

# **ISLAND COASTAL ECONOMIC TRUST**

**INDEPENDENT LEGISLATIVE REVIEW OF THE  
NORTH ISLAND-COAST DEVELOPMENT INITIATIVE TRUST ACT 2006**

**REPORT OF THE LEGISLATIVE REVIEW COMMITTEE  
Hon. Anthony C. Abbott; Dr. Robin Dodson;  
Marilyn Hutchinson; Keith Wilson**

**March 10 2011**

**Prepared for the Committee by Katherine Gordon**

## TABLE OF CONTENTS

<b>A. Executive Summary</b>	<b>3</b>
i. Background	
ii. Conclusions	
iii. Recommendations	
<b>B. Introduction</b>	<b>6</b>
i. Requirement for legislative review	
ii. Background to the Act	
iii. ICET outcomes to date	
<b>C. Analysis and Recommendations</b>	<b>8</b>
i. General comments on legislation	
ii. ICET model	
iii. Cap on provincial contribution	
iv. Strategic Areas for Investment	
v. Regional Scope	
vi. Governance	
vii. First Nations representation	
viii. Winding up	
ix. Recommendations	
<b>Appendices:</b>	
1. Legislative Review Committee: Context	16
2. Appointment of review committee	18
3. Names and bios of members	23
4. Terms of reference for committee	26
5. Topics covered in review	29
6. List of consultees	30
7. Summary of consultation results	31
8. Text of the Act	36

## **A. EXECUTIVE SUMMARY**

### **i. Background**

The \$50 million Island Coastal Economic Trust (ICET) was established in 2006 pursuant to the *North Island-Coast Development Initiative Trust Act* (the “Act”). On or before its fifth anniversary, the ICET was required under the Act to appoint an independent committee to review the Act and evaluate how it is functioning.

The committee was empowered under the Act to undertake appropriate consultations as part of the process. Based on criteria that included knowledge and understanding of ICET, its work and its objectives, and/or experience of working with the Act and ICET, the committee consulted fourteen individuals with the relevant knowledge, understanding and experience.

The Board of ICET has advised the committee that during 2011 it also expects to complete a comprehensive performance review of the organization. Persons consulted in this legislative review process will also be asked to participate in the comprehensive performance review process, as will a broader range of consultees including ICET funding recipients and organizations which have worked in close partnership with ICET and those funding recipients.

Those consultations may result in the provision of additional information and/or recommendations with respect to the Act and matters within the scope of this review. Any such information and recommendations will also be made public. The findings in this report will also be considered in the context of the comprehensive review.

### **ii. Conclusions**

The results of the consultations were very consistent in their scope. While respondents raised a small number of potential improvements to the Act, they applauded the Act for its flexibility, permissiveness, and requirements for transparency and accountability.

The ICET model created in the legislation has worked very well. It is seen by local governments as an excellent and very cost-effective delegation model for disbursement by them of provincial dollars to support regional economic development. Fund moneys go to regional priorities, with minimal operational expenditure. Respondents also supported the arms’ length nature of the Act, giving the ICET Board maximum flexibility to allocate funds without provincial government intervention.

The ICET model consists of regional advisory committees (RACs) comprised of local government representatives and local MLAs, functioning as reviewers of projects and

advisors to the Board. This legislated model has worked very effectively in practice, according to the majority of respondents.

It has also provided an unprecedented forum, considered of very high value, for collaboration, networking and information/ideas exchange among local politicians and municipal staff from different communities across the region.

This relationship-building extends to other organizations and funding partners with which ICET has worked over the last five years. Respondents raised serious concerns that this substantial non-fiscal side-benefit of the Act would be lost in the event that the ICET ceases to exist. There is no other forum in existence that provides this sort of opportunity for substantive regional financial collaboration and relationship-building at a local government level.

The committee's view is that overall the functioning of the Act is sound. Nothing in the Act has significantly impeded the effective operation of the ICET to date. Its broad scope has empowered the ICET to follow its chosen policy and operational direction, with positive results. The flexibility of the Act is demonstrated by the fact that the two other provincially-funded sister Trusts created along with the ICET, under virtually identical legislation, have chosen completely different models for disbursement of their funds.

### **iii. Recommendations**

#### ***Section 17: Cap on provincial contribution***

The single most important concern raised by all respondents relates to the cap on provincial funding of the ICET contained in section 17 of the Act. Section 17 limits the amount of the provincial contribution to the \$50 million provided to the ICET on its creation. Now in its fifth year of operation, the fund is dwindling<sup>1</sup>. All respondents believe the ICET model has proven its merits, the Act has worked well, and that the ICET should continue its existence with additional provincial funding to support its work.

It is outside the scope of the mandate of the committee to recommend that the provincial government increase its contribution to the ICET fund. However, if the government wishes to extend the life of the ICET by investing further capital, the non-fiscal benefits of the model (in addition to cost-efficiencies and economic benefits) should be taken into consideration. If ICET is to receive additional provincial funding, it is also clear that section 17 requires amendment or deletion to permit that to occur (and

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<sup>1</sup> As at the date of this report, \$8,807,570 of the fund remained unallocated. \$22,713,457 of allocated funds have not been distributed, and distribution remains subject to satisfaction of outstanding conditions.

other consequential amendments may need consideration if any parameters or conditions are placed on renewed funding).

In that event, the committee also makes the following recommendations for potential amendments to the Act. The committee considers these recommendations could be equally applicable to all three trusts under their respective legislation, and are not unique to the ICET.

- **First Nations representation:** Make First Nations representation on the Board, through the provincial appointees, an explicit requirement in section 8; and review options for meaningful inclusion of First Nations representation on the RACs so as to enhance the operations and effectiveness of those bodies.
- **Strategic areas for investment:** Delete section 20(1) (e) “Olympic Opportunities.”
- **Winding up:** Amend section 23(1) to provide the Board with the flexibility to decide when winding up should commence, how remaining resources should be allocated, and how the process should be implemented.

## **B. INTRODUCTION**

### **i. Requirement for legislative review**

The \$50 million Island Coastal Economic Trust (ICET) was established in 2006 pursuant to the *North Island-Coast Development Initiative Trust Act* (the “Act”). Pursuant to section 26 of the Act, on or before the 5th anniversary of the establishment of the ICET (February 27, 2011), a committee had to be appointed to review the Act and evaluate how it is functioning. The text of the Act is set out in **Appendix 8** on page 36.

The context for the creation of 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 was empowered under the Act to undertake consultations as part of the process. Based on criteria that included knowledge and understanding of ICET, its work and its objectives, and/or experience of working with the Act and ICET, the committee consulted fourteen individuals with the relevant knowledge, understanding and experience. The list of consulted individuals is set out in **Appendix 6** on page 30. A detailed summary of the consultation results is set out in **Appendix 7** on page 31.

Based on the results of consultation and its own review of the Act, as well as a review of ICET 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 ICET’s primary objective to be a catalyst to build a diverse and sustainable Island Coastal Economy. The committee’s full analysis and 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 consultation results, as well as the analysis and recommendations.

#### *Provincial objectives*

When the draft legislation was introduced into the Provincial Legislature, the government outlined a number of its objectives for the ICET<sup>2</sup>. Those objectives included:

- Supporting strategic investments in regional priorities to increase economic growth and create more jobs.

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<sup>2</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>.

- 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 the ICET complete freedom to determine how trust moneys should be allocated, without government direction or interference, and to set its own operational and funding policies.

*Act permissive, not prescriptive*

The Act was therefore drafted broadly and with minimal prescription as to how ICET moneys are to be spent. Section 20 of the Act simply describes the purpose of the ICET as being to support investment in the North Island-Coast Area (communities north of the Malahat on Vancouver Island, and on the Sunshine Coast) in the areas of forestry, transportation, tourism, mining, Olympic opportunities, small business, economic development, energy, and agriculture.

**iii. ICET outcomes to date**

In its 2010—2012 Strategic Plan, the ICET states that its intent is to provide communities, non-profit societies, First Nations, and other organizations with the funding and mechanisms to support strategic investments in the regional economy of the north Island and Sunshine Coast. The ICET uses its funds to leverage partnerships and other investments with local governments and authorities, non-profit societies and other organizations.

The 2009—2010 ICET Annual Report states that 71 projects totaling close to \$42 million of ICET funding have been approved (more than 200 project applications in total have been reviewed). The leverage of the ICET investment on approved projects has been 1:4.55 (ICET's investment leverage target is 1:3). It is estimated that 1,865 jobs have been created through ICET-funded projects.

Tourism has been the largest sector for investment to date, with more than \$20 million allocated. General economic development initiatives have received \$12.45 million. Agriculture, forestry and transportation have received between \$1.24 million and \$3.4 million each. Relatively small investments (under a million dollars each) have been made in the energy, small business and Olympic opportunities sectors. No allocations have been made for mining-related projects.

## **C. ANALYSIS AND RECOMMENDATIONS**

### **i. General comments on legislation**

Respondents in the consultation process were canvassed for their views on all aspects of the Act. The results were very consistent in their scope. Respondents applauded the Act for its flexibility, permissiveness, and requirements for transparency and accountability. The administrative or “boilerplate” components of the Act received little, if any comment as they have caused no concerns for respondents.

The committee’s view is that overall the functioning of the Act is sound, and that nothing in the Act has posed a significant barrier to the effective functioning of the ICET to date. Its broad scope has empowered the ICET to follow its chosen policy and operational direction, with positive results. The flexibility of the Act is demonstrated by the fact that the two other provincially-funded sister trusts created along with the ICET, under virtually identical legislation, have chosen completely different models for disbursement of their funds. The administrative provisions of the Act are standard for an organization of this nature and the committee had no concerns in this respect, with the sole exception of the winding up or “sunset” provisions in section 23.

The following sections of the report discuss the key issues raised and commented upon by respondents, and set out the committee’s analysis of those issues.

### **ii. Trust model**

The ICET model created in the Act has worked very well. It is seen by local governments as an excellent and very cost-effective delegation model for disbursement by them of provincial dollars to support regional economic development, with all money going to regional priorities and minimal operational expenditure. Respondents also supported the arms’ length nature of the Act, giving the ICET Board maximum flexibility to allocate funds without provincial government intervention.

The ICET model consists of regional advisory committees (RACs) comprised of local government representatives and local MLAs, functioning as reviewers of projects and advisors to the Board. This legislated model has worked very effectively in practice, according to the majority of respondents.

It has also provided an unprecedented forum, considered of very high value, for collaboration, networking and information/ideas exchange among local politicians and municipal staff from different communities across the region.

This relationship-building extends to other organizations and funding partners with which ICET has worked over the last five years. Respondents raised serious concerns



that this substantial non-fiscal side-benefit of the Act would be lost in the event that the ICET ceases to exist. There is no other forum in existence that provides this sort of opportunity for substantive regional financial collaboration and relationship-building at a local government level.

### **iii. Cap on provincial contribution**

The single most important concern raised by all respondents relates to the cap on provincial funding of the ICET contained in section 17 of the legislation. Section 17 limits the amount of the provincial contribution to the \$50 million provided to the ICET on its creation. Now in its fifth year of operation, the fund is dwindling. As at the date of this report, \$8,807,570 of the fund remained unallocated. \$22,713,457 of allocated funds have not been distributed, and distribution remains subject to satisfaction of outstanding conditions.

All respondents believe the ICET model has proven its merits, the legislation that supports it has worked very well, and that the ICET should continue its existence with ongoing provincial funding to support its work. However, the uncertainty around the constraints on the provincial contribution to the fund impacts strategic planning significantly. It is difficult for the ICET to know whether to plan for a “sunset” strategy or for continuance of the same model.

It is outside the scope of the mandate of the committee to recommend that the provincial government increase its contribution to the ICET fund. However, if the government does consider whether to extend the life of the ICET by investing further capital, the non-fiscal benefits of the model (in addition to cost-efficiencies and economic benefits) should be taken into consideration.

If ICET is to receive additional provincial funding, it is also clear that section 17 requires amendment or deletion to permit that to occur (and other consequential amendments may need consideration if any parameters or conditions are placed on renewed funding).

### **iv. Strategic areas for investment**

The list of strategic areas for investment of the ICET fund in section 20 of the Act is broad enough to accommodate all potential projects falling within ICET’s criteria. One respondent felt that a separate category for fisheries and small business would be helpful, but the majority were comfortable that those sectors could be dealt with (and indeed, have been) under the existing categories for investment. Section 20(1) (g) “Economic Development” is a broad category that can cover a very wide range of potential projects.

Project investment in some sectors has been minimal (with no mining projects undertaken at all). That is in part due to ICET policy not to fund for-profit ventures, and in part due to the low level of activity in those sectors in the region. The Olympics category is now redundant (and was not a major category for investment by ICET).

The committee is of the view that no change is required to section 20, as it is (a) very broad in scope and (b) a permissive list. ICET is under no obligation to invest in all categories specified. However, if an amendment to the Act is undertaken, the Olympic opportunities category in section 20(1) (e) should be deleted.

#### **v. Regional scope**

Although it was clearly a provincial goal that the ICET investment would be regional in scope (see Section B, Background to the Act) nothing in the Act prescribes this as a requirement. Nonetheless, ICET has adopted the following criterion as one of its three key investment goals: “Preference will be given to partnerships and leveraged investments that achieve the projected economic and diversification impacts for the broader region, with a bias for projects which have a broad regional impact while recognizing that local benefits of projects are also valuable.” The importance of regional collaboration and regional strategic thinking is a cornerstone of its strategic plan.

Several respondents considered that for the sake of clarity, this is one area in which, at least in the earliest days of the Trust’s existence, it would have been helpful if the Act had been more prescriptive. Considerable time was expended in the start-up phase of the ICET in the development of its regional model, including extensive discussions on its merits, and to establish policy and criteria supporting that model. This may have been a faster and more efficient process if regional scope had been a clear requirement of the Act. However, in its fifth year of operations and with regional scope a well-established policy of the ICET which it has consistently implemented, this concern appears to be largely one of the past.

Moreover, the ICET has advised that it considers it vital that ICET also be able to respond to the needs of smaller, more isolated communities whose projects do not necessarily meet regional criteria. Such communities can find it extremely difficult to raise matching funding for projects, and the additional barrier of requiring their projects to meet regional criteria can mean that those communities are unable to benefit from ICET project funding.

Like its two sister Trusts, ICET values the flexibility it has under the legislation’s current permissive structure to approve new initiatives and develop programs that assist with, for example, local marketing, downtown revitalization, and other similar local initiatives that make a great difference to the economic viability of small and remote communities.

The committee is sympathetic to that view. Given the continued slow pace of economic recovery, particularly in rural coastal communities, if the Province does consider extending the life of the ICET and making a further financial contribution, then it will be more important than ever that such communities have the opportunity to apply successfully to the ICET. Ensuring that the legislation continues to allow the ICET Board some flexibility regarding a project's regional or local scope (which the committee believes it does) will support continuing economic diversification efforts.

The committee is of the view that the legislation as drafted supports both provincial and ICET goals in this respect and therefore requires no change.

## **vi. Governance**

### *(a) Board of Directors*

Effective model: With the exception of the issue of First Nations representation outlined below, the Board model appears to function very well. Nothing in the Act significantly impedes effective Board operations. The composition of the Board, with equal geographic representation of elected officials from the two regions and a smaller number of non-elected provincial appointees, limits parochialism, encourages collaboration and results in a high level of sound, balanced decision-making.

Board remuneration: Board members exhibit a high level of commitment and dedicate considerable time to ICET business. The Act explicitly prohibits Board members from receiving remuneration. Respondents were divided on this issue. Some respondents felt that recognition of this high level of time commitment with a reasonable level of remuneration for meetings should be considered. Others were satisfied that Board members, whether elected or provincial appointees, did not need to receive more than reimbursement for expenses. All respondents agreed that the issue of remuneration has not had a negative impact on Board function to date.

The issue of remuneration of directors of public service agencies is one of broader provincial policy and is not confined to the ICET. Complex considerations are involved in determining the nature of the organization, the appropriate balance of compensation for time and expertise contributed to the organization, minimization of operational spending, and public accountability issues. Any decision made with respect to ICET would have an impact on other similar organizations. Given these complexities, the fact that the issue has not impeded Board function to date and that the respondents were divided on this issue, the committee declines to make a recommendation on remuneration of directors.

*(b) RACs*

Functioning of RACs: The RACs, as reviewers of projects and advisors to the Board, have functioned reasonably effectively. The elected representatives have an intimate understanding of local issues and are highly motivated to participate in project review and analysis. Respondents report that RAC members understand their advisory role and are comfortable with it, as they elect the majority of the Board. The RAC model, which requires collaboration for effective decision-making, has worked very well in minimizing parochialism and supporting the interests of the entire region, without undue concerns arising over accessing funding in particular for individual constituencies or regions.

Geographic boundaries: Dividing the RACs into two geographic regions has helped focus each RAC on the different regional issues they face and on projects in its own region. There is nothing in the Act preventing cross-boundary collaboration on a project or consideration of cross-boundary benefits. The majority of respondents were comfortable with the geographic boundaries as specified in the Act.

Composition: The general consensus is that the composition of the RACs is fundamentally sound. Including MLAs on the RACs adds a broader regional viewpoint and the RACs have become a good forum for two-way communication between local and provincial government. The ability after the first six months for the RACs themselves to determine their membership (subject to being qualified individuals as defined in the Act) has been helpful in terms of the independent operation of the RACs. The only concern of any significance is the lack of First Nations representation (see below).

Risks associated with termination of ICET model: The legislated ICET model has provided an unprecedented forum for collaboration, networking and information/ideas exchange among local politicians and municipal staff from different communities across the region that is considered of very high value.

Respondents did raise concerns that this substantial non-fiscal side benefit of the Act would be lost in the event that the ICET ceases to exist. There is no other forum with such a broad reach that provides this sort of opportunity for substantive regional financial collaboration at a local government level.

#### **vii. First Nations representation**

While there is no explicit reference to First Nations' representation in the legislation, when the Act was introduced the government confirmed that First Nations are eligible to apply to the Fund on the same basis as other communities, and its intention to make sure First Nations are well represented in ICET decision-making through provincial government appointments to the Trust Board.

However, leaders of First Nations communities are not eligible to sit on the RACs (with the exception of Sechelt Nation, which has local government status for the purposes of the Act). The government's expectation is that First Nations will be represented by their local MLAs, who do sit on the RACs.

Several respondents viewed the lack of greater First Nations representation at RAC level and the failure to commit to First Nations' Board representation in the Act as a shortcoming of the legislation. First Nations bring a different perspective on economic and community development and may have different issues and concerns which MLAs and their local government representatives do not fully appreciate. Those respondents were supportive of consideration of other options for First Nations' participation and of formal recognition of representation in the legislation.

At the same time, some respondents were concerned that including all First Nations communities in the region on the RACs would make the RACs too large and unwieldy.

The committee considers that this issue is worthy of review by the provincial government, with a view to making First Nations representation on the Board (through provincial appointees) an explicit requirement of section 8 of the Act, and developing options for meaningful inclusion of First Nations representation on the RACs so as to enhance the operations and effectiveness of those bodies.

#### **viii. Winding up**

Section 23 provides for the winding up of the ICET after its funds have been reduced to zero, and provides direction on the responsibilities of the Board with respect to the steps that must be taken to accomplish this.

A minority of respondents felt that some more detailed guidance in the legislation and support for the logistics of winding up the ICET *before* its funds are fully expended (an exit strategy) would have been helpful. Most felt that the winding up process is a matter that is a Board responsibility and one that the Board is able to and should manage independently. The committee concurs with that view. All three trusts are likely to establish very different winding up plans, and flexibility and permissiveness in this regard are therefore very important.

While the ICET has no immediate plans to wind up its operations, it advises that following preliminary cost calculations for winding down operations, \$5 million has been set aside in a separate account to ensure that there will be more than enough funding available to administer the process when and if it is required. Any surplus will be invested in ICET programs and activities. The current requirements of the Act have been taken into account in the planning process to date.

In reviewing section 23, the committee has concluded that subsection (1) is not only potentially confusing, but it appears to take the decision on winding up out of the hands of the Board. This rests on a narrow point of interpretation, but it is one that the committee considers would benefit from consideration by the Province.

Taken literally, section 23(1) could be interpreted as meaning that winding up the ICET would take place after the resources required to accomplish it are exhausted. This leaves the Board with no flexibility to make the decision earlier and plan accordingly. It also takes the decisions out of the hands of the Board on distribution of remaining assets and funds.

While a “sunset” clause to disestablish the statutory bodies (the Board and the RACs) is required as set out in section 23(2), the prescriptive requirements of section 23(1) are out of step with the goal of permissiveness and flexibility in the legislation in supporting Board decisions.

The committee is therefore of the view that consideration should be given to amending section 23(1) to provide the Board with the flexibility to decide when winding up should commence, how remaining resources should be allocated, and how the process should be implemented.

## **ix. RECOMMENDATIONS**

### ***Section 17: Cap on provincial contribution***

It is outside the scope of the mandate of the committee to recommend that the provincial government increase its contribution to the ICET fund. However, if the government does consider whether to extend the life of the ICET by investing further capital, the non-fiscal benefits of the model (in addition to cost-efficiencies and economic benefits) should be taken into consideration. If ICET is to receive additional provincial funding, it is also clear that section 17 requires amendment or deletion to permit that to occur (and other consequential amendments may need consideration if any parameters or conditions are placed on renewed funding).

In that event, the committee also makes the recommendations set out below for potential amendments to the Act. The committee considers these recommendations could be equally applicable to all three trusts under their respective legislation, and are not unique to the ICET.

- ***First Nations representation:*** Make First Nations representation on the Board, through provincial appointees, an explicit requirement in section 8, and review options for meaningful inclusion of First Nations representation on the RACs so as to enhance the operations and effectiveness of those bodies.

- **Strategic areas for investment:** Delete section 20(1) (e) “Olympic Opportunities.”
- **Winding up:** Amend section 23(1) to provide the Board with the flexibility to decide when winding up should commence, how remaining resources should be allocated, and how the process should be implemented.

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

### **i. Selection of committee members**

**Appendix 2** comprises a summary by ICET of the process for creation of 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 review committee are set out in **Appendix 4**. Also in accordance with the guidelines referred to above, those terms of reference were made public by ICET on its website on 31 January, 2011.

### **iii. Scope of review**

The topics covered in the consultation process are set out in **Appendix 5**. All aspects of the legislation were canvassed; however, those consulted all focussed on the substantive content of the Act that has been directly relevant to their work with ICET and evaluation of its functioning under the Act. Everyone interviewed expressly confirmed that if they did not raise a particular aspect of the legislation, that signified they had no concerns with it.

### **iv. Consultation**

Under section 26 the review 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 ICET, its work and its objectives, and/or experience of working with the Act and ICET over the last five years. The list of consulted individuals is set out in **Appendix 6** and a summary of the results of the consultation is set out in **Appendix 7**.

### **v. Comprehensive organizational review**

The Board of ICET has advised the committee that during 2011 it also expects to complete a comprehensive performance review of the organization. Persons consulted in this legislative review process will also be asked to participate in the comprehensive



performance review process, as will a broader range of consultees including ICET funding recipients and organizations which have worked in close partnership with ICET and those funding recipients.

Those consultations may result in the provision of additional information and/or recommendations with respect to the Act and matters within the scope of this review. Any such information and recommendations will also be made public.

The findings in this report will also be considered in the context of the comprehensive review.

## **APPENDIX 2 CREATION OF LEGISLATIVE REVIEW COMMITTEE**

The following summary of the process followed by ICET in establishing the legislative review committee was prepared by the ICET and provided to the committee. It is also available on ICET's website at [www.islandcoastaltrust.ca](http://www.islandcoastaltrust.ca).

The committee notes in particular that, as required by section 10 of the Act, ICET states in its summary that it was 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.

Both documents specify best practices for creation of committees, including process transparency, professional competency requirements, independence, and lack of material interest in ICET's functions.

The review committee fully supports ICET's compliance with best practices in this regard. At its first meeting it directed ICET to make the information contained in Appendices 1 and 2 public on its website as soon as reasonably possible and in advance of receipt of this Final Report. ICET complied and the information was made public on January 31, 2011.

### **ISLAND COASTAL ECONOMIC TRUST INDEPENDENT LEGISLATIVE REVIEW: Summary of process for creation of committee**

#### **Requirement for independent legislative review**

The Island Coastal Economic Trust (ICET) is required under Section 26 of the North Island-Coast Development Initiative Trust Act (the Act) to undertake a legislative review no later than February 27, 2011, five years after the establishment of ICET.

Under the Act, ICET 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 (LRC) 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 October 22<sup>nd</sup> 2010, 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 Barry Janyk (Chair)
2. Mayor Phil Kent
3. Dave Mannix

### **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 LRC;
- Reporting and making recommendations to the Board regarding the process and appointment of qualified candidates;
- Overseeing the LRC 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 LRC 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, arms-length, comprehensive organizational performance review but will be prioritized to ensure completion by February 27 2011.

The committee of four "qualified individuals" were recruited by the Steering Committee and appointed by the Trust Board of Directors to direct the legislative review. These individuals were 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 LRC will carry out appropriate consultations to ensure a balanced view of any issues related to the legislation. The Steering Committee hopes that LRC members will participate in the comprehensive review, where they will be joined by up to 3 additional individuals representing specific geographic areas, economic sectors, and/or areas of expertise.

The LRC 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 Katherine Gordon is attached to this summary.

### **The LRC 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 North Island-Coast 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 LRC members are qualified individuals.

The Directors of the Trust were also, in appointing the review committee, 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 ICET and have no material interest in ICET'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 LRC's termination date, the purpose of the committee, and their working procedures.

The Steering Committee is satisfied that ICET has fully complied with these best practices. All relevant information is available in this public summary.

### **Criteria for selection of LRC members**

The following criteria for the recruitment and appointment of candidates to the LRC were considered:

1. Legal training or experience working with legislation;
2. Knowledge of, or experience working with, organizations governed by legislation;
3. Knowledge of the ICET mandate area and economic development initiatives within the area;
4. Arms'-length from ICET 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 ICET or any other influence, and
7. Ability to direct process, analyze information and make credible, independent recommendations.

The Steering Committee shortlisted a number of candidates and invited them to form part of the LRC. The candidates were individually contacted by ICET 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 LRC.

The four candidates were then formally appointed by the Board of Directors of ICET, 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 role of the LRC 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 LRC 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 LRC are also available on ICET's website<sup>3</sup> for further details on the process and scope of the review.

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<sup>3</sup> <http://www.islandcoastaltrust.ca/legislative-review-process>

LRC members receive, for meeting attendance, a pro-rated *per diem* expense reimbursement of up to \$150.00, 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 LRC will be terminated.

### **Publication of the Report**

In addition to the publication of this Summary of the Process, LRC member biographies and the LRC Terms of Reference, the Trust is committed to publishing the final report and recommendations as presented by the LRC. These documents have been made available for public viewing on the ICET website.

### **Biography: Katherine Gordon, Consultant**

Katherine Gordon works with First Nations and other governments and communities to facilitate relationships; negotiate and reach 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.

Gordon graduated with an LLB (Hons) from the University of Canterbury in Christchurch, New Zealand. With more than twenty years' experience in general corporate and business law practice, specialising in contract negotiation, regulatory advice, strategy and risk management, administrative law, public policy and treaty/aboriginal affairs issues, she has worked in New Zealand, Toronto, Ottawa and British Columbia as a lawyer and negotiator, including four years as a chief treaty negotiator for B.C. She is also on the Board of the First Peoples' Cultural Foundation.

### **APPENDIX 3 BIOGRAPHIES OF COMMITTEE MEMBERS**

#### **HON. ANTHONY C. ABBOTT P.C. LL.B.**

The Honourable Anthony C. Abbott was born in Montreal in 1930. He was educated in Quebec at Bishop's University and obtained his LL.B at Osgoode Hall Law School in Ontario.

Mr. Abbott has distinguished himself during his long career in law, business and public service. During his early career he worked as internal legal counsel for the Brazilian Light and Power Co.

He served as Chief of Staff to the federal Minister of Trade and Commerce and in 1974 was elected to federal Parliament for Mississauga, ON. He became the federal Minister of Consumer and Corporate Affairs, and subsequently the federal Minister of National Revenue in Ottawa. He has also served as president of the Retail Council of Canada. He worked in London England from 1980 to 1988 as business advisor and legal counsel in the establishment of a London branch office of a leading central Canadian law firm.

In 1989 he moved to British Columbia and since that time has practised law with the firm of MacIsaac and Co. in Duncan. Mr. Abbott now resides in Duncan and is actively involved in community service as well as his law practice.

#### **DR. ROBIN DODSON**

Dr. Dodson received his Bachelor's and Master's degrees in Electrical Engineering from the University of Waterloo and a PhD in Operations Research from the University of Lancaster in the U.K.

He has worked in the Canadian chemical industry and has worked for several departments in the federal government.

In 1988, Dr. Dodson became the Assistant Deputy Minister of the federal Department of Western Economic Diversification in BC and served on a number of boards during his government tenure. In 1994, he joined the Federal Treaty Negotiations Office as Chief Federal Negotiator, representing Canada at treaty tables around the Province under the BC Treaty Commission process. After retiring from the federal government in 1998, Dr. Dodson ran his own consulting company specializing in economic development issues and negotiations support services.

He moved to Nanaimo in 2002 and wound down his consulting business in 2008. In 1995, he became the founding President of the PROBUS Club of Nanaimo North, a

position he held for one year. He has also been a member of the Board of the *Centre for the Arts*, and *Habitat for Humanity* in Nanaimo.

Robin and his wife Jo-Anne have three children and six grandchildren, living in Coombs, Saskatoon and Bloomington, Indiana.

## **MARILYN HUTCHINSON**

Marilyn Hutchinson is a long-time resident of Vancouver Island. Most recently she was the Economic Development Officer for the City of Nanaimo from 2005 – 2010. She was responsible for implementing the mandate of the Economic Development department including business retention and expansion, investor attraction and overseeing the community's tourism development initiatives, many which involved collaborations with the Snuneymuxw First Nation.

Previously she was Executive Director of the Mid-Island Science, Technology & Innovation Council (MISTIC) for seven years, managing the organization which provided business development and start-up information to Vancouver Island and coast technology and manufacturing enterprises, including aboriginal entrepreneurs. During her time with MISTIC, Marilyn was seconded for a term as Director of Technology Transfer at Malaspina University College, now known as Vancouver Island University. This role involved securing funding and facilitating research partnerships between faculty of the Department of Science & Technology, with regional entrepreneurs developing new technologies.

In addition to her work, Marilyn was an Order-in-Council appointee to the BC Parole Board from 2004 – 2005, reviewing parole applications and meeting with applicants in the two Vancouver Island corrections facilities. From 2001 – 2009, she was a member of the Natural Sciences & Engineering Research Council (NSERC) College & Community Innovation Program, which adjudicated funding applications from Canada's colleges, to establish research partnerships with industry.

Marilyn is currently on the Board of the Economic Development Association of BC. She is Past President of the Vancouver Island & Coast Economic Development Association as well as the Pacific Northwest Economic Development Council, a Canada-US economic development association. She is a founding member of the BC Regional Science & Technology Network.

Marilyn holds a Bachelor of Commerce degree and Certificate of Project Management, both from Royal Roads University and currently resides in Ladysmith, BC.



## **KEITH WILSON**

Keith Wilson is a skilled business management professional with more than 35 years direct experience in the business finance and management fields. He has been involved in a number of industries including agriculture, petroleum, construction and graphic arts and has extensive experience in First Nations administration, management and finance in Western Canada.

Wilson worked for a large privately-owned group of companies in Calgary, Alberta where his responsibilities included budgeting, communications and strategic planning in the oil and gas, mining, heavy construction, railroad maintenance, engineering and real estate industries. He moved to a large, publicly-traded, integrated petroleum company after six years, where he managed the corporate communications office. Keith was a key part of a team that developed the successful debenture fundraising strategy in the petroleum industry in the late 1980s.

As a management consultant over the past 15 years, Keith has helped numerous small businesses in the areas of fund raising, administration, policy development, strategic planning and financial management. He has also directed a number of economic development initiatives for First Nations on Vancouver Island, sitting as a member of Nanaimo's Economic Development Group from 2001 to 2004 and a director of Community Futures Development Corporation of Central Island from 2002 to 2007.

As Chief Executive Officer of the Naut'sa mawt Tribal Council, Keith coordinates the ongoing operations of this regional government that serves eleven Coast Salish First Nations located around the Georgia Strait and the Strait of Juan de Fuca on British Columbia's south coast. Keith is currently involved in developing effective financial and operating structures and policies related to self-government initiatives for Coast Salish First Nations in British Columbia.

Wilson is a director of Naut'sa mawt Resources Group Inc. of Tsawwassen, British Columbia, Cascadia Concrete Corporation of Nanaimo, British Columbia and Chairman of the Board of Akita Coastal Drilling Ltd. of Calgary, Alberta.

## **APPENDIX 4**

### **TERMS OF REFERENCE FOR COMMITTEE**

Adopted January 18 2011

#### **A. Purpose and role of committee**

The ICET was established in 2005 pursuant to the *North Island-Coast Development Initiative Trust Act* (the “Act”), with the purpose of investing in the North Island-Coast Area (as defined in the Act) in the areas of forestry, transportation, tourism, mining, Olympic opportunities, small business, economic development, energy, and agriculture. The primary objective of the ICET is to be a catalyst to build a diverse and sustainable Island coastal economy.

Pursuant to section 26 of the Act, on or before the fifth anniversary of the establishment of the ICET a committee must be appointed by the Board of ICET to review the Act and evaluate how it is functioning.

The review 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. Further context**

By June 2011 the Board of ICET expects to complete a comprehensive performance review. Members of the legislative review committee will also participate in the comprehensive review process on a separate committee comprising six or more individuals representing specific geographic areas, economic sectors or areas of expertise.

#### **C. Scope of review**

##### *Objectives of review:*

The primary objective of the review is compliance with section 26 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.

##### *Consultation:*

The review 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 ICET, its work and

its objectives, and/or experience of working with the Act and ICET over the last five years.

*Recommendations:*

The review 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 ICET.

*Publication of review report:*

The review committee will, in consultation with ICET 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.

#### **D. Matters to be addressed in review**

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

*Governance:*

1. *Board:* The composition of the Board of ICET, 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 1—2); and role (clause 21).

*Core purposes:*

Scope and validity of strategic areas for investment (clause 20).

*Finance and administration:*

Limit on total allocation to ICET (clause 17); requirement to pay interest and donations into Regional Account (clauses 18—19, 22); operational spending (clause 13); appointment and authorities of staff (clauses 11—12); winding up provisions (clause 23); review requirements (clause 26).

*Public accountability:*

Strategic planning process (clause 14); annual reports (clause 15); audit requirements (clause 16).

*General:*

Flexibility and transparency of the Act; aspects of the Act that have supported or been barriers to the objectives of the ICET; aspects of the Act that have supported or been

barriers to the operational efficiency and capacity of ICET to meet its primary objective to be a catalyst to build a diverse and sustainable Island coastal 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 ICET. Consulted parties will be asked to participate in the comprehensive review.

## **E. Process: duties and procedures**

### *Procedures:*

ICET will:

- Provide administrative support for the review 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 ICET 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 ICET.

The review committee will:

- Operate on the basis of consensus. For the purposes of this committee, consensus is defined as no member opposes a final decision of the committee.
- Report to and liaise with the Legislative Review Steering Committee established by ICET.
- 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 ICET for publication no later than February 27, 2011.

## **APPENDIX 5**

### **TOPICS COVERED IN REVIEW**

#### ***Matters in legislation to be addressed:***

##### *Governance:*

3. *Board:* The composition of the Board of ICET, term of office, and proceedings (clauses 6—10);
4. *RACs:*
  - a. The composition of regional advisory committees (RACs), term of office, and proceedings (clauses 2—4);
  - b. Regional divisions and structures (clauses 1—2); and
  - c. Role (clause 21).

##### *Core purposes:*

5. Scope and validity of strategic areas for investment (clause 20).

##### *Finance and administration:*

6. Limit on total allocation to ICET (clause 17);
7. Requirement to pay interest and donations into Regional Account (clauses 18—19, 22);
8. Operational spending (clause 13);
9. Appointment and authorities of staff (clauses 11—12);
10. Winding up provisions (clause 23);
11. Review requirements (clause 26).

##### *Public accountability:*

12. Strategic planning process (clause 14);
13. Annual reports (clause 15);
14. Audit requirements (clause 16).

##### *General:*

15. Flexibility and transparency of the Act;
16. Aspects of the Act that have supported the purposes of the ICET set out in clause 20;
17. Aspects of the Act that have been barriers to the purposes of the ICET set out in clause 20;
18. Aspects of the Act that have supported the operational efficiency and capacity of ICET to meet its primary objective to be a catalyst to build a diverse and sustainable Island coastal economy.
19. Aspects of the Act that have been barriers to the operational efficiency and capacity of ICET to meet its primary objective to be a catalyst to build a diverse and sustainable Island coastal economy.

## **APPENDIX 6**

### **LIST OF CONSULTEES**

(In alphabetical order)

#### *Current and former Board and RAC members*

1. Mayor Craig Anderson, Gold River, Northern RAC member
2. Bob Bennie, Nanaimo, Director (provincial appointee)
3. Gerry Giles, CVRD, Southern RAC Chair
4. Mayor Barry Janyk, Gibsons, Chair
5. Dave Mannix, Nanaimo, Director (provincial appointee)
6. Mayor Ken McRae, Port Alberni, Director; Member, Northern RAC
7. Mayor Bev Parnham, Port Hardy, Member, Northern RAC
8. Jack Peake, Former Chair
9. Mayor Greg Phelps, Courtenay, Northern RAC
10. Chair Mayor John Ruttan, Nanaimo, Director, Southern RAC member
11. Dallas Smith, Campbell River, Director (provincial appointee)

#### *Staff and provincial officials*

12. Al Baronas, CEO, ICET
13. Doug Kalcsics, Consulting support, ICET
14. Sarah Fraser, Executive Director, Ministry of Regional Economic and Skills Development

## APPENDIX 7 SUMMARY OF CONSULTATION RESULTS

### General comments

- Excellent model for regional economic development: The ICET is a very sound, cost-effective delegation model for arms' length and independent disbursement by local governments of provincial dollars to support the regional economic development objectives of the provincial government. All money goes to regional priorities determined by those local governments, free of political bias and conflict of interest and with minimal operational expenditure.
- Permissive legislation: The permissive nature of the Act means it is very flexible, allowing ICET ample scope for broad policy-making tailored to the goals and priorities of the organization and placing no constraints on how and on what basis ICET funds are allocated.
- Flexibility: The flexibility of the legislation is demonstrated by the considerable diversity in program and policy between the three Trusts created under almost identical legislation.
- Arms' length operations: ICET does effectively operate at arms' length from government under the Act, with no political or bureaucratic interference. It is not hobbled by typical government policies such as purchase policies and competitive bidding, allowing its procedures to be less complicated and enabling ICET to respond to communities and eligible organizations more quickly and effectively.
- Goal of regional benefit: Some respondents felt that it would have been helpful if the Act had been more prescriptive in terms of the provincial goals outlined in the background to this report. The ICET was not intended to simply fill gaps in municipal budgets. However, the Act does not specify that. It does not even specify that regional benefit is to be a goal of the investment of the ICET fund, which must be deposited in a "Regional Account."
- As a result, and because of the lack of prescription on the way in which money is to be allocated and how, the ICET effectively lost the first six months of its existence in developing the model, and negotiating its way through the desire of some municipalities to simply receive a pro rata share of the fund and self-determine its use for community projects not necessarily oriented to economic development. In terms of a renewal/extension of the ICET, a minority of respondents felt it should be clear that the regional model must be adhered to.

### Provincial funding

- Cap on provincial fund: The single most important concern raised by all respondents relates to the cap on provincial funding of the ICET, limiting the amount of the provincial contribution to the \$50 million provided to the ICET on its creation, contained in section 17 of the legislation.

- Uncertainty about future: Now in its fifth year of operation, the fund is dwindling<sup>4</sup>. All respondents believe the ICET model has proven its merits, the legislation that supports it has worked very well, and that the ICET should continue its existence with additional provincial funding to support its work. However, the uncertainty around the constraints on the provincial contribution to the fund impacts strategic planning significantly. It is difficult for the ICET to know whether to plan for a “sunset” strategy or for continuance.
- Amendment of clause 17: All respondents recommended amending clause 17 to enable the province to reinvest in the ICET fund in the future.

## **Governance:**

### *Board*

- General: The Board as structured under the Act functions well. In general, nothing in the legislation is significantly impeding Board process.
- Composition: The balance between elected directors and provincially-appointed ones appears to be appropriate and work well, and it is helpful to have the expertise of the provincial appointees at the table while ensuring a municipal lead on decision-making. The number of elected officials and the geographic representation reduces the risk of parochial bias.
- Term of office: The terms of elected directors are driven by municipal election cycles, so they are not inappropriate. There is potential for loss of corporate memory and relationships because of turnover at elections, so it is helpful to have the continuity of appointed directors, with their longer terms of office.
- One respondent suggested that there should be a limit as to the number of terms served by directors, but acknowledged that could be dealt with as a matter of policy and did not need to be legislated.
- Directors’ remuneration: While expenses related to meetings are fully covered, no honoraria can be paid under the Act. However, directors, especially officers, contribute substantial time and effort to ICET business.
- Those consulted were evenly divided on this issue. Half felt it would be helpful to be able to pay reasonable honoraria to recognize those contributions. The remainder were concerned that operational funds would be diverted into remuneration for Board members instead of being devoted to projects.
- They also felt that elected Board members have sufficient motivation to participate in terms of community and regional benefits and are already paid to participate on Boards and committees of this nature by virtue of their office. For

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<sup>4</sup> As at the date of this report, \$8,807,570 of the fund remained unallocated. \$22,713,457 of allocated funds have not been distributed, and distribution remains subject to satisfaction of outstanding conditions.



non-elected officials, those respondents also felt they received sufficient benefit in terms of networking opportunities and contribution to regional well-being.

## RACs

- Functioning of RACs: The RACs, as reviewers of projects and advisors to the Board, have functioned reasonably effectively. There is some redundancy in discussion of issues that the Board also has to consider but that is normal in any organization with advisory groups. Overall the groups are a valuable forum for review of potential projects and regional interests and issues.
- Geographic boundaries: Dividing the RACs into two geographic regions was considered a good idea. The north has similar economic ambitions but little in common with the south, so separating their consideration of projects and issues leads to a more efficient and faster process as each group can focus on projects in its own region. There is nothing in the Act preventing cross-boundary collaboration on a project or consideration of cross-boundary benefits.
- The Northern RAC is considerably larger than the Southern RAC. One respondent felt it would have been helpful to give the Board the flexibility to adjust the boundary, but most respondents were comfortable with the geographic boundaries.
- Composition: It is good to have MLAs on the RACs. They add a broader regional viewpoint and the RACs have become a good forum for two-way communication between local and provincial government. The ability after the first six months for the RACs themselves to determine their membership (subject to being qualified individuals as defined in the Act) has been helpful in terms of the independent operation of the RACs. The only concern of any significance is the lack of First Nations representation (see below).
- Role: The RACs are hands-on, inclusive, team-based, respectful, constructive, groups. RAC members understand their advisory role and are comfortable with it as they elect the majority of the Board.
- Collaboration: While there is no requirement in the Act to maintain an equitable distribution of grants between regions or parts of regions, the actual distribution has tended to be fairly equitable in any event. The RAC model, which requires collaboration for effective decision-making, has worked very well in minimizing parochialism and supporting the interests of the entire region, without undue concerns arising over accessing funding in particular for individual constituencies or regions. Trying to promote self-interest under this model simply does not work.
- Risks associated with termination of ICET model: This legislated model has provided an unprecedented forum for collaboration, networking and information/ideas exchange among local politicians and municipal staff from different communities across the region that is considered of very high value. Respondents did raise concerns that this substantial non-fiscal side-benefit of the Act would be lost in the event that the ICET ceases to exist. There is no other

forum with such a broad reach that provides this sort of opportunity for substantive regional financial collaboration at a local government level.

### **Strategic purposes**

- Scope of list: The list of strategic areas for investment of the ICET fund in section 20 of the Act is broad enough to accommodate all potential projects falling within ICET's criteria, and a good filter for sound project applications supporting economic development.
- Categories: One respondent felt that a separate category for fisheries and small business would be helpful, but the majority were comfortable that those sectors could be dealt with (and have been) under the existing categories for investment. Section 20(1) (g) "Economic Development" is a broad category that can cover a very wide range of potential projects.
- Application of categories: Projects in some sectors have been minimal (with no mining projects undertaken at all). However, that is in part due to ICET policy not to fund for-profit ventures and in part due to the range of applications that have come before the ICET. The ICET has not attempted to solicit particular categories in the list over others.
- Olympics: The Olympics category is now redundant (and was not a major category for investment by ICET). There was general consensus that in the event the legislation is amended, that category should be removed so as not to cause any confusion on the part of potential future applicants.

### **First Nations representation**

- There is no explicit reference to First Nations' representation in the Act. First Nations are eligible to apply to the ICET Fund on the same basis as other communities, and First Nations are represented in ICET decision-making through provincial government appointments to the Trust Board.
- However, leaders of First Nations communities are not eligible to sit on the RACs (with the exception of Sechelt Nation, which has local government status for the purposes of the Act). The government's expectation is that First Nations will be represented by their local MLAs on the RACs.
- Several respondents viewed the lack of greater First Nations representation at RAC level and the failure to commit to First Nations' Board representation in the Act as a shortcoming of the Act. First Nations bring a different perspective on economic and community development and may have different issues and concerns which MLAs and their local government representatives do not fully appreciate, including interests in tenures on Crown lands and in archaeological material on development sites. Those respondents were supportive of consideration of other options for First Nations' participation and of formal recognition of representation in the legislation.

- Other respondents were concerned about the high number of First Nations communities in the region, and the potential to make RACs unduly unwieldy in size by including every First Nation in the RACs.

### **Strategic planning and reporting**

- The annual requirement for a strategic plan, annual reports, audits and transparency, have not been onerous. These are standard and sound requirements for any agency expending public funds.

### **Public accountability and transparency**

- The requirements for reporting, transparency and accountability are appropriate for any agency expending public funds. Even if they were not requirements of the Act, best practices demand the high standards to which ICET has adhered over the last five years.

### **Administration and operations**

- No concerns were raised regarding the administrative, operational and “boilerplate” provisions of the Act, with the exception of the winding up provisions.

### **Winding up**

- Some respondents felt that some more detailed guidance in the legislation and support for the logistics of winding up the ICET *before* its funds are fully expended (an exit strategy) would have been helpful. Most felt that this is a matter that the Board is able to and should manage independently.

## **APPENDIX 8 TEXT OF THE ACT**

### **North Island-Coast Development Initiative Trust Act**

#### **Part 1 -- Interpretation**

##### **Definitions**

**1** In this Act:

**"Central South Island region"** has the meaning prescribed by regulation;

**"North Island-Coast area"** means that area of British Columbia comprising the Central South Island region and the North Island-Sunshine Coast region;

**"North Island-Coast Development Initiative Trust"** means the North Island-Coast Development Initiative Trust established under section 5 (1);

**"North Island-Coast one-time development allocation"** means any money paid by the government to the North Island-Coast Development Initiative Trust;

**"North Island-Sunshine Coast region"** has the meaning prescribed by regulation;

**"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 North Island-Coast 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 Central South Island region or the North Island-Sunshine Coast region;

**"Regional Account"** means the account established under section 7 (2) (a);

"regional advisory committee" means a regional advisory committee established under this Act.

## **Part 2 -- North Island-Coast 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 4 directors of the North Island-Coast 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 Central South Island region, the mayor of North Cowichan;

(b) for the regional advisory committee for the North Island-Sunshine Coast region, the mayor of Courtenay.

(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 North Island-Coast Development Initiative Trust**

### **North Island-Coast Development Initiative Trust established**

**5** (1) There is established a corporation known as the North Island-Coast Development Initiative Trust consisting of the directors referred to in section 6.

(2) The North Island-Coast Development Initiative Trust has the powers and capacity of an individual of full capacity.

(3) The North Island-Coast Development Initiative Trust is not an agent of the government.

### **Directors of the North Island-Coast Development Initiative Trust**

**6** (1) Directors of the North Island-Coast Development Initiative Trust must be appointed in accordance with this Division.

(2) Subject to section 7 and to subsection (8) of this section, the board of directors of the North Island-Coast 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 2 regional advisory committees appointing 4 of their number as directors, and

(b) 5 are to be appointed by the Lieutenant Governor in Council.

(3) Subject to section 7 (3), the term of office of a director of the North Island-Coast 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 North Island-Coast 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 North Island-Coast Development Initiative Trust.

(5) 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 North Island-Coast 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.

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

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

(8) An individual who is a Member of the Legislative Assembly must not be appointed as a director of the North Island-Coast Development Initiative Trust.

### **First directors of the North Island-Coast Development Initiative Trust**

**7** (1) On the coming into force of this Act, the first directors of the North Island-Coast Development Initiative Trust are

(a) from the regions, the following persons:

(i) from the Central South Island region, the mayors of Nanaimo, Parksville, Ladysmith and Lake Cowichan;

(ii) from the North Island-Sunshine Coast region, the mayors of Campbell River, Port Alberni, Port McNeill and Gibsons, and

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

(2) The first directors of the North Island-Coast Development Initiative Trust

(a) must establish a Regional Account,

(b) must receive the North Island-Coast one-time development allocation and deposit it into the Regional Account,

(c) subject to section 22, may invest any or all of the North Island-Coast one-time development allocation and any other money in the Regional Account, and

(d) subject to paragraphs (b) and (c) of this subsection and to section 20 (2), must not make any use of the North Island-Coast one-time development allocation.

(3) The term of office of the first directors of the North Island-Coast 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 4 of their number as directors to replace the



retiring directors, and must promptly notify the directors of the North Island-Coast 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 must appoint 5 individuals to replace those directors, and must promptly notify the directors of the North Island-Coast Development Initiative Trust of those appointments.

### **Vacancies among the directors**

**9** (1) A director of the North Island-Coast 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 North Island-Coast 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 North Island-Coast Development Initiative Trust

(a) must appoint one of their number as chair, and

(b) may, subject to this Division, otherwise establish their own procedures.

(2) Subject to section 22, the directors of the North Island-Coast Development Initiative Trust may invest any or all of the North Island-Coast one-time development allocation.

(3) In appointing a chief executive officer and a chief financial officer under section 11 (1) and a review committee under section 26 (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**

**11** (1) Subject to section 10 (3), the directors must appoint a qualified individual as the chief executive officer of the North Island-Coast Development Initiative Trust, and the same or a different qualified individual as the chief financial officer of the North Island-Coast 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**

**12** (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 North Island-Coast 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 North Island-Coast 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 North Island-Coast Development Initiative Trust, the chief executive officer, the chief financial officer or a director, officer or employee of the North Island-Coast Development Initiative Trust.

### **Operating expenses and remuneration**

**13** (1) The directors may use money from the Regional 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.

(2) A director of the North Island-Coast 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.

### **Part 3 -- Public Accountability**

#### **Strategic plans**

**14** (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 North Island-Coast Development Initiative Trust including goals for each year of the strategic plan relating to the fulfillment of the purposes identified in section 20 in relation to the Regional Account,

(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) on or before the earlier of

(i) the date on which the North Island-Coast Development Initiative Trust makes any of the payments contemplated by section 20, and

(ii) the first anniversary of the coming into force of this section, and

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

#### **Annual reports**

**15** (1) Within 4 months after the end of each fiscal year of the North Island-Coast 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 North Island-Coast Development Initiative Trust for that fiscal year and have those financial statements audited in accordance with section 16.

(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 14 (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 20 in relation to the Regional Account,

(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**

**16** (1) The North Island-Coast Development Initiative Trust must, on or before the end of each fiscal year, appoint, as auditor for the North Island-Coast 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 North Island-Coast Development Initiative Trust for the following fiscal year.

(2) The accounts, transactions and financial statements of the North Island-Coast 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 North Island-Coast Development Initiative Trust.

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

### **Part 4 -- Allocations**

#### **Limit on the North Island-Coast one-time development allocation**

**17** Despite any other enactment, if the government makes North Island-Coast one-time development allocation payments to the North Island-Coast Development Initiative Trust, the total of those payments must not exceed \$50 million.

#### **Management of Regional Account**

**18** (1) The North Island-Coast Development Initiative Trust must manage the Regional Account.

(2) If any donation is made to the North Island-Coast Development Initiative Trust, the directors of the North Island-Coast Development Initiative Trust must deposit that money into the Regional Account.

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

**19** The interest or other income earned in relation to the Regional Account must be paid into that account.

### **Purpose of Regional Account**

**20** (1) The purpose of the Regional Account is to support investment in the following in the North Island-Coast area:

- (a) forestry;
- (b) transportation;
- (c) tourism;
- (d) mining;
- (e) Olympic opportunities;
- (f) small business;
- (g) economic development;
- (h) energy;
- (i) agriculture.

(2) Without limiting section 18 (1), money may be paid out of the Regional Account for any of the purposes referred to in subsection (1) or section 13, including, without limitation, any payments required under sections 11 (2) and 12 (1) (c).

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

**21** (1) Each regional advisory committee may identify, for the directors of the North Island-Coast Development Initiative Trust, projects that the regional advisory committee considers are appropriate for application of the money in the Regional Account.

(2) The directors of the North Island-Coast Development Initiative Trust may reject any recommendation made to them by a regional advisory committee under subsection (1).

### **Investments**

**22** The North Island-Coast Development Initiative Trust must invest the North Island-Coast one-time development allocation, and any other money in the Regional Account, only as permitted under the provisions of the *Trustee Act* respecting the investment of trust property by a trustee.

## **Part 5 -- General**

### **Winding up**

**23** (1) Promptly after the Regional Account has 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 North Island-Coast Development Initiative Trust, if any,

(i) firstly in satisfaction of any outstanding liabilities of the North Island-Coast Development Initiative Trust, and

(ii) after that, to the municipalities and regional districts in the North Island-Coast area, or to any of them, in the proportions or amounts the regional advisory committees may direct,

(b) close the account, and

(c) publish notice of the closing of the account, and the consequent dissolution of the North Island-Coast 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 Regional Account,

(a) the North Island-Coast Development Initiative Trust is dissolved and disestablished,

(b) the appointment of each member of the board of directors of the North Island-Coast Development Initiative Trust is rescinded, and

(c) the regional advisory committees are dissolved and disestablished.

### **Offence Act**

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

### **Power to make regulations**

**25** The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

### **Review of this Act**

**26** (1) Subject to section 10 (3), on or before the fifth anniversary of the coming into force of this section, and on or before every fifth anniversary after that, the directors must, if the North Island-Coast Development Initiative Trust has not by that date been dissolved and disestablished under section 23, 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**

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