partnership interest in BC Rail Partnership.

## **Part 2 — Northern Development Initiative Trust**

### **Division 1 — Regional Advisory Committees**

#### **Establishment of regional advisory committees**

- 2 (1) There is established, for each region, a regional advisory committee comprising the following:
- (a) the mayors of each of the municipalities that
    - (i) is within the region, and
    - (ii) on the coming into force of this Act, has a population greater than 500;
  - (b) the chairs of each regional district that is, in whole or in part, within the region;
  - (c) the Members of the Legislative Assembly who have been elected, in whole or in part, by electors from the region.
- (2) The term of membership on a regional advisory committee for each individual referred to in subsection (1) expires on the earlier of
- (a) the date that is 6 months after the coming into force of this Act, and
  - (b) the date on which he or she ceases to hold the position referred to in subsection (1).
- (3) Within 6 months after the coming into force of this Act, each of the regional advisory committees must

(a) appoint 2 directors of the Northern Development Initiative Trust in accordance with sections 6 (2) (a) and 8 (1), and

(b) subject to section 3,

(i) determine the size of, and the manner of appointing members to, the regional advisory committee, and

(ii) determine the role of, and the manner of appointing, the chair of the regional advisory committee.

(4) On the coming into force of this Act, the following persons are the first chairs of the regional advisory committees:

(a) for the regional advisory committee for the Cariboo-Chilcotin/Lillooet Region, the mayor of Quesnel;

(b) for the regional advisory committee for the Northwest Region, the mayor of Terrace;

(c) for the regional advisory committee for the Peace Region, the mayor of Dawson Creek;

(d) for the regional advisory committee for the Prince George Region, the mayor of Mackenzie.

(5) The first chair of a regional advisory committee must call and chair the meeting or meetings necessary to allow that regional advisory committee to perform its obligations under subsection (3).

### **Composition of regional advisory committees**

**3** A regional advisory committee, whether under section 2 (3) (b) or otherwise, may from time to time determine the size of, and the manner of appointing members to, the regional advisory committee and the role of, and the manner of appointing, the

chair of the regional advisory committee, but in doing so the members of the regional advisory committee must

(a) ensure that the only persons who are eligible to become members of the regional advisory committee are

(i) elected officials of municipalities or regional districts that are, in whole or in part, within the region, or

(ii) Members of the Legislative Assembly who have been elected, in whole or in part, by electors from the region,

(b) provide an opportunity for municipalities or regional districts within the region that have populations of less than 500 to be represented on the regional advisory committee,

(c) establish the terms of office for members of the regional advisory committee, and

(d) ensure that if a member of the regional advisory committee ceases to meet the qualifications for membership set out under paragraph (a), that individual immediately ceases to be a member of the regional advisory committee.

#### **Procedures**

4 The members of a regional advisory committee must appoint one of their number as chair and may, subject to section 3, otherwise establish their own procedures.

## **Division 2 — Establishment and Structure of the Northern**

## **Development Initiative Trust**

### **Northern Development Initiative Trust established**

- 5 (1) There is established a corporation known as the Northern Development Initiative Trust consisting of the directors referred to in section 6.
- (2) The Northern Development Initiative Trust has the powers and capacity of an individual of full capacity.
- (3) The Northern Development Initiative Trust is not an agent of the government.

### **Directors of the Northern Development Initiative Trust**

- 6 (1) Directors of the Northern Development Initiative Trust must be appointed in accordance with this Division.
- (2) Subject to section 7 and to subsection (6) of this section, the board of directors of the Northern Development Initiative Trust is to consist of 13 individuals of whom
  - (a) 8 are to be appointed by the regional advisory committees, with each of the 4 regional advisory committees appointing 2 of their number as directors, and
  - (b) 5 are to be appointed by the Lieutenant Governor in Council.
- (3) Subject to section 7(5), the term of office of a director of the Northern Development Initiative Trust is,
  - (a) if the director is appointed under subsection (2) (a) of this section, 2 years from the expiry of the term of the retiring director that he or she replaces, and
  - (b) if the director is appointed under subsection (2) (b) of this section, 3 years from the expiry of the term of the retiring director whom he or she replaces.

(4) Nothing in this Act prevents

(a) a regional advisory committee from removing and replacing, in accordance with any procedures it has established for that purpose, any individual the regional advisory committee has appointed as a director of the Northern Development Initiative Trust, and

(b) the Lieutenant Governor in Council from removing and replacing any individual the Lieutenant Governor in Council has appointed as a director of the Northern Development Initiative Trust.

(4.1) If a director is removed and replaced under subsection (4),

(a) the regional advisory committee or the Lieutenant Governor in Council, as the case may be, must promptly notify the directors of the Northern Development Initiative Trust of the replacement appointment, and

(b) the term of office of the replacement director is the remainder of the term of the director he or she replaces.

(4.2) A director of the Northern Development Initiative Trust is removed as, and ceases to be, a director of the Northern Development Initiative Trust on the passing of a resolution to that effect by all of the remaining directors.

(5) An act or proceeding of the directors of the Northern Development Initiative Trust is not invalid merely because fewer than the number of directors required by subsection (2) are in office or in attendance.

(6) An individual who is a Member of the Legislative Assembly must not be appointed as a director of the Northern Development Initiative Trust.

#### **First directors of the Northern Development Initiative Trust**

7 (1) On the coming into force of this Act, the first directors of the Northern Development Initiative Trust are

(a) from the regions, the following persons:

(i) from the Cariboo-Chilcotin/Lillooet Region, the mayors of Williams Lake and Lillooet;

(ii) from the Northwest Region, the mayors of Prince Rupert and Kitimat;

(iii) from the Peace Region, the mayors of Fort St. John and Fort Nelson;

(iv) from the Prince George Region, the mayors of Prince George and Vanderhoof, and

(b) 5 individuals appointed as directors by the Lieutenant Governor in Council.

(2) The first directors of the Northern Development Initiative Trust must not, despite any other provision of this Act, incur any expense until the northern development allocation is paid by the government to the Northern Development Initiative Trust.

(3) The first directors of the Northern Development Initiative Trust

(a) must establish the following accounts:

(i) an Operating Endowment Account;

(ii) a Cariboo-Chilcotin/Lillooet regional development account;

(iii) a Peace regional development account;

(iv) a Northwest regional development account;

(v) a Prince George regional development account;

(vi) a Cross-regional Account,

(b) must receive the northern development allocation and

(i) deposit \$25 million into the Operating Endowment Account,

(ii) deposit \$15 million into each of the regional development accounts, and

(iii) deposit \$50 million into the Cross-regional Account,



(c) subject to section 20<sub>1</sub>, may invest any or all of the northern development allocation, and

(d) subject to paragraphs (b) and (c) of this subsection and to subsection (4)<sub>1</sub>, must not make any use of the northern development allocation.

(4) The first directors of the Northern Development Initiative Trust may use money from the Cross-regional Account to satisfy those expenses that

(a) are reasonably and necessarily incurred in order to allow the directors to perform their obligations under this Division, and

(b) cannot be funded from the income referred to in section 17 (1).

(5) The term of office of the first directors of the Northern Development Initiative Trust expires 6 months after the date of the coming into force of this Act.

### **Subsequent directors**

**8** (1) On or before the expiry of the term of any directors it appoints under section 6 (2) (a) and on or before the expiry of the term of the directors from its region referred to in section 7 (1) (a), a regional advisory committee must appoint 2 of their number as directors to replace the retiring directors, and must promptly notify the directors of the Northern Development Initiative Trust of those replacement appointments.

(2) On or before the expiry of the term of directors appointed under section 6 (2) (b) or 7 (1) (b), the Lieutenant Governor in Council is to appoint 5 individuals to replace those directors, and must promptly notify the directors of the Northern Development Initiative Trust of those appointments.

### **Vacancies among the directors**

**9** (1) A director of the Northern Development Initiative Trust ceases to hold office when

- (a) the director's term of office expires,
  - (b) the director ceases to be a member of the regional advisory committee by which he or she was appointed, or
  - (c) the director dies, resigns or is removed from office.
- (2) If one of the directors of the Northern Development Initiative Trust ceases to hold office, a replacement for that director must be appointed in the same manner as that director was appointed.
- (3) A replacement director appointed under subsection (2) holds office until the end of the term of the director he or she replaces.

### **Proceedings of directors**

**10** (1) The directors of the Northern Development Initiative Trust

- (a) must appoint one of their number as chair,
- (b) must establish in Prince George a head office for that corporation, and
- (c) may, subject to this Division, otherwise establish their own procedures.

(1.1) The directors of the Northern Development Initiative Trust must

- (a) establish a Pine Beetle Account, and
- (b) receive the additional one-time allocation and
  - (i) deposit 60% of that allocation into the Pine Beetle Account, and
  - (ii) deposit 10% of that allocation into each of the regional development accounts.

(2) Subject to section 20, the directors of the Northern Development Initiative Trust may invest any or all of the northern development allocation, the additional one-time allocation and any other money in the accounts established under this Act.

(3) In appointing a chief executive officer and a chief financial officer under section 10.1(1) and a review committee under section

23.1(1), the directors are to be guided by the guidelines set out in the following as amended or replaced from time to time:

(a) the *Governance and Disclosure Guidelines for Governing Boards of British Columbia Public Sector Organizations* published by the British Columbia Board Resourcing and Development Office;

(b) the *Review of the Governance Framework for Canada's Crown Corporations- Meeting the Expectations of Canadians* published by the Treasury Board of Canada Secretariat.

### **Appointment of chief executive officer and chief financial officer**

**10.1** (1) Subject to section 10 (3), the directors must appoint a qualified individual as the chief executive officer of the Northern Development Initiative Trust, and the same or a different qualified individual as the chief financial officer of the Northern Development Initiative Trust, to carry out

(a) the functions and duties of the chief executive officer and chief financial officer, respectively, under this Act, and

(b) the functions and duties that the directors specify.

(2) The directors may set the remuneration of the chief executive officer and chief financial officer.

### **Officers and employees**

**10.2** (1) The chief executive officer, to the extent authorized by the directors, may do one or more of the following:

(a) enter into contracts on behalf of the Northern Development Initiative Trust to carry out any of its purposes;

(b) appoint other officers and employees considered necessary to carry out the operations of the Northern Development Initiative Trust;

(c) define the duties and set the remuneration of the individuals appointed under paragraph(b);

(d) provide a system of organization to establish responsibility and promote efficiency.

(2) The *Public Service Act*, the *Public Service Benefit Plan Act*, the *Public Sector Pension Plans Act* and the *Public Service Labour Relations Act* do not apply to the Northern Development Initiative Trust, the chief executive officer, the chief financial officer or a director, officer or employee of the Northern Development Initiative Trust.

### **Remuneration**

**11** A director of the Northern Development Initiative Trust must not accept remuneration from that corporation other than for reasonable travelling and out of pocket expenses necessarily incurred by the director in discharging his or her duties.

### **Repealed**

**12** [Repealed 2005-37-5.]

## **Part 2.1 — Public Accountability**

### **Strategic plans**

**12.1** (1) For the purposes of public accountability, the directors must prepare strategic plans in accordance with this section.

(2) The directors must

(a) each year establish a 3 year strategic plan for the Northern Development Initiative Trust including goals for each year of the strategic plan relating to the fulfillment of the purposes identified in section 18 in relation to the accounts established under this Act,

(b) provide a copy of each strategic plan prepared under this section to each of the regional advisory committees, and

(c) publish each strategic plan prepared under this section in a manner that can reasonably be expected to bring the plan to the attention of the public.

(3) The directors must prepare

(a) the first strategic plan required under subsection (1) within 6 months after the coming into force of this section, and

(b) after that, a strategic plan before the first day of each fiscal year of the Northern Development Initiative Trust.

### **Annual reports**

**12.2** (1) Within 4 months after the end of each fiscal year of the Northern Development Initiative Trust, the directors must

(a) prepare an annual report that complies with subsection (2) (a), and

(b) prepare, in accordance with generally accepted accounting principles, financial statements for the Northern Development Initiative Trust for that fiscal year and have those financial statements audited in accordance with section 12.3.

(2) The directors must,

(a) in each annual report referred to in subsection (1) of this section,

(i) report on the goals set by the directors for the preceding fiscal year under section 12.1 (2), indicate how, if at all, those goals have been met and detail how those achievements met the intent of the purposes identified in section 18 in relation to the accounts established under this Act,

(ii) compare actual results for the preceding fiscal year with the expected results identified in the strategic plan for that fiscal year, and

- (iii) include the audited financial statements referred to in subsection (1) (b),
- (b) provide a copy of that annual report to each of the regional advisory committees, and
- (c) publish each annual report in a manner that can reasonably be expected to bring the annual report to the attention of the public.

## **Audit**

**12.3** (1) The Northern Development Initiative Trust must, on or before the end of each fiscal year, appoint, as auditor for the Northern Development Initiative Trust, an individual who is authorized to be an auditor of a company under section 205 of the Business Corporations Act to audit the accounts, transactions and financial statements of the Northern Development Initiative Trust for the following fiscal year.

(2) The accounts, transactions and financial statements of the Northern Development Initiative Trust must, at least once in every year, be audited and reported on by the auditor and the costs of the audit must be paid by the Northern Development Initiative Trust.

(3) An oral or written statement or report made under this Act by the auditor or a former auditor of the Northern Development Initiative Trust has qualified privilege.

## **Part 3 — Allocations**

### **Division 1 — Directions**

## **Appropriation**

**13** The government may, without any appropriation other than this Act, pay the following grants:

- (a) through the minister, \$135 million to the Northern Development Initiative Trust;

- (b) through the minister, up to \$200 million to the BC Transportation Financing Authority for its multi-year capital program;
- (c) through the Minister of Community, Aboriginal and Women's Services, \$15 million to the B.C. Rail Benefits (First Nations) Trust;
- (d) through the Minister of Small Business and Economic Development, up to \$13 million for the promotion of one or more of sport, recreation, music and volunteer initiatives;
- (e) through the Minister of Small Business and Economic Development, up to \$4 million for an Asia Pacific Market outreach program;
- (f) through the Minister of Energy and Mines, up to \$2 million for hydrogen and fuel cell research;
- (g) through the Minister of Finance, up to \$22 million for other initiatives that have been approved by Treasury Board for funding under the appropriation contemplated by this paragraph.

### **Limit on the additional one-time allocation**

**13.1** Despite any other enactment, if the government makes additional one-time allocation payments to the Northern Development Initiative Trust, the total of those payments must not exceed \$50 million.

### **Government may issue directions**

**14 (1)** The Lieutenant Governor in Council may, for the purposes of this Act, issue directions to the company, directing the company to pay to the government any or all of the proceeds.

(2) Despite section 25 of the British Columbia Railway Act and any other enactment, the company must pay to the government, out of the proceeds, the money it is directed to pay under subsection (1).

## **Division 2 – Northern Development Initiative Trust**

### **Management of accounts**

**15** (1) The Northern Development Initiative Trust must manage the accounts established under this Act.

(2) If any donation is made to the Northern Development Initiative Trust, the directors of the Northern Development Initiative Trust must deposit that money into whichever of the accounts established under this Act was specified in the donation, or, if no account was so specified, into the Cross-regional Account.

### **Interest and other income on invested money**

**16** The interest or other income earned in relation to an account established under this Act must be paid into that account or, if the interest or other income was earned in relation to 2 or more of the accounts established under this Act, be paid proportionately into those accounts.

### **Operating Endowment Account**

**17** (1) Subject to subsection (2), the directors of the Northern Development Initiative Trust may use the interest or other income earned from the money held in or invested out of the Operating Endowment Account to satisfy those expenses that are reasonably and necessarily incurred in order to allow the directors and officers to perform their obligations under this Act, including, without limitation, any payments required under sections 10.1 (2) and 10.2 (1) (c).

(2) The directors of the Northern Development Initiative Trust must ensure that the balance of the Operating Endowment Account does not fall below \$25 million.

### **Purpose of other accounts**

**18** (1) The purpose of the Cross-regional Account is to support investment in the following in the legacy area:

- (a) forestry;
- (b) pine beetle recovery;
- (c) transportation;



- (d) tourism;
- (e) mining;
- (f) Olympic opportunities;
- (g) small business;
- (h) economic development;
- (i) energy;
- (j) agriculture.

(2) The purpose of each of the regional development accounts is to support investment in the matters referred to in paragraphs (a) to (j) of subsection (1) to benefit, and facilitate the development of, the region after which the account is named.

(3) The purpose of the Pine Beetle Account is to support pine beetle recovery projects to help communities in the legacy area respond to the mountain pine beetle infestation.

(4) Without limiting section 15 (1) but subject to section 17, money may be paid out of an account established under this Act for the purpose established for that account under this Act.

### **Regional advisory committees may advise on projects**

**19** (1) Each regional advisory committee may identify, for the directors of the Northern Development Initiative Trust, projects that the regional advisory committee considers are appropriate for application of the money in the Cross-regional Account, and may recommend to those directors the ways in which the money in the regional development account applicable to their region should be spent.

(2) The directors of the Northern Development Initiative Trust must ensure that the money in each regional development account is spent in accordance with the recommendations of the regional advisory committee for that region under subsection (1).

(3) Despite subsection (2), the directors of the Northern Development Initiative Trust may reject any recommendation

made to them by a regional advisory committee under subsection (1).

## **Investments**

- 20** The Northern Development Initiative Trust must invest the northern development allocation, the additional one-time allocation and any other money in the accounts established under this Act only as permitted under the provisions of the Trustee Act respecting the investment of trust property by a trustee.

## **Part 4 — General**

### ***Balanced Budget and Ministerial Accountability Act***

- 21** For the purposes of sections 5 (1) and 6 (1) of the Balanced Budget and Ministerial Accountability Act, in relation to each of the ministers referred to in section 13 of this Act for the relevant fiscal year in which the expense is made, the estimated amount under section 6 (1) of the Balanced Budget and Ministerial Accountability Act is the sum of the amounts appropriated for

- (a) the operating expenses for which that minister is responsible in the main estimates for that fiscal year,
- (b) the expenses authorized for that minister under section 13 of this Act, and
- (c) any other expenses that, under any other enactment, are, for that fiscal year, to be added to the estimated amount for that minister under section 6 (1) of the *Balanced Budget and Ministerial Accountability Act* for the purposes of sections 5 (1) and 6 (1) of that Act.

## **Winding up**

- 21.1** (1) Promptly after all of the accounts established under this Act, other than the Operating Endowment Account, have been reduced to a nil balance, the directors must
- (a) in accordance with the direction of the regional advisory committees, distribute the remaining assets of the Northern Development Initiative Trust, if any, including the money in the Operating Endowment Account,
    - (i) firstly in satisfaction of any outstanding liabilities of the Northern Development Initiative Trust, and
    - (ii) after that, to the municipalities and regional districts in the legacy area, or to any of them, in the proportions or amounts the regional advisory committees may direct,
  - (b) close all of the accounts established under this Act, and
  - (c) publish notice of the closing of the accounts, and the consequent dissolution of the Northern Development Initiative Trust, in a manner that can reasonably be expected to bring those matters to the attention of the public.
- (2) On the closing of the accounts established under this Act,
- (a) the Northern Development Initiative Trust is dissolved and disestablished,
  - (b) the appointment of each member of the board of directors of the Northern Development Initiative Trust is rescinded, and
  - (c) the regional advisory committees are dissolved and disestablished.

### ***Offence Act***

**22** Section 5 of the *Offence Act* does not apply to this Act.

### **Power to make regulations**

**23** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may, if requested to do so by the directors of the Northern Development Initiative Trust, make regulations amending the definition of the Cariboo-Chilcotin/Lillooet region by adding or removing areas in accordance with that request.

### **Review of this Act**

**23.1** (1) Subject to section 10 (3), on or before the fifth anniversary of the coming into force of this Act, and on or before every fifth anniversary after that, the directors must, if the Northern Development Initiative Trust has not by that date been dissolved and disestablished under section 21.1, appoint a committee of qualified individuals to review this Act and evaluate how it is functioning.

(2) The review committee may consult with business, labour, education providers, government and any other person or organization it considers appropriate.

(3) If a review committee is appointed, it must publish a report of its findings in a manner that can reasonably be expected to bring the report to the attention of the public.

### **Commencement**

**24** This Act comes into force by regulation of the Lieutenant Governor in Council.